In the
Missouri Court of Appeals
Western District

RONALD JENNINGS,	)	
	)	
Appellant,	)	**WD88464**
	)	
v.	)	**OPINION FILED:**
	)	**SEPTEMBER 22, 2026**
DEBRA J. MINER, ET AL.,	)	
	)	
Respondents.	)	

Appeal from the Circuit Court of Livingston County, Missouri
The Honorable Jason Alfred Kanoy, Judge

Before Division Four: Edward R. Ardini, Jr., Chief Judge, Presiding, Alok Ahuja, Judge and Cynthia L. Martin, Judge

Ronald Jennings ("Jennings") appeals from the trial court's judgment granting Debra Miner's ("Miner") motion to dismiss Jennings's petition for failure to state a claim. Jennings argues that he has standing to ask a court to intervene in the administration of two trusts so he can pursue a judicial proceeding to modify or reform the trusts to name him as a beneficiary. Jennings also argues that his petition adequately states claims for breach of the trusts, breach of fiduciary duty, and tortious interference with inheritance.

We affirm in part, reverse in part, and remand for further proceedings consistent with this Opinion.

Factual and Procedural History

Because this appeal is taken from the trial court's grant of a motion to dismiss for failure to state a claim, the factual history is drawn from the well-pleaded factual allegations in Jennings's petition, which we assume to be true for purposes of this appeal.[1]

Jennings and Miner are the son and daughter, respectively, of Leroy ("Leroy") and Gwendolyn ("Gwendolyn") Jennings (collectively "the Settlors").[2] In 2008, the Settlors executed revocable trust instruments. Leroy created the Leroy Jennings Trust u/t/a dated August 26, 2008 ("Leroy's Trust"), and Gwendolyn created the Gwendolyn A. Jennings Trust u/t/a dated August 26, 2008 ("Gwendolyn's Trust") (collectively "the Trusts"). The Trusts had parallel terms, including parallel dispositive terms on the death of the last Settlor. The Settlors amended their Trusts in 2017 ("First Amendment") and 2020 ("Second Amendment"). In each instance, the Settlors modified the paragraph describing the disposition of Trust assets on the death of the last Settlor, though the Trusts continued to have parallel dispositive terms.

On or around June 24, 2020, immediately prior to execution of the Second Amendment to the Trusts, the Settlors, with Miner present, had a telephone conversation

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[1]"In reviewing the trial court's dismissal of a petition for failure to state a claim, we assume that all assertions set forth in the petition are true." *Puckett v. Nodaway Cnty.*, 726 S.W.3d 691, 694 n.1 (Mo. App. W.D. 2025) (quoting *Duvall v. Mo. Bd. of Prob. & Parole*, 708 S.W.3d 881, 881 n.1 (Mo. App. W.D. 2025)).

[2]Because Jennings shares a surname with the Settlors, we refer to the Settlors by their first name for purposes of clarity. No undue familiarity or disrespect is intended.

with Jennings during which the Settlors explained their intent to modify the dispositive provisions in the Trusts. According to Jennings, the Settlors advised Jennings that it was their intent to leave all the real estate held in the Trusts to Miner and their equity (stock) accounts outright to Jennings, with the expectation that this would equalize the amounts left from their estates to each child. Jennings alleged that it was stated during this telephone call that he would receive at least $1,000,000 by way of distribution of the equity accounts.

The Second Amendment to the Trusts was executed by the Settlors shortly after the above-described telephone call. Relevant to this case, paragraph Sixth of the Second Amendment to the Trusts directed the successor trustee to do the following on the death of the last Settlor:

> (i) To transfer and convey real estate located in Livingston County, Missouri to Miner (in her individual capacity), "the same to be hers, absolutely and forever,"
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> (ii) To transfer and convey real estate located in Beaver County, Oklahoma to Miner (in her individual capacity), "the same to be hers absolutely and forever," and
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> (iii) To give, convey and distribute "all of the remaining assets in said Trust Estate, including all undistributed income therefrom" to Miner (in her individual capacity), "the same to be hers, absolutely and forever, knowing that [Miner] will make adequate provisions for all family members who survive [Gwendolyn]."

Paragraph Sixth of the Second Amendment to the Trusts expressly stated the following with respect to Jennings:

> I intentionally leave nothing to my son, [Jennings], because I have previously made advances to him and have ***at least one*** equity account

> which he will receive upon the deaths of both [Settlors], which will equalize the amounts my surviving children receive.[3]

(Emphasis added.)

Leroy died on May 17, 2021. Pursuant to the terms of Leroy's Trust as amended, Gwendolyn became the successor trustee. Leroy's Trust as amended continued in existence for the use and benefit of Gwendolyn during her lifetime.

Jennings alleged that, "from and after the death of Leroy" in May 2021, the value of the real estate held in the Trusts, particularly the farm property in Livingston County, increased substantially. Jennings alleged that on numerous occasions after Leroy's death, including during calendar year 2023, Gwendolyn continued to instruct Miner that it was her intent to leave all the real estate held in the Trusts to Miner and "all" equity accounts to Jennings with the expectation that this would equalize the amounts that would be left to each child. Jennings claims that during this period, Gwendolyn also instructed Miner that the safe in Gwendolyn's basement contained $105,000 in cash that would be given on her death to a grandson.

Jennings claims that a videotaped meeting occurred on November 22, 2023, that was attended by Gwendolyn, Miner, and Jennings. During this meeting, Gwendolyn indicated that she favored splitting the net rental income from the Livingston County farm property equally between Miner and Jennings after her death to help equalize the

[3]Though it is not clear if he survived Leroy or Gwendolyn, the original Trusts identify a third child of the Settlors, Leroy D. Jennings, who was removed as a named beneficiary of the Trusts and as the successor trustee on the death of the last Settlor in the First Amendment to the Trusts.

distribution of her estate because, by the time of this meeting, the Livingston County property had a value that was approximately 3.5 times higher than the value of the equity accounts. Jennings claims that Miner stated her awareness of "at least two" equity accounts worth approximately $1,400,000 to $1,500,000. Miner is reported by Jennings as stating that she would never preclude Jennings from receiving the equity accounts and that there was no need for Gwendolyn to make any further changes to "the estate plan."

Jennings alleged on information and belief that approximately two weeks later, in December 2023, Miner drove Gwendolyn to a financial firm that held one of the two equity accounts referred to during the November 22, 2023 meeting. According to Jennings, the purpose of this visit was to confirm that paperwork was set up to transfer the equity account to Jennings automatically on Gwendolyn's death. However, on information and belief, Jennings alleged that the paperwork Gwendolyn signed that day "either kept or put the title to this equity . . . account in the name of the [T]rust or on a transfer-on-death basis to . . . Miner . . . so that . . . Miner could inherit this equity . . . account." Jennings alleged that the estimated value of this equity account was between $100,000 and $500,000.

