

No Tortious Interference in Texas

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Whether Texas recognizes a cause of action for tortious interference with inheritance has been unclear for years. This summer, the Texas Supreme Court ruled that the cause of action does not currently exist in our state.

1. Past History

The first Texas case to recognize tortious interference was decided in 1987. Since then, different Texas courts of appeals have reached different results regarding the cause of action. Last year, the Texas Supreme Court discussed the issue extensively in the *Kinsel* opinion but left open the issue of whether the cause of action exists under Texas law.

2. Definitive Ruling

In *Archer vs. Anderson* the Texas Supreme Court clearly rejected the tortious interference cause of action. The Court stated “the fundamental question is why tort law should provide a remedy in disregard of the limits of statutory probate law. We think here it should not. The tort of intentional interference with inheritance is not recognized in Texas. The decisions of the courts of appeals to the contrary are overruled.”

3. Reasoning and Impact

The Supreme Court felt that existing law affords adequate remedies, mainly through constructive trusts. The Court also said that it should be up to the Texas Legislature to create the cause of action, stating that “if these remedies are inadequate, it is because of legislative choice or inaction, and filling them is work better suited for further legislation than judicial adventurism.”

So, absent future action by the Texas Legislature, tortious interference with inheritance is not a recognized cause of action in Texas.



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