Tortious Interference

Business means competition, and competition can get nasty. Markets encourage competition, but sometimes things can go too far and competitive behavior can cross the line into the realm of the improper and tortious conduct. That's when the courts can step in -- specifically, in lawsuits for tortious interference with a contract or business expectancy.

For example, someone could improperly interfere with the sale of a business that has reached the final stages but not yet been formalized in a written agreement. An individual could also induce someone to cease an informal business relationship. The most common form of interference, however, occurs when an individual forces or induces someone to break a contract they have with a third party. This can happen in many ways: someone could offer below market prices to induce a breach, they could blackmail or threaten someone into violating a contract, or they could make it impossible for the other person to perform and receive the benefits of that contract - by refusing to transport goods, for instance.

It's important to note that, in every case, to constitute tortious interference, the defendant must act intentionally ? negligence is not enough. Just because the act was intentional, however, doesn't necessarily mean that it was tortious interference. There are many times when people make business decisions that cause others to break a contract or end a business relationship but that don't constitute an unlawful interference with the contract or relationship.

In order to determine whether a tort has occurred, courts examine the motivation of the party that caused the breach to determine whether or not they acted in an improper fashion. If the person making the business decision doesn't have an improper motive for their behavior, then it doesn't amount to tortious interference.

The Parties

The Defendant

In a tortious interference case, the defendant is the person who interfered with the contract or business relationship, whether through inducement, blackmail, force or inappropriate or unethical practices.

The Plaintiff

Depending on the situation, there are two potential types of victims in a tortious interference case: the person or persons induced or forced into violating the terms of a contract or relationship, and other parties to the contract who were bound by its terms yet lost the benefit of the contract due to the interference. Both types of victims can sue the person who committed the interference for any damages they suffer.

Elements of a Tortious Interference Claim

The basic elements of a tortious interference claim are as follows:

- A valid contract or economic expectancy between the plaintiff and a third person;
- Knowledge of the contract or expectancy by the defendant;
- Intent by the defendant to interfere with the contract or expectancy;
- Actual interference;
- The interference is improper; and
- The plaintiff suffers damage.

These elements depend greatly on the specific facts involved in each case, so it's helpful to examine them in a little greater detail.

Valid Contract or Economic Expectancy

In order to make a tortious interference claim, the plaintiff must have enjoyed valid contractual or business relations with another party. If the contract or expectancy in question was not properly created or violates public policy, then the defendant will have no liability for its breach. In effect, the contract never existed, so the defendant couldn't have caused its breach.

Certain contracts that are terminable at will present interesting situations for tortious interference claims. Just because a party can end a contract at will doesn't give the defendant the ability to induce that termination. If the defendant knowingly causes someone to end an at-will contractual or business relationship, and the motive for causing the termination is improper, they can still be held responsible for tortious interference.

Defendant's Knowledge

Whether or not a defendant knew of the contract or business expectancy poses a question of fact for the court. If the defendant had no knowledge, then they could not have intentional interfered with the contract or expectancy.

The plaintiff can show the defendant's knowledge through an explicit statement or writing, or it can be inferred from circumstances surrounding the events in question.

Also, courts will find that a defendant had knowledge of a valid contract or business relationship even if the defendant honestly believed that the contract or relationship was invalid. Thus, a defendant who knows that two parties have signed a contract, but doesn't think that the contract is valid, still has "knowledge" of the contractual relationship for the purposes of a tortious interference claim.

Intent

As mentioned above, the defendant must have intended to interfere with the contract or business expectancy in order to be held liable for tortious interference.

Intent can mean two things here, however: First, the defendant could have explicitly desired to interfere with the contract or expectancy. Second, the defendant could have had some other purpose in mind, but acted with the knowledge that the interference was certain or substantially certain to occur.

Not every intentional interference is tortious, either. Since numerous valid business actions could interfere with a contract or business expectancy, only those actions with improper motives will amount to tortious interference.

See the discussion of improper interference below.

Actual Interference

The defendant's actions must cause an actual interference in order for the plaintiff to have a valid claim. If the defendant unsuccessfully attempts to induce or force someone to break a contract, no tortious interference has occurred.

Improper Interference

As mentioned before, not all interference amounts to a tort. Interference regularly results from perfectly acceptable business practices that don't sink to the level of a tort. Conversely, acceptable business practices can become tortious interference if the practice is used in an improper manner.

The intent driving a behavior distinguishes acceptable interference from tortious interference. When the defendant has improper motivations for taking certain actions they become tortious, even though the same actions with a legitimate motivation might not constitute a tort.

For example, Adam could refuse to do business with Bill after learning that Bill has a contract or business relationship with an organization that Adam finds morally distasteful. Adam knows that his business is worth more to Bill than the other organization's and that his refusal to deal is substantially certain to cause Bill to terminate his contractual or business relationship with the other organization. Since his motivation is not improper, Bill's actions would not satisfy a claim of tortious interference by the other organization.

On the other hand, if Adam means to punish the other organization or put them out of business by taking the advantages of their relationship with Bill away, it is more likely that a tortious interference has occurred.

As another example, Bill could offer Adam lower prices in order to induce Adam to break his contract with another supplier. This is a perfectly acceptable business practice and Bill would not be liable for tortious interference.

If, however, Bill took a loss on the deal in order to undercut his competition, the arrangement would probably constitute a tortious interference.

Here are the various factors that go into a determination of whether an interference was improper or not:

- The type of conduct;

- The actor’s motive;
- The actor’s interests;
- The interests of the other parties;
- The social interests in protecting the contract versus protecting the actor’s freedom of action;
- How closely related the actor’s behavior is to the interference; and
- The relationships between the parties

Damages

Once tortious interference has been established, the plaintiffs are entitled to damages. These damages can include:

- Monetary losses occurring as a result of the loss of the contract or expectancy;
- Other losses that occur as a consequence of the interference; and
- Compensation for emotional distress or harm to a person’s reputation if they result from the interference.

In addition, because tortious interference is an intentional tort, plaintiffs are also entitled to recover punitive damages in order to punish the defendant for their bad behavior. For this reason, some plaintiffs will elect to sue for tortious interference rather than sue for the breach of contract itself. Contract suits don’t provide for punitive damages, thus tortious interference plaintiffs have the possibility of recovering even more money than the contract was worth.

Conclusion

Business is a rough sport, and sometimes business relationships end and individuals and organizations can suffer because of it. Oftentimes, people outside a business relationship will knowingly cause its dissolution. When this kind of interference is carried out for improper reasons, the aggrieved party can bring a suit for tortious interference with a contract or business expectancy.

FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

BLOGS – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

FINDLAW ANSWERS – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

NEWS & NEWSLETTERS – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

FIND A LAWYER – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.

DO-IT-YOURSELF FORMS & CONTRACTS – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

FINDLAW VIDEO – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:

FindLaw for Consumers on Facebook

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources

@FindLawConsumer on Twitter

Tweeting interesting, entertaining and informative legal news everyday

FindLaw®
A Thomson Reuters Business