Gwendolyn died on April 6, 2024. Pursuant to the terms of the Trusts as amended, Miner became the successor trustee of both Trusts. Gwendolyn's death triggered Miner's obligation as successor trustee to dispose of the Trusts' assets pursuant to paragraph Sixth of the Second Amendment to the Trusts. It is not contested that Gwendolyn's death also triggered the automatic transfer of "at least one" equity account outright to Jennings.

On April 4, 2025, Jennings filed his petition in the Circuit Court of Livingston County against Miner in her individual capacity and as the successor trustee of the Trusts as amended. The petition alleged that, since Gwendolyn's death, Miner "has administered [the Trusts] for her sole and exclusive benefit and in contravention to the known will, commands, intentions and mandatory instructions" of the Settlors. Specifically, the petition alleged, on information and belief, that Miner either distributed to herself or kept for herself Trust assets that should have gone to others as follows:

(i) One equity account estimated to be valued between $100,000 and $500,000 that should have gone to Jennings,

(ii) $105,000 in cash that should have been distributed to Gwendolyn's grandson,

(iii) The net rental income from the Livingston County farm property that was supposed to be split equally with Jennings after Gwendolyn's death, and

(iv) Any remaining Trust assets that were to be distributed to Miner outright subject to the Settlors' expectation that Miner would make "adequate provisions for all family members who survive[d]" Gwendolyn.

("Settlors' Intentions"). The petition alleged that Jennings made a written request to Miner for information and an accounting of the Trust assets, including the identity and value of all equity accounts and the location of $105,000 in cash previously located in Gwendolyn's safe. Miner responded through her counsel, who advised that Jennings is not entitled to any of the Trust assets or to any reports, accounting, or other information.

The petition incorporated these general allegations into four counts. Counts I through III were asserted under the Missouri Uniform Trust Code ("MUTC"), as set forth

in sections 456.1-101 to 456.11-1106,[4] which was adopted in 2004 and is modeled on the Uniform Trust Code (2000). Count I asked the trial court to intervene in Miner's administration of the Trusts pursuant to section 456.2-201.1; to declare rights, status, or other legal relations, as set forth by the Trusts pursuant to sections 456.2-201.3 and 456.2-202.3; and to modify or reform the Trusts pursuant to sections 456.4-412 and 456.4-415 to accomplish the Settlors' Intentions. Jennings alleged that modification or reformation of the Trusts was necessary:

> [To] conform the terms of the [T]rusts to the [Settlors' Intentions] or probable intentions and in furtherance of the purposes of the [Trusts] as manifested by [the Settlors] to defendant Miner and as previously agreed to by defendant Miner as set forth herein and as may be established by other evidence that would be admissible in a judicial proceeding, including as a result of an induced mistake of fact caused by defendant Miner or circumstances not anticipated by [the Settlors,] including the substantial increase in the value of the real estate left to defendant Miner; [and]
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> . . . [To] ascertain the identity of the trust beneficiaries or the respective beneficial interests of trust beneficiaries, including the beneficial interests of [Jennings] and [grandson] as manifested by [the Settlors] as set forth herein and as may be established by other evidence that would be admissible in a judicial proceeding.

Count II alleged a claim for breach of the Trusts against Miner in her capacity as successor trustee of the Trusts. Collectively, the allegations in Count II claim that by failing to ensure the distribution of Trust assets in accordance with the Settlors' Intentions, Miner breached the Trusts.

[4]All statutory references are to RSMo 2016 as amended through April 4, 2025, the date Jennings filed his petition.

Count III alleged that Miner breached a fiduciary duty to Jennings and the Settlors that arose out of "[a] relationship of blood and special trust and confidence." In essence, the allegations in Count III claim that by failing to ensure the distribution of Trust or other estate assets in accordance with the Settlors' Intentions, Miner, individually or as successor trustee, breached a fiduciary duty owed to Jennings.

Count IV was pleaded in the alternative to Count I and alleged a common law claim that Miner, in her individual capacity, tortiously interfered with Jennings's inheritance. Count IV alleged that Jennings expected to inherit from the Settlors an amount that was roughly equal to the amount received by Miner and that Miner "intentionally interfered with that expectancy through tortious conduct." Specifically, Count IV alleged that Miner engaged in "subterfuge, surreptitious conduct, and self-dealing with respect to the [T]rust assets" in contravention of the Settlors' intent which "caused [Jennings] to lose out on his inheritance[,] including all of the equity . . . accounts . . . and a promised equal distribution from the [T]rusts."

Miner, individually and in her capacity as the successor trustee of the Trusts, filed a Rule 55.27(a)(6) motion to dismiss Jennings's petition for failure to state a claim. The motion to dismiss argued that Jennings is not an "interested person" who may invoke the trial court's jurisdiction to intervene in the administration of a trust pursuant to section 456.2-201 to seek to modify or reform the Trusts. Miner argued that because an "interested person" is defined in section 456.1-103(11) to include "beneficiaries and any others having a property right in or a claim against a trust estate which may be affected by a judicial proceeding," Jennings does not qualify because "[Jennings] was explicitly

disinherited from the Trusts and is not a beneficiary as a matter of law," and he has no property right in the Trusts that will be affected by a judicial proceeding. With respect to Count I, the motion to dismiss also asserted that, because the language of the Trusts is unambiguous, the trial court may not, as a matter of law, rewrite the dispositive provisions of the Trusts when Gwendolyn did not do so during her lifetime despite an alleged awareness that the Trusts as written would not result in an equal distribution of estate assets to Miner and Jennings. With respect to Count II, the motion to dismiss argued that Jennings failed to state a claim for breach of the Trusts because the successor trustee owed Jennings, a person who is not a beneficiary of any Trust assets, no duty under the Trusts. With respect to Count III, the motion to dismiss argued that the petition failed to allege any facts sufficient to establish the existence of a fiduciary duty owed by Miner to Jennings in either her individual capacity or in her capacity as successor trustee. Finally, with respect to Count IV, the motion to dismiss argued that Jennings failed to state a claim against Miner for tortious interference with inheritance because the petition made no specific allegations regarding fraud, duress, or tortious conduct by Miner that prevented Jennings from inheriting property, and the unambiguous language of the Trusts explicitly precluded Jennings from inheriting Trust assets.

