

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**RONALD JENNINGS,
Plaintiff / Appellant,**

vs.

**DEBRA J. MINER, *et alia*,
Defendants / Respondents.**

**On Appeal from the Circuit Court of Livingston County
Honorable Jason A. Kanoy, Associate Circuit Judge
Case No. 25LV-PR00015**

BRIEF OF THE RESPONDENT

Jonathan Sternberg, Mo. #59533
Jonathan Sternberg, Attorney, P.C.
2323 Grand Boulevard #1100
Kansas City, Missouri 64108
(816) 292-7020
jonathan@sternberg-law.com

Philip Wright, Mo. #61228
Wright Law Firm
4460 W 107th Street
Overland Park, Kansas 66207
(913) 710-9885
philip@pwrightlaw.com

COUNSEL FOR RESPONDENTS

Table of Contents

Table of Authorities	4
Statement of Facts	6
A. Overview	6
B. Trust instruments and amendments	7
1. Original trusts and 2017 amendments	7
2. 2020 amendments	8
3. Mr. Jennings' allegations about intent and later events	11
4. Alleged 2023 transaction and subsequent administration	13
C. Proceedings below	15
Argument	17
Standard of Review as to All Points	17
I. <u>Response to Appellant's Point I: The trial court correctly dismissed</u> Mr. Jennings' petition because he lacks standing as a matter of law	18
A. Standing requires a present, legally cognizable interest in the trust, not a speculative or contingent claim that the lawsuit itself created	18
B. The trust instruments conclusively establish that Mr. Jennings has no beneficial interest and was expressly disinherited.	21
C. Mr. Jennings cannot manufacture standing by asserting claims for reformation or modification.	25
D. <i>Lynch v. Lynch</i> does not apply because Mr. Jennings does not challenge the validity or procurement of the trust instruments.	28
E. Because Mr. Jennings lacks standing, all of his trust-based claims fail as a matter of law.	33

II. <u>Response to Appellant's Point II</u> : The trial court correctly dismissed Mr. Jennings' claim for tortious interference with inheritance.	35
A. Mr. Jennings cannot establish a valid expectancy of inheritance in light of his express disinheritance.....	35
B. Mr. Jennings fails to plead independently tortious conduct sufficient to support his claim.....	38
C. Mr. Jennings' authorities and his allegations regarding the equity accounts do not transform his tort claim into being sufficient.	40
D. Mr. Jennings' claim is barred because he had an adequate remedy under trust and probate law.	43
Conclusion	46
Certificate of Compliance	46
Certificate of Service.....	47

Table of Authorities

Cases

<i>Backer v. Backer</i> , 705 S.W.3d 632 (Mo. App. 2024)	40-41
<i>Baldwin v. Baldwin</i> , 667 S.W.3d 199 (Mo. App. 2023).....	30-31
<i>Brandin v. Brandin</i> , 918 S.W.2d 835 (Mo. App. 1996) ..	20, 25-26, 36-38, 40, 42
<i>Brantle v. Curators of Univ. of Mo.</i> , 616 S.W.3d 494 (Mo. App. 2020)	17
<i>Brown v. Kirkham</i> , 926 S.W.2d 197 (Mo. App. 1996)	20, 36-37
<i>City of Lake St. Louis v. City of O’Fallon</i> , 324 S.W.3d 756 (Mo. banc 2010)	17
<i>Commerce Bank, N.A. v. Blasdel</i> , 141 S.W.3d 434 (Mo. App. 2004)	23, 27, 38-39
<i>D.A.N. Joint Venture, III v. Clark</i> , 218 S.W.3d 455 (Mo. App. 2006)	17
<i>Finkle-Rowlett Revocable Tr. v. Stiens</i> , 558 S.W.3d 95 (Mo. App. 2018) ...	31-32
<i>Gianella v. Gianella</i> , 234 S.W.3d 526 (Mo. App. 2007)	26-27, 43-45
<i>Hammons v. Eisert</i> , 745 S.W.2d 253 (Mo. App. 1988)	40-41
<i>In re Est. of Spencer</i> , 417 S.W.3d 364 (Mo. App. 2013).....	20, 23
<i>Lynch v. Lynch</i> , 260 S.W.3d 834 (Mo. banc 2008).....	28-32, 34, 40
<i>McMullin v. Borgers</i> , 761 S.W.2d 718 (Mo. App. 1988)	26, 44-45
<i>Moynihhan v. Gunn</i> , 204 S.W.3d 230 (Mo. App. 2006)	17
<i>Siefert v. Leonhardt</i> , 975 S.W.2d 489 (Mo. App. 1998)	20, 22-23, 33
<i>Switzer v. Mercantile Bank of St. Louis, N.A.</i> , 932 S.W.2d 893 (Mo. App. 1996)	19-22, 24, 33
<i>Vogt v. Emmons</i> , 158 S.W.3d 243 (Mo. App. 2005)	17
<i>Winston v. Winston</i> , 449 S.W.3d 1 (Mo. App. 2014)	29-30

Revised Statutes of Missouri

§ 456.1-103	19, 25, 27, 34
§ 456.2-201	24
§ 456.2-202	24
§ 456.4-412	27
§ 456.4-415	27, 31

Missouri Supreme Court Rules

Rule 55.03.....	47
Rule 84.06.....	46
Rule 87.02.....	24

Rules of the Missouri Court of Appeals, Western District

Rule 41.....	46
--------------	----

Statement of Facts

A. Overview

This case arises from a dispute between siblings concerning the administration and distribution of two revocable trusts their parents, Leroy Jennings and Gwendolyn Jennings, had established (D2 p. 1). Ronald Jennings is the settlors' son and Debra Miner is their daughter and the successor trustee of both trusts (D2 pp. 1-2). Mr. Jennings filed this action alleging that Ms. Miner improperly administered the trusts and related assets in a manner inconsistent with their parents' alleged intent, asserting claims for trust administration, breach of trust, breach of fiduciary duty, and tortious interference with inheritance (D2 pp. 12-18).