Jennings opposed the motion to dismiss and generally argued that his petition asserts a legal right and claim over Trust property that could be affected by the trial court's determination of his claims for reformation and modification of the Trusts, making him an "interested person" under section 456.1-103(11) who can seek court intervention in the administration of a trust pursuant to section 456.2-201. With respect

to Count I, Jennings argues that evidence about the Settlors, their property, their relationship to the persons having an interest in their property, and their motives are admissible to "explain, contextualize, or clarify" their intentions with respect to the Trusts so that the trial court may determine whether modifying the Trusts is necessary to effectuate the Settlors' intent. With respect to Counts II and III, Jennings argued that the petition sets forth facts "showing he is a successor-in-interest to any duties owed to his parents, as he was directly affected by a breach of [Miner's] duties of good faith and loyalty, and he was harmed by it." While Jennings's suggestions in opposition did not directly mention Count IV, they generally argued that Jennings's petition adequately pleaded that Miner "engaged in conduct and obfuscation intended to enrich her personally, to [Jennings's] detriment."

On October 7, 2025, the trial court heard arguments from the parties before taking the motion to dismiss under advisement.[5] On October 17, 2025, the trial court entered a written judgment granting the motion to dismiss Jennings's petition without explanation ("Judgment").[6]

Jennings appeals.

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[5]A transcript of this hearing has not been included in the record on appeal.

[6]The Judgment did not specify whether it dismissed the petition with or without prejudice. Under Rule 67.03, the involuntary dismissal of a civil action by the trial court is without prejudice unless otherwise specified. "The general rule is that a dismissal without prejudice is not a final judgment and, therefore, is not appealable." *Eckel v. Eckel*, 540 S.W.3d 476, 482 n.16 (Mo. App. W.D. 2018) (quoting *McGaw v. McGaw*, 468 S.W.3d 435, 439 n.5 (Mo. App. W.D. 2015)). There is an exception to this general rule, though. *Id.* If the "dismissal has the practical effect of terminating the litigation in

Standard of Review

We review the trial court's dismissal of a petition de novo. *Miller v. Mo. House of Representatives*, 725 S.W.3d 650, 657 (Mo. App. W.D. 2025). "In determining the propriety of a dismissal, we consider only the grounds raised in the motion to dismiss and will not consider matters outside the pleadings." *Miller v. Mo. House of Reps.*, 725 S.W.3d 650, 657 (Mo. App. W.D. 2025).

Miner's motion to dismiss argued that Jennings's petition failed to state a claim on which relief could be granted. A motion to dismiss for failure to state a claim requires the trial court to evaluate the adequacy of the petition. *Puckett v. Nodaway Cnty.*, 726 S.W.3d 691, 696 (Mo. App. W.D. 2025). "In reviewing such a motion, the Court must accept all properly pleaded facts as true, give the pleadings their broadest intendment, and construe all allegations in the pleader's favor." *Id.* (quoting *Duvall v. Mo. Bd. of Prob. & Parole*, 708 S.W.3d 878, 883 (Mo. App. W.D. 2025)). "We consider 'the petition in an almost academic manner, to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in [the] case.'" *Id.* (quoting *Duvall*, 708 S.W.3d at 884).

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the form cast by the plaintiff," then the dismissal "effectively bars a plaintiff from refiling the action in its original form." *Id.* (quoting *McGaw*, 468 S.W.3d at 439 n.5). "[W]hen the party elects not to plead further, [the trial court's dismissal without prejudice] amounts to a determination that the plaintiff has no action." *Sciortino v. Ozark Nat'l Life Ins. Co.*, 726 S.W.3d 755, 758 n.3 (Mo. App. W.D. 2025) (quoting *Mahoney v. Doerhoff Surgical Servs., Inc.*, 807 S.W.2d 503, 506 (Mo. banc 1991)). Such a situation renders the judgment of dismissal, even if without prejudice, "an adjudication on the merits and may be appealed." *Id.* (quoting *Mahoney*, 807 S.W.2d at 506). Here, Jennings elected to stand on the merits of his petition as filed and to appeal rather than bring another action. Accordingly, the Judgment is final for purposes of appeal.

Analysis

Jennings asserts two points on appeal. In his first point, Jennings asserts that the trial court erred in dismissing the petition because Jennings is an "interested person" who may seek modification or reformation of the Trusts to comply with the Settlors' intent that "certain equity accounts" be transferred to Jennings upon the Settlors' deaths. Jennings's second point argues that the petition states a claim for tortious interference with inheritance because it alleged that the Settlors intended for Jennings to receive "certain equity accounts" upon their deaths but Miner took steps to circumvent that intent, either by titling "certain equity accounts" in the name of the Trusts, in her own name, or payable to herself upon the death of Gwendolyn. While Jennings's points on appeal refer to "certain equity accounts," the only equity account Jennings's petition identifies that he claims should have been distributed to him outright on Gwendolyn's death is the equity account worth $100,000 to $500,000 that was allegedly impacted by paperwork Gwendoyln signed in December 2023. The Judgment of dismissal is affirmed insofar as the petition claims rights related to the Settlors' Intentions other than the equity account worth 100,000 to $500,000.

Before addressing the merit of Jennings's points on appeal, it is first necessary to highlight the claims set forth in the petition that have been abandoned, and as to which the Judgment of dismissal is affirmed. *See Pruellage v. DeSeaton Corp.*, 380 S.W.2d 403, 405 (Mo. 1964) ("The questions for decision on appeal are those stated in the points relied on, and a question not there presented will be considered abandoned on appeal and no longer an issue in the case."); *Eckel v. Eckel*, 540 S.W.3d 476, 483 n.17 (Mo. App.

W.D. 2018) ("An issue not presented in a point relied on is not preserved for review."); *Gaar v. Gaar's Inc.*, 994 S.W.2d 612, 616 (Mo. App. S.D. 1999) (holding that where multiple "hypotheses of error" could have been asserted with respect to a judgment, "this [C]ourt adheres to the well-entrenched doctrine that the questions for decision on appeal are those stated in the points relied on, and a question not there presented will be considered abandoned").

Jennings's points on appeal claim no error in the dismissal of any of the Counts in the petition as they relate to the Settlors' Intentions other than as to the single equity account worth $100,000 to $500,000 that was allegedly impacted by paperwork Gwendoyln signed in December 2023. Jennings has thus abandoned his claims that he was supposed to receive an equal share of net rental income from the Livingston County farm property after Gwendolyn's death, that a grandson of Gwendolyn's was supposed to receive $105,000 in cash after Gwendolyn's death, and that any residual Trust assets distributed outright to Miner were subject to a binding obligation that Miner make provisions for family members who survived Gwendolyn.

In addition, Jennings's points on appeal do not challenge the possibility that the Judgment dismissed Count I of his petition on the basis that he failed to state a claim permitting him to ask a court to intervene in the administration of the Trusts to declare rights, status, or other legal relations set forth by the Trusts pursuant to sections 456.2-201.3 and 456.2-202.3. Jennings has thus abandoned this claim.

Finally, Jennings points on appeal do not challenge the possibility that the Judgment dismissed Count III, the breach of fiduciary duty claim, because (as alleged in

the motion to dismiss) Jennings did not allege facts sufficient to establish that Miner owed Jennings a fiduciary duty either individually or in her capacity as a successor trustee. Jennings has thus abandoned his claim for breach of fiduciary duty.

That leaves us with Jennings's contention in his first point on appeal that the Judgment of dismissal is erroneous because he was entitled to ask a court to intervene in the administration of the Trusts under section 456.2-201.1 so that he could seek to modify or reform the Trusts to make him the beneficiary of an equity account worth approximately $100,000 to $500,000 if that account was a Trust asset at the time of Gwendolyn's death (the remaining, unabandoned subjects of Counts I and II in the petition). And, that leaves us with Jennings's contention in his second point on appeal that the Judgment of dismissal is erroneous because Miner, in her individual capacity, tortiously interfered with his inheritance by engaging in conduct in December 2023 that prevented the outright transfer to him on Gwendolyn's death of an equity account worth approximately $100,000 to $500,000 (the subject of Count IV in the petition).

We address these points separately.

Point One: Counts I and II of the Petition Were Properly Dismissed by the Trial Court Because Jennings Is Not an "Interested Person" with Standing to Ask a Court to Intervene in the Administration of the Trusts in Order to Modify or Reform the Trusts, and as such, Miner in Her Capacity as Successor Trustee Owed No Duty to Jennings as He Is Not a Beneficiary of the Trusts

Jennings's first point on appeal asserts that the trial court erred in granting the motion to dismiss because he "has standing to pursue the claims in the [p]etition" under the MUTC, an assertion that relates to Count I of his petition. Jennings claims he is an "interested person" who has standing to ask the court to intervene in the administration of

the Trusts under section 456.2-201.1 so that he can seek to modify or reform the Trusts under sections 456.4-412 and 456.4-415 to name him as a beneficiary entitled to distribution of an equity account worth between $100,000 to $500,000 if the account is a Trust asset.[7]

Jennings's first point on appeal does not expressly address the dismissal of Count II of the petition, the breach of Trusts claim as it relates to this equity account. However, unless Jennings can demonstrate that he had standing under the MUTC to ask the court to modify or reform the Trusts to name him as a beneficiary entitled to distribution of this equity account, Miner owed him no duty under the Trusts as a matter of law. The disposition of Jennings's first point on appeal thus controls whether Count II of the petition was properly dismissed for failure to state a claim.

A party cannot bring an action unless they have standing to do so. *Mo. State Conf. of NAACP v. State*, 730 S.W.3d 550, 561 (Mo. banc 2026). "Standing is a prerequisite to this Court's authority to address the substantive issues; it must be addressed before all other issues and must be shown to be present prior to any adjudication on the merits." *City of Jefferson v. Sprint Commc'ns, Inc.*, 730 S.W.3d 157, 163 (Mo. App. E.D. 2025) (quoting *Sunshine & Gov't Accountability Project v. Mo. House of Representatives*, 688 S.W.3d 704, 713 (Mo. App. W.D. 2024)). "Standing is a matter of law we review *de*

[7]Point One also argues that extrinsic evidence is admissible to prove the Settlors' intent with respect to which assets were intended to be part of the Trusts' corpus, and that the trial court "improperly weigh[ed] the evidence and address[ed] the merits of [Jennings's] claims, which is not allowed on a motion to dismiss." We need not address these multifarious assertions because we otherwise find that Jennings is not an "interested person" under the MUTC and thus did not have standing to assert Counts I in his petition.

novo." *Id.* "A plaintiff does not have standing to bring suit under a statute conferring a cause of action to a specific group unless the plaintiff can establish [he] falls within that group." *Id.*

Jennings relies on section 456.2-201.1 to argue that it confers standing on him to assert Count I of the petition. Section 456.2-201.1 permits a court to "intervene in the administration of a trust to the extent its jurisdiction is invoked by an ***interested person***." (Emphasis added.)

"Interested persons" is defined in section 456.1-103(11) to include:

> [B]eneficiaries and any others having a property right in or a claim against a trust estate which may be affected by a judicial proceeding. . . . The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding . . . .

Jennings is not a beneficiary, which is defined by section 456.1-103(3) to mean "a person that: (a) [h]as a present or future beneficial interest in a trust, vested or contingent; or (b) [i]n a capacity other than that of trustee, holds a power of appointment over trust property." In fact, paragraph Sixth of the Trusts as amended expressly and unambiguously states that the Settlors "intentionally leave nothing" to Jennings because of "advances"[8] previously made to him, and because the Settlors "have at least one equity account which he will receive" upon the death of the last Settlor.

[8]Jennings's petition is silent about advances made to him by the Settlors even though the plain terms of the Trusts as amended indicate that the Settlors viewed the advances as influential in assessing whether their estate (Trust and non-Trust assets) was equally distributed after the last Settlors' death.

Jennings acknowledges that he is not named as a beneficiary of the Trusts as amended but nonetheless claims that he has "a property right in or a claim against" the Trusts "which may be affected by a judicial proceeding." The "judicial proceeding" Jennings is referring to is his request in Count I of the petition that, ***after*** the court intervenes in the administration of the Trusts under section 456.2-201.1, the court should modify or reform the Trusts under sections 456.4-412 and 456.4-415 to make him the beneficiary of an equity account worth $100,000 to $500,000 (assuming the account is a Trust asset). Count I of Jennings's petition thus claims that he is an "interested person" with the right to ask the court to intervene in the administration of the Trusts so that he can pursue a judicial proceeding that might result in him being named a beneficiary of the Trusts.

Miner challenges whether the definition of "interested persons" contemplates the circuitous logic that is an essential underpinning to Jennings's claim that he has standing to ask a court to intervene in the administration of the Trusts to seek modification or reformation of the Trusts. Miner argues that Jennings concedes that he is not a beneficiary of the Trusts as amended and that Jennings cannot "bootstrap" himself into a person with a property right in or claim against the Trusts by arguing that he might become a beneficiary if the Trusts are reformed or modified at his request.

We agree with Miner. Jennings lacks standing to ask the court to intervene in the administration of the Trusts under section 456.2-201.1 because he has no statutory authority to initiate a judicial proceeding to modify or reform the Trusts, and thus no

standing to pursue the judicial proceedings on which he necessarily relies to claim that he is an "interested person."