The trusts, as amended in 2020, provide that the trust real estate and all remaining trust assets are to be distributed to Ms. Miner "absolutely and forever" and also state that the settlors "intentionally leave nothing" to Mr. Jennings while referencing at least one equity account he would receive outside the trusts (D5 pp. 2-4; D8 pp. 2-4). In his petition, Mr. Jennings acknowledged those provisions but alleged the settlors' intent communicated outside the trust instrument was that he would receive equity accounts to equalize the overall distribution (D2 pp. 6-7).

Ms. Miner moved to dismiss the petition for failure to state a claim, arguing Mr. Jennings is not a beneficiary of the trusts and lacks standing to assert his claims (D10 p. 1; D11 pp. 3-4). After briefing and argument, the trial court sustained the motion and dismissed the petition with prejudice (D1 p. 3; D14 p. 1).

Mr. Jennings now appeals (D15 p. 1).

B. Trust instruments and amendments

1. Original trusts and 2017 amendments

Ronald Jennings alleged in his petition that his parents, Leroy Jennings and Gwendolyn Jennings, amended and completely restated their respective revocable trusts in August 2008 by separate trust instruments for the Gwendolyn A. Jennings Trust and the Leroy Jennings Trust (D2 p. 3).

Under those instruments, each settlor named himself or herself as initial trustee and the other spouse as successor trustee on the other's death or incapacity (D2 pp. 3-4; D3 pp. 1, 14; D6 pp. 1, 14). Both trusts were Missouri trusts and were to be construed, administered, and governed under Missouri law (D2 p. 2). Mr. Jennings alleged the principal place of administration of the trusts was in Livingston County because trust property was located there and administration occurred or was to occur there (D2 p. 2).

Mr. Jennings alleged that in July 2017, the settlors executed first amendments to each trust (D2 p. 4; D4 p. 1; D7 p. 1). He alleged the main purpose of those amendments was to remove another sibling, Leroy Jennings, Jr., as a named beneficiary and successor trustee under the trusts and to substitute their sister, Debra Miner, in that trustee role (D2 p. 4). He alleged that under the July 2017 amendments, on the death of the surviving settlor the real estate was to be distributed one half to himself and one half to Ms. Miner, while all remaining assets in the trust estate, including undistributed income, were to pass to Mr. Jennings "the same to be his, absolutely and forever, knowing that [he] will make adequate provisions for all family members who survive GRANTOR" (D2 pp. 4-5). So, Mr. Jennings alleged

that this placed him in the position of residuary beneficiary while dividing the real estate between the two siblings (D2 pp. 4-5).

2. 2020 amendments

Mr. Jennings then alleged that the trusts' disposition scheme changed again in June 2020 when the settlors executed second amendments to both trusts (D2 p. 5; D5 p. 1; D8 p. 1). Those second amendments are the operative instruments at the center of this case, and Mr. Jennings attached copies as exhibits to his petition (D2 p. 5; D5 p. 1; D8 p. 1).

Mr. Jennings alleged that before and at the time of those second amendments, the estate consisted primarily of real estate in Livingston County, Missouri, and Beaver County, Oklahoma, equity or stock accounts held in brokerage accounts, and some cash on hand, and that the settlors then considered the real estate and equity holdings to be of essentially equivalent value (D2 p. 5). He alleged that because he had moved to Texas and no longer lived near the family farmland, the settlors discussed with Ms. Miner a plan under which she would receive the real estate and he would receive the equity holdings, with the purpose of equalizing what the two surviving children would receive (D2 pp. 6-7).

The second amendments themselves, however, state the actual distribution of the trust estates in their sixth paragraph, which is set out in the exhibits attached to the petition and in Mr. Jennings' opening brief (D5 pp. 2-4; D8 pp. 2-4; Brief of the Appellant ["Aplt.Br."] 16-17).

Under those amendments:

- On the surviving spouse’s death, “the Trust Estate shall terminate and the SUCCESSOR TRUSTEE shall, within a reasonable time, pay, convey and distribute, after payment of all sums required by paragraph FOURTH: above, all of the remaining assets of said Trust Estate, including all undistributed income therefrom” as follows (D5 p. 2; D8 p. 2).
- Subparagraph (a) then states that the settlor intends to prepare a written statement or list disposing of items of tangible personal property under § 474.333, R.S.Mo. (D5 p. 2; D8 p. 2).
- Subparagraph (b) then directs the successor trustee to transfer and convey specified Livingston County real estate “to DEBRA J. MINER, the same to be hers, absolutely and forever,” with an alternative gift to Michael Christopher Miner if Ms. Miner is not living (D5 pp. 2-3; D8 pp. 2-3).
- Subparagraph (c) likewise directs the successor trustee to transfer and convey specified Beaver County, Oklahoma real estate “to DEBRA J. MINER, the same to be hers, absolutely and forever,” again with an alternative gift to Michael Christopher Miner if Ms. Miner is not living (D5 p. 3; D8 p. 3).

Other dispositional language appears in subparagraphs (d) and (e), and it is this language that Mr. Jennings in his petition sought to overcome by referring to alleged outside statements and instructions (D2 pp. 13-15; D5 pp. 3-4; D8 pp. 3-4):

- Subparagraph (d) provides that the successor trustee “shall give, convey and distribute, all of the then remaining assets in said Trust Estate, including all undistributed income therefrom, to GRANTOR’S daughter, DEBRA J. MINER, the same to be hers, absolutely and forever, knowing that the said DEBRA J. MINER will make adequate provisions for all family members who survive GRANTOR” (D5 pp. 3-4; D8 pp. 3-4).
- Subparagraph (d) then continues that, if Ms. Miner predeceases the settlor, the successor trustee shall distribute those remaining assets to Michael Christopher Miner “the same to be his, absolutely and forever” (D5 p. 4; D8 p. 4).
- Subparagraph (e) then states, verbatim, “I intentionally leave nothing to my son, RONALD W. 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 myself and [LEROY JENNINGS or GWENDOLYN A. JENNINGS], which will equalize the amounts my surviving children receive” (D5 p. 4; D8 p. 4).

So, as written, the second amendments direct the real estate to Ms. Miner, direct all remaining trust assets to Ms. Miner, and expressly state that the settlors intentionally leave nothing to Mr. Jennings under the trusts themselves, while also referring to at least one equity account he “will receive” outside that distributive scheme (D5 pp. 2-4; D8 pp. 2-4).

3. Mr. Jennings' allegations about intent and later events

In his brief, Mr. Jennings characterizes the trusts as if they themselves direct the transfer of certain equity accounts to him (Aplt.Br. 18-19), but the instruments do not say that (D5 pp. 2-4; D8 pp. 2-4). He asserts that “the Trusts intended that certain equity accounts be transferred to” him and that modification or reformation of the trusts would result in his being a beneficiary of the trusts (Aplt.Br. 18), but the text of the second amendments does not identify any trust asset to be distributed to Mr. Jennings and instead directs all remaining trust assets to Ms. Miner (D5 pp. 2-4; D8 pp. 2-4). Likewise, Mr. Jennings argues that “[t]he Trusts make clear that Leroy and Gwendolyn intended certain equity accounts to go to Plaintiff upon their deaths” (Aplt.Br. 29), but the wording of subparagraph (e) does not distribute any such account through the trusts and instead explains why the settlors were leaving nothing to him under the trusts (D5 p. 4; D8 p. 4).

Similarly, in his statement of facts, Mr. Jennings states that “[p]ursuant to the terms of paragraph SIXTH of each Second Amendment ... at least one equity account was to be left and distributed to and received by plaintiff upon the last of Gwendolyn or Leroy to die” (Aplt.Br. 10). But the provision itself says only that the settlor has “at least one equity account which he will receive,” not that the successor trustee shall distribute an account to him in the same manner that the provisions direct distributions to Ms. Miner (D5 pp. 2-4; D8 pp. 2-4).

In his petition, Mr. Jennings nevertheless alleged that before and at the time of the second amendments, Leroy and Gwendolyn Jennings

informed Ms. Miner that they desired to leave the real estate to her and all their equity or stock account holdings to him, and the purpose of that change was to equalize what the two surviving children would receive (D2 pp. 6-7). He alleged Leroy Jennings called him, with Ms. Miner present, to inform him of the proposed estate-plan change and to determine whether he was “okay with the change” before the second amendments were executed (D2 p. 6). He alleged that, during that call, Leroy Jennings stated the intended plan was to leave the real estate to Ms. Miner and all equity or stock holdings to Mr. Jennings so that their shares would be equalized and that, based on values then understood, Mr. Jennings would receive at least \$1 million from those equity holdings (D2 pp. 6-7). He alleged Ms. Miner was personally present during that call, agreed with that explanation, and afterward continued to express her agreement with that revised estate plan (D2 p. 7).

Mr. Jennings alleged in his petition that Leroy Jennings died in May 2021, after which the Leroy Jennings Trust continued for the benefit of Gwendolyn Jennings during her lifetime (D2 p. 8). He alleges that from and after Leroy Jennings’ death, the value of the real estate increased substantially and Gwendolyn Jennings continued to inform and instruct Ms. Miner that the real estate was to go to Ms. Miner and all equity or stock holdings were to go to him, resulting in an equalization between the siblings on Gwendolyn Jennings’ death (D2 pp. 8-9).

Mr. Jennings alleged that Gwendolyn Jennings gave instructions concerning \$105,000 in cash for a down payment on a grandson’s home and later expressed a desire that farm rental income be split equally between Ms.