Section 456.2-201.3 provides that if a court has the statutory authority under subsection .1 to intervene in the administration of a trust, the "judicial proceeding . . . may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights." Section 456.2-202.3 provides that "[a] judicial proceeding involving a trust may relate to any matter involving the trust's administration, including, but not limited to a proceeding to: . . . (12) modify or terminate a trust . . . ." Although section 456.2-202.3 does not expressly mention "reformation," section 456.4-415 describes a probate division's authority to reform a trust as a part of administering a trust. Reformation is, of course, no more than a narrow example of modification, as it is "a remedy [to] obtain modification of the terms of the contract [to] reflect the parties' original intent in forming the contract," while modification more broadly contemplates alterations or revisions to a contract after it is formed. *See generally Lunceford v. Houghtlin*, 170 S.W.3d 453, 464 (Mo. App. W.D. 2005) (discussing reformation and modification of a contract). Jennings agrees that the phrase "modify or terminate a trust" as it appears in the MUTC contemplates a court's authority to reform a trust, as he alleged in the petition that section 456.1-105.2(4), which addresses a court's power "to modify or terminate a trust under section 456.4-410 . . . and sections 456.4-412 to 456.4-416," authorizes a court to reform a trust (the subject of section 456.4-415).

Of course, a court's authority under section 456.2-202.3 to entertain a judicial proceeding to either modify or reform a trust presupposes that the judicial proceeding has been initiated by someone who has standing. *City of Jefferson*, 730 S.W.3d at 163 ("Standing is a prerequisite to [a] Court's authority to address the substantive issues . . . ."). Count I of Jennings's petition asks the court to intervene in the administration of the Trusts so the court will be able to determine Jennings's requests to modify the Trusts pursuant to section 456.4-412 or to reform the Trusts pursuant to section 456.4-415.

Section 456.4-412.1 provides that:

> The court may modify the dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purpose of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

Section 456.4-415 provides that:

> The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

Both provisions contemplate a change to trust terms, although the standard for reformation is more exacting than that for modification based on unanticipated circumstances. Neither of these provisions addresses who has the authority to initiate a judicial proceeding seeking a change to trust terms.

That subject is addressed in section 456.4-410.2, which provides that "[a] proceeding to approve or disapprove a proposed modification or termination [of a trust] under sections 456.4-411A to 456.4-416 . . . ***may be commenced by a trustee or***

beneficiary." (Emphasis added.) Sections 456.4-412 and 456.4-415 fall within the range of statutes described in and thus controlled by section 456.4-410.2. Jennings is neither a trustee nor a beneficiary of the Trusts. He therefore does not have standing to bring a judicial proceeding to approve or disapprove any change to the Trusts contemplated by sections 456.4-411A to 456.4-416. *See City of Jefferson*, 730 S.W.3d at 163 ("A plaintiff does not have standing to bring suit under a statute conferring a cause of action to a specific group unless the plaintiff can establish [he] falls within that group.").

We reach this conclusion mindful that "[i]t is the general rule that in statutes the word 'may' is permissive only, and the word 'shall' is mandatory." *State ex rel. Robison v. Lindley-Myers*, 551 S.W.3d 468, 474 n.4 (Mo. banc 2018) (quoting *Turner v. Sch. Dist. of Clayton*, 318 S.W.3d 660, 672 (Mo. banc 2010)). However, in this instance, "may" modifies "commenced" and thus expresses that commencing a proceeding under sections 456.4-411A to 456.4-416 is a permissive, not mandatory, action. The phrase "by a trustee or beneficiary" describes the persons who are conferred the power to exercise the discretion to take that permissive action. *See, e.g.*, *State v. Patterson*, 729 S.W.2d 226, 228 (Mo. App. S.D. 1987) ("The use of the word 'may' in a statute implies alternate possibilities and that the conferee of the power . . . has discretion in the exercise of the power."). "'[T]he word 'may' in a statute will be construed to mean 'shall' whenever the rights of . . . third persons depend on the exercise of the power . . . to which it refers, and such is its meaning in all cases where . . . third persons have a claim de jure that the power shall be exercised.'" *Deming v. Metropolitan Engineering & Construction Co.*, 136 S.W.740, 742 (Mo. App. 1911) (quoting 5 Words & Phrases, p. 4421). Employing

nearly identical analysis, the Alabama Supreme Court interpreted its analog to section 456.4-410.2 to conclude that the word "may" expresses a mandatory and exclusive list of those with the authority to modify or terminate a trust. *Hon v. Hon*, 339 So. 3d 831, 841 (Ala. 2021) (accepting prevailing party's argument that section 19-3B-410(b) of the Alabama Code limits the authority to sue to modify or terminate a trust to trustees or beneficiaries of the trust because "permissive words in a statute may be construed as being mandatory in those cases where . . . third persons have a claim de jure," as section 19-3B-410(b) "establishes a 'claim de jure' for third persons—trustees and beneficiaries"). Thus, it is routinely the case that if a statute describes a permissive act using the word "may" but attaches the description of the permissive act to a list of those authorized to exercise the permissive power, then "may" will be construed to express the sole method by which the permission can be exercised. *See, e.g.*, *Kansas City v. J. I. Case Threshing Mach. Co.*, 87 S.W.2d 195, 206 (Mo. 1935) (holding that where a statute described a permissive ability to license and tax that could be taken by a city, "if the permission to license and tax is acted upon, the sole method which the statute provides is the mandatory method" to license and tax); *State to Use of Clinton Cnty. v. Hannibal & St. Jo. R.R.*, 51 Mo. 532, 533-34 (1873) (noting that when a statute "says that suits for penalties may be brought in the name of the State it is clear that it means such suits shall be brought in the name of the State," and when the same statute "says that suits for penalties not exceeding one hundred dollars may be brought before a Justice of the Peace, it means that such suits shall be brought before a Justice of the Peace," and "when [that statute] says that

summons in such cases may be served on a director, it means that the summons shall be served on a director").