Miner and him because the farmland had appreciated to a value substantially greater than the equity holdings (D2 pp. 9-10). He alleged that during a videotaped meeting in November 2023, Ms. Miner stated she knew of at least two equity accounts then worth approximately \$1.4 to \$1.5 million and she would “never” deprive him of his intended inheritance and saw no need for further changes because she would comply with the plan (D2 p. 10).

In his brief, Mr. Jennings relies on those alleged conversations and later instructions in describing the settlors’ “clear plan and intent” (Aplt.Br. 28), but no provisions about that appear in the trust instruments themselves (D2 pp. 6-10). He states the trusts “confirm that intent” (Aplt.Br. 19), but the trust language itself does not state that all equity accounts or any identified trust asset are to be distributed by the successor trustee to Mr. Jennings, and instead states both that all remaining trust assets go to Ms. Miner and that the settlors intentionally leave nothing to Mr. Jennings under the trusts (D5 pp. 2-4; D8 pp. 2-4). He also states that the trusts “indicate an intention for certain unspecified equity accounts to be transferred to Plaintiff” (Aplt.Br. 32), but the amendments do not contain a trustee command directing a transfer to him parallel to the commands in subparagraphs (b), (c), and (d), and instead refer to an account he “will receive” as part of the explanation for his disinheritance under the trusts (D5 p. 4; D8 p. 4).

4. Alleged 2023 transaction and subsequent administration

Mr. Jennings alleged that notwithstanding the settlors’ alleged later instructions, Ms. Miner engaged in conduct in December 2023 involving one of the equity accounts that prevented it from passing to him (D2 pp. 10-11).

He alleged that Ms. Miner drove Gwendolyn Jennings to a financial firm, entered the firm while her mother remained in the car, returned with paperwork for her mother to sign, and represented that the paperwork would validate that the equity account would transfer to Mr. Jennings upon Gwendolyn Jennings' death (D2 p. 10). Mr. Jennings alleged the paperwork did not in fact transfer the account to him and that instead, Ms. Miner either kept or placed title to that account in the name of the trust or on a transfer-on-death basis to herself so that she would inherit it despite the settlors' contrary will and commands as alleged in the petition (D2 pp. 10-11).

Mr. Jennings further alleged that after Gwendolyn Jennings died in April 2024, Ms. Miner acted as successor trustee under both trusts and administered them for her sole and exclusive benefit (D2 pp. 11-12). He alleged this included Ms. Miner retaining at least one equity account worth between \$100,000 and \$500,000, the \$105,000 cash sum, and all rental income associated with the Livingston County farmland, while distributing nothing to him and providing him no information about the trusts' administration (D2 pp. 11-12).

Mr. Jennings alleged that in July 2024, he sent Ms. Miner a written notice and request seeking information and an accounting concerning the trusts, trust assets, trust administration, the identity of stock and equity holdings and brokerage accounts, and the whereabouts of the \$105,000 in cash previously kept in Gwendolyn Jennings' safe (D2 p. 12; D9 pp. 1-2). He alleged that Ms. Miner, through counsel, responded by refusing to provide the requested information and stating that he "is not entitled to any of the

Trusts' assets, reports, accountings or other information that is sought" (D2 p. 12). He alleged that as of the filing of the petition, he had received no distribution from either trust and no information about Ms. Miner's administration of them (D2 p. 12).

C. Proceedings below

In April 2025, Mr. Jennings filed a petition in the Circuit Court of Livingston County, Probate Division, against Ms. Miner in her individual capacity and as successor trustee of both the Gwendolyn A. Jennings Trust and the Leroy Jennings Trust (D1 p. 3; D2 p. 1). He asserted four counts: an action involving trust administration under the Missouri Uniform Trust Code, breach of trust, breach of fiduciary duty, and tortious interference with inheritance (D2 pp. 12-18). He sought a declaration of rights, an accounting, modification or reformation of the trusts, damages, and the imposition of a constructive trust (D2 pp. 13-18).

Ms. Miner responded by moving to dismiss under Rule 55.27(a)(6), arguing that the petition failed to state a claim on which relief could be granted (D1 p. 6; D10 p. 1). She argued Mr. Jennings was not a beneficiary of the trusts, the trusts' terms expressly disinherited him, and so he was not an "interested person" under the Missouri Uniform Trust Code ("MUTC") and lacked standing to pursue any of the claims he asserted (D11 pp. 3-4). She argued that the trust instruments were unambiguous, their dispositional provisions controlled, and Mr. Jennings' reliance on alleged extrinsic statements and intent could not create a beneficial interest or support his claims (D11 pp. 7-8).

Mr. Jennings opposed the motion to dismiss, arguing that his petition sufficiently stated claims for relief and that he had standing as an “interested person” because he alleged a property right or claim that the proceeding would affect (D1 p. 8; D12 p. 1). He argued the MUTC gives courts broad authority to intervene in trust administration, to declare rights, and to modify or reform trusts to conform to the settlors’ intent (D12 pp. 3-5). He argued that he alleged facts showing Ms. Miner engaged in self-dealing and acted contrary to the settlors’ instructions and that those allegations were sufficient to withstand a motion to dismiss (D12 pp. 2-3).

Ms. Miner replied, reiterating her argument that Mr. Jennings’ claims relied on alleged extrinsic statements that could not be used to contradict the unambiguous language of the trust instruments and that the trusts’ dispositional provisions expressly disinherited him and conveyed the trust assets to her “absolutely and forever” (D13 pp. 1-2). She argued he did not have a present or contingent beneficial interest in the trusts and so was not a beneficiary or “interested person” and could not assert claims for breach of trust, fiduciary duty, or tortious interference (D13 p. 2-3).

The trial court held a hearing on the motion to dismiss in October 2025 (D1 p. 10), of which no transcript is in the record. It then entered first a docket entry sustaining Ms. Miner’s motion to dismiss and then a written judgment stating that it had considered the parties’ arguments and the caselaw cited and sustained the motion to dismiss (D1 p. 10; D14 p. 1).

Mr. Jennings did not file any post-judgment motion (D1 p. 11). Instead, he timely appealed to this Court (D15 p. 1).

Argument

Standard of Review as to All Points

This Court reviews a “trial court’s grant of a motion to dismiss *de novo*.” *Brantle v. Curators of Univ. of Mo.*, 616 S.W.3d 494, 497 (Mo. App. 2020).

“In reviewing the dismissal, this [C]ourt must give the petition its broadest intendment, and allegations therein must be construed favorably to the plaintiff.” *D.A.N. Joint Venture, III v. Clark*, 218 S.W.3d 455, 458 (Mo. App. 2006). The Court “takes a plaintiff’s averments as true and liberally grants plaintiff all reasonable inferences” *City of Lake St. Louis v. City of O’Fallon*, 324 S.W.3d 756, 759 (Mo. banc 2010).

“When the trial court fails to state a basis for its dismissal” this Court may “presume the dismissal was based on at least one of the grounds stated in the motion to dismiss.” *Moynihhan v. Gunn*, 204 S.W.3d 230, 233 (Mo. App. 2006) (citation omitted). This Court can affirm the trial court’s dismissal on any grounds that were before the trial court in the motion to dismiss, even if that specific ground was not relied upon by the trial court in its dismissal. *Vogt v. Emmons*, 158 S.W.3d 243, 247 (Mo. App. 2005).

* * *

I. The trial court correctly dismissed Mr. Jennings’ petition because he lacks standing as a matter of law.

(Response to Appellant’s Point I)

The law of Missouri is that only an “interested person” may invoke the court’s authority over a trust, and that this status requires a present or legally cognizable interest in the trust estate, not a speculative claim dependent on success on the merits. Where unambiguous trust instruments expressly disinherit a plaintiff, he is not a beneficiary and has no such interest. As a result, he lacks standing to pursue claims relating to trust administration, regardless of allegations that the settlors intended a different result.

Here, Mr. Jennings acknowledges that the governing trust amendments unambiguously direct all assets to Ms. Miner and state that he is to receive nothing. Despite this, he asserts standing based on claims that the trusts should be reformed or modified to reflect alleged outside intent. That theory improperly attempts to create standing through the relief sought rather than an existing interest. The trial court correctly rejected it and dismissed his petition.

A. Standing requires a present, legally cognizable interest in the trust, not a speculative or contingent claim that the lawsuit itself created.

In his first point in his opening brief, Mr. Jennings argues he has standing to seek modification or reformation of the trusts because he alleged the settlors intended him to receive assets and he seeks to effectuate that intent (Aplt.Br. 18-19, 29). That is not the law of Missouri. Rather, a plaintiff must possess a present, legally cognizable interest in the trust estate

itself. The law does not allow a plaintiff to establish standing by alleging that he *would* have such an interest *if* his claims succeed.

Standing is a threshold requirement that must exist at the time the action is filed. A party must have a “justiciable interest” in the subject matter of the action that, if valid, entitles him to relief. *Switzer v. Mercantile Bank of St. Louis, N.A.*, 932 S.W.2d 893, 896 (Mo. App. 1996). That interest cannot be theoretical or contingent on the outcome of the litigation. *Id.* Where the plaintiff cannot demonstrate any legally cognizable interest, dismissal is required as a matter of law, even at the pleading stage. *Id.*

The Missouri Uniform Trust Code (“MUTC”), Chapter 456, R.S.Mo., codifies this same rule. An “interested person” is one “having a property right in or claim against a trust estate which may be affected by a judicial proceeding.” § 456.1-103(11), R.S.Mo. A “beneficiary” is one who “has a present or future beneficial interest in a trust, vested or contingent.” *Id.* at (3). Both definitions require an *existing* interest in the trust. They do not include a person who claims no present or future interest under the instrument but seeks to create one through litigation.

Applying these principles, this Court consistently has dismissed actions where the plaintiff lacks a present beneficial interest under the governing instrument. In *Switzer*, the plaintiff asserted claims against a trustee but was not a beneficiary under the will. 932 S.W.2d at 895-96. This Court held that because the will did not grant him any beneficial interest, he lacked standing and affirmed the dismissal of his petition. *Id.* at 896. The Court did not accept allegations inconsistent with the instrument as a basis for

standing and did not allow the case to proceed in the hope that an interest might later be established. *Id.*

These same standing principles govern trust litigation more broadly. A plaintiff may sue a trustee only if he can demonstrate that the trustee owes him fiduciary duties arising from a beneficial interest in the trust. *Siefert v. Leonhardt*, 975 S.W.2d 489, 492-93 (Mo. App. 1998). Where no such interest exists, there is no fiduciary relationship and no standing to sue. *Id.*

Conversely, where a plaintiff has even a contingent beneficial interest, standing exists because that interest is “susceptible of protection through litigation.” *In re Est. of Spencer*, 417 S.W.3d 364, 368-69 (Mo. App. 2013). So, standing turns on whether the plaintiff *presently* holds a legally cognizable interest under the instrument, not on whether he alleges one *should* exist.