We conclude, therefore, that section 456.4-410.2 unambiguously limits those who possess standing to pursue judicial proceedings under sections 456.4-411A to 456.4-416 to trustees or beneficiaries. This is in accord with section 410 of the Uniform Trust Code, on which section 456.4-410 is modeled. The Comment to section 410 expressly provides that "[s]ubsection (b)," which is the counterpart to section 456.4-410.2, "specifies the persons ***who have standing*** to seek court approval or disapproval of proposed trust modifications, terminations, combinations, or divisions." (Emphasis added.) Our conclusion is also in accord with out-of-state decisions in the only two cases we have located that address the identical issue. *See Hon*, 339 So. 3d at 844 (holding, as argued by the party in whose favor summary judgment was granted, that "in light of the plain language of Section 19-3B-410(b) and the official comment thereto, a trustee or beneficiary are the only parties who have standing to maintain an action to terminate or reform" a trust); *Kryder v. Kryder*, No. 25665, 2012 WL 1866376, at *4-5 (Ohio Ct. App. May 23, 2012) (holding that the Ohio Trust Code, which is modeled after the Uniform Trust Code and includes Ohio's version of section 410, should be interpreted to exclude all other persons except a "trustee" or "beneficiary" from having authority to pursue statutory claims to modify or terminate a trust).[9]

[9]*Kryder* is an unreported Ohio Court of Appeals case but is nonetheless noted here because there are so few cases addressing standing to pursue modification or reformation of a trust under the Uniform Trust Code and because, as the Alabama Supreme Court

Because Jennings does not have standing to pursue a judicial proceeding under sections 456.4-412 or 456.4-415 to modify or reform the Trusts,[10] Jennings does not have a property right in or claim against the Trusts which may be affected by a judicial proceeding that is not already pending and that he cannot initiate.[11] Jennings is thus not an "interested person" who possesses standing to ask the court to intervene in the administration of the Trusts pursuant to section 456.2-201.1.

The trial court did not commit error when it dismissed Count I of Jennings's petition for failure to state a claim because Jennings does not have standing to seek court intervention into the administration of the Trusts to consider his claims for modification or reformation of the Trusts. As such, the trial court did not commit error when it dismissed Count II of Jennings's petition for failure to state a claim for breach of the Trusts because Miner, in her capacity as a successor trustee, owed no duty to Jennings as a matter of law since he is not a beneficiary of the Trusts. *See Backer v. Backer*, 705 S.W.3d 632, 645 (Mo. App. W.D. 2024) (holding that a trustee owes no duty to persons

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noted in *Hon*, the *Kryder* decision is persuasive given that "uniformity of law is a stated goal among" states that have adopted the Uniform Trust Code. 339 So. 3d at 843-44.

[10]Section 456.1-106 provides that "[t]he common law of trusts and principles of equity supplement section 456.1-101 to 456.11-1106, except to the extent modified by sections 456.1-101 to 456.11-1106 or another statue of this state." Sections 456.4-412 and 456.4-415 thus supplants the common law remedies of modification or reformation, except to the extent the common law remedies are consistent with the statutorily expressed remedies applicable to trust under the MUTC.

[11]If modification or reformation of a trust is sought by a trustee or beneficiary of the trust pursuant to either section 456.4-412 or section 456.4-415, than any person with a property right in or claim to the trust that could be impacted by that properly initiated judicial proceeding would presumably qualify as an "interested person" with a right to participate in the proceeding even though they are not a trustee or beneficiary with standing to initiate the proceeding themselves.

who are not beneficiaries); section 456.10-100.1 (deeming a breach of trust "[a] violation by a trustee of a duty the trustee owes to a beneficiary").

Point One is denied.

Point Two: The Trial Court Erroneously Dismissed Count IV of the Petition, Which Was Pleaded in the Alternative to Count I, Because the Petition Alleged Facts that Are Sufficient to State a Claim for Tortious Interference with Inheritance Against Miner in Her Individual Capacity

Jennings's second point on appeal argues that the trial court erred in dismissing Count IV of his petition because it adequately stated a claim for tortious interference with inheritance against Miner in her individual capacity. In advancing this claim of error, Jennings's point on appeal is limited to the contention that the petition alleged that the Settlors "intended that [Jennings] receive certain equity accounts upon their deaths, that the Trusts confirm that intent, and that Defendant Miner took steps to circumvent that plan and intent by tortiously retitling certain equity accounts." The only disputed equity account identified in the petition is the equity account worth between $100,000 to $500,000. As previously explained, Jennings claims he should have received this equity account outright on Gwendolyn's death but did not because, on information and belief, it passed to Miner because it was a Trust asset or it was retitled to pass outright to Miner on Gwendolyn's death.

In 1988, Missouri recognized the tort of intentional interference with an inheritance in *Hammons v. Eisert*, 745 S.W.2d 253 (Mo. App. S.D. 1988). The Southern District did so in reliance on the Restatement (Second) of Torts as follows:

> Section 774B of the Restatement of Torts 2d recognizes a cause of action for intentional interference with an inheritance or gift. That section reads:

> "One who by fraud, duress or other tortious means intentionally prevents another from receiving from a third person an inheritance or gift that he would otherwise have received is subject to liability to the other for loss of the inheritance or gift."

Id. at 257. The Southern District favorably cited out-of-state authorities that explained the alleged interference must involve independently tortious conduct, such as fraud, duress, or undue influence, that could support an unasserted independent action in tort, but that for purposes of tortious interference become the method by which alleged interference with an intended bequest occurred. *Id.* (citing, e.g., *Cyr v. Cote*, 396 A.2d 1013, 1018-19 n.7 (Me. 1979)). The Restatement (Second) of Torts confirms this requirement in comment c to section 774B, which provides:

> [T]he liability stated in this Section is limited to cases in which the actor has interfered with the inheritance or gift by means that are independently tortious in character. . . . In the absence of conduct independently tortious, the cases to date have not imposed liability under the rule stated in this Section.

In *McMullin v. Borgers*, 761 S.W.2d 718 (Mo. App. E.D. 1988), the Eastern District addressed as a matter of first impression the context in which an action for tortious interference with inheritance will lie. The Eastern District noted that the "issue involves a conflict between the desire to fairly compensate an injured party and the need to preserve the goals of the probate code which purports to provide the exclusive forum for such matters." *Id.* at 719 (citing *Estate of Johnson v. Powell*, 708 S.W.2d 783, 785 (Mo. App. E.D. 1986)). The Eastern District adopted the logic of "[o]ther states [that] have resolved this conduct by not authorizing a tortious interference action unless the plaintiff first tries to obtain a remedy in probate court or shows that it is impossible to

obtain an adequate remedy in a probate action." *Id.* Our court applied this analysis in *Smith v. Chatfield*, 797 S.W.2d 508, 509-10 (Mo. App. W.D. 1990), to affirm dismissal of a claim for tortious interference with inheritance because a will contest action would afford the plaintiffs complete relief. And, in *Brandin v. Brandin*, 918 S.W.2d 835 (Mo. App. E.D. 1996), the same logic was held applicable to trusts. *Id.* at 840 ("[T]he . . . policy behind requiring plaintiffs to seek redress through other available and adequate forums, as it does with respect to wills in the probate court, correctly and logically extends to requiring plaintiffs to seek redress through courts of equity for challenges to express trusts.").