This Court consistently has rejected attempts to avoid this requirement by a plaintiff recasting his claim. In *Brown v. Kirkham*, a plaintiff asserting tortious interference with an inheritance expectancy lacked standing because she had no vested interest in the decedent’s property and was at most an “heir expectant.” 926 S.W.2d 197, 200-01 (Mo. App. 1996). This Court held this speculation was insufficient to support a legally cognizable claim. *Id.* Similarly, in *Brandin v. Brandin*, the Court affirmed dismissal where the plaintiffs failed to plead facts showing a valid expectancy in an intended bequest, emphasizing that conclusory allegations of harm are insufficient absent a concrete interest. 918 S.W.2d 835, 837-38 (Mo. App. 1996).

Accordingly, the law of Missouri does not recognize standing based on a hypothetical interest that depends on altering the governing instrument.

B. The trust instruments conclusively establish that Mr. Jennings has no beneficial interest and was expressly disinherited.

Here, because Mr. Jennings lacks any present or future beneficial interest under the trusts, he is not a beneficiary, is not an “interested person,” and lacks standing as a matter of law.

As in the decisions discussed above, standing here, too, is resolved by the express, unambiguous language of the trust instruments themselves. And because Mr. Jennings attached those instruments and incorporated them into his petition, they control over any contrary characterization of their effect. *Switzer*, 932 S.W.2d at 896. And when the instrument forecloses any beneficial interest, the plaintiff lacks standing as a matter of law. *Id.*

The express, unambiguous language of the 2020 amendments to the two Jennings trusts leave no room for dispute. The trusts provide that on the death of the surviving settlor, the trust estate terminates and the successor trustee must distribute all remaining trust assets after payment of obligations (D5 p. 2; D8 p. 2). In separate subparagraphs, they then direct that the Livingston County and Beaver County real estate must be conveyed to Ms. Miner “the same to be hers, absolutely and forever” (D5 pp. 2-3; D8 pp. 2-3). The amendments further direct that “all of the then remaining assets in said Trust Estate, including all undistributed income therefrom” also must be distributed to Ms. Miner “the same to be hers, absolutely and forever” (D5 pp. 3-4; D8 pp. 3-4). Having disposed of the entire trust estate, the amendments then state, in a separate provision, that the settlors “intentionally leave nothing” to Mr. Jennings (D5 p. 4; D8 p. 4).

Accordingly, the amendments do not merely omit Mr. Jennings. Rather, they affirmatively distribute *every* category of trust property to Ms. Miner and then expressly confirm that Mr. Jennings is to receive *nothing* under the trusts. There is no competing provision, no ambiguity, and no contingent gift. As expressly and unambiguously written, the instruments eliminate any present or future beneficial interest in Mr. Jennings.

The law of Missouri makes this dispositive of standing. In *Switzer*, the plaintiff asserted claims against a trustee but was not named as a beneficiary under the governing will. 932 S.W.2d at 895-96. This Court examined the instrument itself, concluded that it did not grant the plaintiff any beneficial interest, and held he there lacked standing as a matter of law. *Id.* at 896. The Court did not credit allegations that he should have been treated as a beneficiary or that the instrument should be interpreted differently. *Id.* Because the will foreclosed any beneficial interest, dismissal was required. *Id.*

This case is materially identical to *Switzer*. As in *Switzer*, the dispositive instrument affirmatively excludes the plaintiff from any beneficial interest. Indeed, the exclusion here is even more explicit, because the settlors not only distributed all assets to Ms. Miner but also stated that they “intentionally leave nothing” to Mr. Jennings under trust (D5 p. 4; D8 p. 4). If a plaintiff who is not named as a beneficiary lacks standing, as in *Switzer*, then a plaintiff who is expressly disinherited necessarily lacks standing, too.

Other decisions reinforce the same principle. In *Siefert*, the Court held that a plaintiff may assert claims against a trustee only if he can

demonstrate a beneficial interest giving rise to a fiduciary relationship. 975 S.W.2d at 492-93. There, standing existed because the plaintiffs had future contingent interests in the trust corpus. *Id.* That just goes to show the dividing line. Where a plaintiff has a present or contingent beneficial interest, even if contingent, standing exists. Where he has none, it does not. *Id.* Mr. Jennings falls on the latter side of that line because the trust provisions here eliminate any possibility that he could take under the instruments as written.

Similarly, in *Spencer*, the Court explained that standing exists only where the plaintiff has an interest “susceptible of protection through litigation,” such as a contingent beneficial interest under a trust. 417 S.W.3d at 368-69. There, the plaintiff alleged a contingent interest that could be affected by the challenged amendment. *Id.* Here, by contrast, the governing instruments foreclose any interest of Mr. Jennings in the first place. Mr. Jennings does not allege that he is a contingent beneficiary under the trusts, because he is not. The instruments provide that he is to receive nothing.