Thus, if "a plaintiff fails to either attempt recovery in probate or show that it is impossible to recover in probate, a subsequent tort action in a non-probate division of the circuit court is considered a collateral attack upon the authority and jurisdiction of the probate division . . . which is strictly forbidden." *Graham v. Manche*, 974 S.W.2d 580, 583 (Mo. App. E.D. 1998). An adequate remedy in a probate proceeding for this purpose "refers to the availability of a procedure under the probate code capable of providing full relief as to the issues between the parties and does not refer to whether a party is ultimately successful in obtaining the results desired." *Brown v. Kirkham*, 23 S.W.3d 880, 885 (Mo. App. E.D. 2000). Whether a plaintiff has an adequate remedy in a probate proceeding that forecloses the ability to pursue a claim for tortious interference with inheritance is viewed as a threshold matter of standing. *See Commerce Bank, N.A. v. Blasdel*, 141 S.W.3d 434, 454-57 (Mo. App. W.D. 2004) (characterizing cases that explore whether a plaintiff can bring a claim for tortious interference with inheritance

because they have no other remedy available under the probate code as addressing an issue of "standing"); *see also Gianella v. Gianella*, 234 S.W.3d 526, 530 (Mo. App. E.D. 2007) (relying on *Commerce Bank* to hold that the tort of tortious interference with inheritance "is only available if the plaintiff first attempted to obtain a remedy in probate or is able to show the impossibility of obtaining an adequate remedy in such an action"). The requirement "that a claim for tortious interference is only available if the plaintiff first tries to obtain a remedy in probate court or shows that it is impossible to obtain an adequate remedy in a probate action" was recently restated in *Backer*, 705 S.W.3d at 643.[12]

[12]Between the Eastern District's 2007 decision in *Gianella*, and this Court's 2024 decision in *Backer*, there are no reported Missouri cases addressing tortious interference with inheritance. But, during that timeframe, the Missouri Supreme Court decided *Lynch v. Lynch*, 260 S.W.3d 834 (Mo. banc 2008), where it reversed the dismissal of a common law claim for imposition of a constructive trust filed by persons who were not named as beneficiaries of a trust but who were referenced in a pourover will as intended beneficiaries of the trust. *Id.* at 835-36. The action had been dismissed by the trial court based on the defendants' argument that the plaintiffs did not have standing to assert their constructive trust claim. *Id.* at 836. The Supreme Court held that the plaintiffs "had a choice to either file a constructive trust cause of action in the circuit court or to file a discovery of assets suit in the probate division under section 473.340." *Id.* The Court did so in reliance on *Jarman v. Eisenhauer*, 744 S.W.2d 780, 782 (Mo. banc 1988), and ascribed to that case the "holding that the circuit court has jurisdiction to entertain plaintiff's action for declaratory judgment after the death of one of the co-owners of an asset and that such jurisdiction is concurrent with the jurisdiction of the probate division in discovery of asset proceedings." *Lynch*, 260 S.W.3d at 836-37.

Lynch embraces the notion that, at least with respect to discovery of asset proceedings in a probate division and non-probate claims for imposition of a constructive trust or for a declaratory judgment, circuit courts and probate divisions of the circuit court have concurrent jurisdiction. It is difficult to reconcile the holding in *Lynch* with the concept that probate divisions are the "exclusive forum" for adjudication of matters that implicate the administration of trusts or decedent's estates (whether intestate or otherwise). However, *Lynch* did not involve a tortious interference with inheritance claim and did not cite to, or express disapproval of, the numerous Court of Appeals cases

Read together, Missouri authorities addressing the claim of tortious interference with inheritance confirm that the essential elements the well-pleaded facts in Jennings's petition must establish to survive Miner's motion to dismiss for failure to state a claim are as follows: (1) that Jennings had a valid expectancy to inherit or have gifted to him an equity account valued between $100,000 to $500,000; (2) that Miner committed an independently tortious act or engaged in independently tortious conduct such as fraud, duress, defamation, undue influence, or abuse of fiduciary duty; (3) that Miner's independently tortious act or conduct was committed with the intent of preventing Jennings from receiving the equity account valued between $100,000 to $500,000; (4) that but for Miner's independently tortious act or conduct, Jennings would have received the equity account valued between $100,000 to $500,000; (5) that Jennings suffered damages measured by the amount of the lost inheritance expectancy;[13] and (6) that there is no available probate proceeding capable of providing Jennings with full relief as to issues involving the equity account valued between $100,000 to $500,000.[14]

Here, Jennings's petition pleaded the claim of tortious interference with inheritance in the "complete alternative to Count I" in apparent recognition that should he

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holding that a tortious interference with inheritance claim cannot be prosecuted if the plaintiff has an adequate remedy through the probate code. The specific holding in *Lynch* is not relevant here: Jennings has not attempted to plead a discovery of assets claim under section 473.340, and Miner has not argued that Jennings would have a remedy under that statute.

[13]In *Commerce Bank*, this Court held that "[d]amages are a required element in an action for tortious interference with inheritance expectancy." 141 S.W.3d at 457 (citing the Restatement (Second) of Torts section 774B cmt. d).

[14]*See supra* note 12.

be eligible to pursue the relief sought in Count I, he would not have standing to pursue the alternatively pleaded claim for tortious interference with inheritance. In any event, Miner's motion to dismiss did not challenge Jennings's standing to bring a claim for tortious interference with inheritance because he had an adequate remedy in a probate proceeding to address the issues relating to his right to receive the equity account valued at between $100,000 to $500,000. In fact, and to the contrary, Miner's motion to dismiss went to great lengths to argue that Jennings did not have standing under the MUTC to pursue modification or reformation of the Trusts because he is not a beneficiary of the Trusts, a proposition with which we have agreed. The trial court's grant of Miner's motion to dismiss Count IV of Jennings's petition for failure to state a claim cannot be affirmed on the basis that Jennings lacks standing to pursue the claim.

With respect to the remaining elements of a claim for tortious interference with inheritance, Count IV of Jennings's petition incorporated all previous allegations in the petition which included the following:

> 32. During [the] November 22, 2023[] meeting, . . . Miner expressly indicated to [Gwendolyn] and [Jennings] that . . . Miner was then aware of at least two equity (stock) accounts of the estate then worth in her estimate approximately $1,400,000 to $1,500,000, and that . . . Miner would "never" preclude [Jennings] or otherwise take away from his intended inheritance, the receipt of any of these equity (stock) accounts and in this regard, in . . . Miner's stated opinion, there was no need for [Gwendolyn] to then make any further changes in the estate plan because . . . Miner would comply with it.
>
> 33. On information and belief, from and after this November 2023 meeting and despite . . . Miner's prior assurances in the meeting, approximately two weeks later in December of 2023 and unknown to [Jennings] at the time, . . . Miner drove Gwendolyn . . . to a financial firm holding one of the two equity (stock) accounts referenced by . . . Miner in the November 2023

meeting. According to videotape testimony from [Gwendolyn], . . . Miner left [Gwendolyn] in the car in the parking lot while . . . Miner entered the financial firm. . . . Miner then returned to the car with paperwork for [Gwendolyn] to sign. The paperwork was supposed to validate that upon the death of Gwendolyn, the equity (stock) account would transfer to [Jennings], as previously discussed and agreed among the parties and expressly directed by Gwendolyn. However, on information and belief, the paperwork offered that day to Gwendolyn by . . . Miner was a ruse because, as later learned, the paperwork, presented to Gwendoyln by . . . Miner did not transfer the equity (stock) account to [Jennings] upon Gwendolyn's death and . . . Miner then knew that such paperwork did not do so. Rather, . . . Miner, on information and belief, under subterfuge and surreptitiously, either kept or put the title to this equity (stock) account in the name of the [T]rust or on a transfer-on-death basis to . . . Miner (instead of [Jennings]), so that . . . Miner could inherit this equity (stock) account despite . . . Miner's knowledge of the contrary will, prior commands, and intent of [the Settlors] and the purpose of the Second Amendment in this regard.

. . . .

36. In this regard, . . . Miner, on information and belief, has kept, distributed and/or utilized for her own self-benefit *all* of the [T]rust assets of [the Trusts], including (i) at least one equity (stock) account estimated to be valued between $100,000-$500,000 which [Miner] was clearly instructed, and previously agreed, to distribute to [Jennings] . . . .

Count IV of Jennings's petition then included the following allegations:

59. [Jennings] had an expectancy to inherit from [the Trusts] an amount *equal* to that distributed and received by . . . Miner upon the last of Leroy or Gwendolyn to die.

60. . . . Miner intentionally interfered with that expectancy through tortious conduct, including, on information and belief, subterfuge, surreptitious conduct, and self-dealing with respect to the [T]rust assets (including equity (stock) account holdings) and otherwise administering such [T]rusts intentionally and in bad faith for her sole and exclusive benefit contrary to the terms of the [T]rusts and in contravention of the known will, commands, intentions, and mandatory instructions of [Gwendolyn and Leroy] . . . the [S]ettlors of the [T]rusts.

> 61. . . . Miner's wrongful interference caused [Jennings] to lose out on his inheritance including all of the equity (stock) accounts of the [T]rust estates and a promised equal distribution from the [T]rusts.
>
> 62. As a direct and proximate cause of the foregoing, [Jennings] has, and continues to, sustain damages in an amount more than $75,000.
>
> 63. . . . Miner's actions were, and are, wanton and willful and intentionally designed to cause injury to [Jennings].

The factual allegations in the petition, if taken as true and given their broadest intendment, adequately allege: that Jennings had a valid expectancy that he would receive outright, on Gwendolyn's death, an equity account valued at between $100,000 and $500,000; that Miner committed an independently tortious act or engaged in independently tortious conduct in the form of "subterfuge, surreptitious conduct, and self-dealing;"[15] that Miner's independently tortious act or conduct was committed with the intent of preventing Jennings from receiving the equity account valued between $100,000 to $500,000; that but for Miner's independently tortious act or conduct, Jennings would have received the equity account valued between $100,000 to $500,000; and that Jennings suffered damages measured by the amount of the lost inheritance expectancy.

Miner's motion to dismiss alleged as to Count IV that Jennings's failed to state a claim because the petition made no specific allegations regarding fraud, duress, or tortious conduct by Miner that prevented Jennings from inheriting property, and the

[15]There are no allegations in the petition to suggest the exercise of undue influence by Miner over Gwendolyn in December 2023 when paperwork for the subject equity account was allegedly signed, as Jennings does not allege in his petition that Miner used "force, coercion, or overpersuasion" that "destroy[ed]" Gwendolyn's free agency. *Watermann v. Eleanor E. Fitzpatrick Revocable Living Tr.*, 369 S.W.3d 69, 75 (Mo. App. E.D. 2012) (quoting *Tobias v. Korman,* 141 S.W.3d 468, 475 (Mo. App. E.D. 2004)).

unambiguous language of the Trusts explicitly precluded Jennings from inheriting Trust assets. The latter part of this assertion is relevant in determining whether Jennings had a "valid expectancy" in inheriting the equity account valued between $100,000 to $500,000 but does not foreclose the possibility that after the Second Amendment to the Trusts was executed and after Leroy died, it was Gwendolyn's intent that more than "at least one" equity account would go outright to Jennings on her death. The first part of Miner's assertion ignores Jennings's allegation in the petition that Miner engaged in "subterfuge, surreptitious conduct, and self-dealing" by allegedly having Gwendolyn sign paperwork in December 2023 that kept or transferred an equity account valued between $100,000 and $500,000 in the Trusts or titled the account to transfer outright to herself on Miner's death. Although we agree that "subterfuge, surreptitious conduct, and self-dealing" do not align with "traditional" independent tort labels, those words impart actions or conduct that could align with a recognized independent tort. Miner might be entitled to a more definite statement regarding the independent tortious act or conduct she is alleged to have committed, but we do not agree that Jennings failed to allege that Miner engaged in tortious conduct that prevented him from receiving the equity account about which his petition complains.

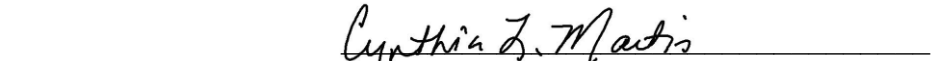
Though we express no opinion as to whether Jennings will be able to prove the allegations in his petition, for purposes of surviving a motion to dismiss, Jennings's petition is sufficient to state a claim for tortious interference with inheritance against Miner in her individual capacity with respect to the equity account valued between

$100,000 and $500,000. The trial court erred in dismissing Count IV for failure to state a claim against Miner in her individual capacity.

Point Two is granted.

Conclusion

The Judgment's dismissal of Count IV of the petition is reversed insofar as Count IV claims that Miner, in her individual capacity, tortiously interfered with Jennings's inheritance expectancy in an equity account valued at between $100,000 and $500,000. In every other respect, the Judgment's dismissal of Jennings's petition is affirmed. This case is remanded to the trial court for further proceedings consistent with this Opinion.



Cynthia L. Martin, Judge

All concur