Missouri courts determine interests under a trust from the language of the instrument itself, not from alleged intent inconsistent with that language. In *Commerce Bank, N.A. v. Blasdel*, this Court held that the settlor’s intent must be ascertained “primarily from the trust instrument as a whole,” and where the language is clear, it “must stand as written” without resort to extrinsic evidence to contradict it. 141 S.W.3d 434, 443-44 (Mo. App. 2004). Courts do not rewrite trusts to achieve what a party claims the settlor intended. *Id.* That necessarily goes to standing, too, because a

plaintiff cannot establish a beneficial interest by relying on alleged intent that contradicts the governing instrument.

In his brief, Mr. Jennings does exactly what the law forbids. He repeatedly asserts that the settlors *intended* him to receive equity accounts or an equalized share of the estate and treats that alleged intent as if it created a present interest (Aplt.Br. 10, 18-19, 29). But the trust instruments themselves do not direct any distribution of trust assets to him. Instead, they direct that all trust assets be distributed to Ms. Miner and expressly state that Mr. Jennings is to receive nothing (D5 pp. 2-4; D8 pp. 2-4). The law of Missouri is that this language governs the existence of any beneficial interest. *Blasdel*, 141 S.W.3d at 443-44.

Mr. Jennings attempts to avoid this result by arguing the Court must accept his allegations as true and may not weigh evidence at the pleading stage (Aplt.Br. 37-39). That argument misses the point. The issue here is not the credibility or weight of his allegations. It is whether those allegations, even if taken as true, establish a legally cognizable interest. Claims like Mr. Jennings' must be dismissed at the pleading stage where the alleged facts do not satisfy a required legal element. *Switzer*, 932 S.W.2d at 896.

Mr. Jennings also relies on statutes authorizing judicial proceedings involving trusts, including § 456.2-201, R.S.Mo., § 456.2-202, R.S.Mo., and Rule 87.02, to argue that he may bring these claims regardless of his status under the trusts (Aplt.Br. 33-35).

That argument confuses the scope of available remedies with who may invoke them. Those provisions describe the types of proceedings a court may

entertain. They do not eliminate the requirement that the party invoking the court's authority be an "interested person" under § 456.1-103(11). The law of Missouri requires both. A plaintiff must have a legally cognizable interest in the trust estate *before* he may seek any of that statutory relief. Because Mr. Jennings has no such interest, those provisions do not supply standing.

Because the 2020 amendments conclusively establish that Mr. Jennings has no present or future beneficial interest in the trusts and was expressly disinherited, he is not a beneficiary and has no property right in or claim against the trust estate. The law of Missouri is that this is dispositive of standing. The trial court correctly dismissed the petition.

C. Mr. Jennings cannot manufacture standing by asserting claims for reformation or modification.

In seeking to get around these clear and certain principles, Mr. Jennings' standing theory is not merely incorrect, it is circular. He claims standing because he seeks reformation or modification of the trusts, but he seeks that relief in order to obtain the very interest the law requires to establish standing (Aplt.Br. 18-19, 29).

The law of Missouri does not permit that reasoning. A plaintiff must demonstrate a legally cognizable interest *before* the court may consider whether he is entitled to relief. He cannot establish that interest by asserting the relief itself.

This Court consistently has rejected claims that depend on this kind of inversion. In *Brandin*, the plaintiffs alleged they were deprived of an inheritance through wrongful conduct and sought recovery based on what they claimed they should have received. 918 S.W.2d at 837-38. This Court

affirmed dismissal because the plaintiffs failed to plead a “valid expectancy” grounded in an intended bequest. *Id.* It was not enough to assert that they would have received property if their theory were accepted. *Id.* Rather, they were required to show a legally cognizable interest independent of the claim itself. *Id.*

The same as in *Brandin* is true here. Mr. Jennings cannot rely on the outcome of his reformation claim to supply the interest he lacks at the outset.

Similarly, in *McMullin v. Borgers*, the plaintiff sought damages based on the theory that a later will improperly deprived him of a benefit he would have received under an earlier one. 761 S.W.2d 718, 720 (Mo. App. 1988). This Court rejected the claim because it effectively sought to undo the governing instrument outside the proper framework and to recover benefits that depended on replacing that instrument. *Id.* The law of Missouri does not allow a plaintiff to bypass the controlling document by recasting his theory in another form. *Id.*

Mr. Jennings’ argument does the same thing that this Court held was improper in *McMullin*. He attempts to avoid the effect of the trusts by labeling his claim as one for reformation and then treating the hoped-for result as a present interest.

As well, in *Gianella v. Gianella*, the plaintiff asserted a tort claim based on the same facts and relief that were available in a probate proceeding. 234 S.W.3d 526, 532 (Mo. App. 2007). This Court held that the claim could not proceed because it merely sought to relitigate the underlying

entitlement to property through a different vehicle. *Id.* The existence of a cause of action did not create the underlying right. *Id.*

Again, the same is true here. Mr. Jennings' reformation theory is simply an attempt to obtain a share of the trust estate by recasting his disagreement with the trusts' terms.

In short, courts cannot create interests in a trust where the trust instrument does not. Again, the settlor's intent is determined from the language of the trust itself, and where that language is clear, it must be enforced as written. *Blasdel*, 141 S.W.3d at 443-44. Courts do not rewrite trusts to achieve what a party merely claims the settlor intended. *Id.*

That is exactly the limitation Mr. Jennings attempts to avoid but cannot. His theory depends entirely on rewriting the trusts to create an interest in his favor. If the Court must alter the instrument to give him an interest, then he does not have one now.

The statutory provisions Mr. Jennings invokes do not change that analysis. Section 456.4-412, R.S.Mo., permits modification of a trust in limited circumstances, and § 456.4-415, R.S.Mo., permits reformation on proof of a mistake. Those statutes define *when relief may be granted*. They do not expand *who may seek relief in the first place*. They presuppose a proceeding brought by a party with a legally cognizable interest in the trust estate at the time of filing: an interested person under § 456.1-103(11).

Nothing in the text of §§ 452.4-412 or 456.4.415 authorizes a person with no present or future beneficial interest to initiate litigation solely to create such an interest.

Mr. Jennings' theory essentially would eliminate the limitation on only presently interested persons in trusts having standing to bring a claim against the trust estate. If the Court allows him standing despite his admitted lack of any present interest in the trusts, even contingently, then any individual disinherited from any will or trust could establish standing simply by alleging that the instrument should be modified in his favor.

The law of Missouri consistently has rejected that approach. Instead, a plaintiff must have a legally cognizable interest before he may invoke the probate court's authority. Because Mr. Jennings has no such interest under the trusts as written, his claims for reformation and modification cannot establish standing where it is otherwise absent.

D. *Lynch v. Lynch* does not apply because Mr. Jennings does not challenge the validity or procurement of the trust instruments.

Mr. Jennings' principal answer to dismissal is to argue that this case is like *Lynch v. Lynch*, 260 S.W.3d 834 (Mo. banc 2008), in which the Supreme Court reversed the dismissal of a claim against a trust by plaintiffs who had been disinherited from it (Aplt.Br. 21-24).

Mr. Jennings' argument is in error. *Lynch* does not stand for the proposition that any plaintiff who alleges a different intent may proceed past dismissal. Instead, it stands for the narrower proposition that where the plaintiff alleges that the instrument itself is the product of undue influence or similar wrongdoing, the court may not assume its validity at the pleading stage. Mr. Jennings makes no such allegation. To the contrary, his petition depends on the validity of the trusts and seeks to alter their terms. That takes this case outside *Lynch*.

Lynch was a challenge to the validity of a trust in the first place. The plaintiffs there alleged that the challenged trust provisions were the product of undue influence and abuse of a confidential relationship in making the trust itself. 260 S.W.3d at 836-38. They sought a declaration that the disinheritance provision was “void and unenforceable” and imposition of a constructive trust on the assets. *Id.* at 837. The Supreme Court held that, if those facts were proven, a constructive trust could be imposed and dismissal at the pleading stage therefore was error. *Id.* at 837-39.

Lynch does not help Mr. Jennings because his petition did not present that kind of claim at all. He did not allege that the 2020 amendments were procured by undue influence. He did not allege that either settlor lacked capacity to execute them. He did not allege fraud in the execution or procurement of the amendments. He did not seek to invalidate the amendments or to have them declared void and unenforceable.

Instead, in his petition, Mr. Jennings *accepted the instruments as valid*, recited their operative provisions, and then asked the court to modify or reform them to reflect alleged *outside* intent (D2 pp. 13-15). *Lynch*, however, concerned whether the challenged provisions should be given legal effect at all. Mr. Jennings instead asks to rewrite concededly valid instruments.

Decisions after *Lynch* confirm that distinction and show that it comes out in Ms. Miner’s favor.

In *Winston v. Winston*, 449 S.W.3d 1 (Mo. App. 2014), there were beneficiaries to trusts who sought (among other relief) reformation on the ground that later circumstances frustrated the settlor’s intent. *Id.* at 5-8.

This Court held that their claims did not challenge the validity of the trusts at all. *Id.* at 7-8. The Court explained that the beneficiaries’ allegations and the relief they requested implicitly acknowledged the trusts were valid but contended modification or reformation was warranted because circumstances outside the trust instruments allegedly frustrated the settlor’s purposes. *Id.* The Court emphasized that the beneficiaries “acknowledge[d] the terms [they] ask[ed] the court to modify” and that their action therefore did not call the legal sufficiency of the trust instruments into question. *Id.* at 7-8.

While the Court in *Winston* held the plaintiffs’ challenge did not violate a no-contest clause because they did not challenge the trust’s validity, it goes to show that Mr. Jennings’ reformation challenge, too, is not like the validity challenge in *Lynch*. It is simply a commonplace claim that would have to be brought by an interested person like the beneficiaries in *Winston*.

Mr. Jennings, too, acknowledges what he asks the Court to alter. He concedes the 2020 amendments direct all trust real estate and remaining assets to Ms. Miner and state that the settlors “intentionally leave nothing” to him (D5 pp. 2-4; D8 pp. 2-4). He does not contend in his petition that those provisions are void because of some defect in execution or procurement, like the plaintiffs did in *Lynch*. Instead, like the beneficiaries in *Winston*, he contends they should be changed because the settlors allegedly meant something else outside the instruments. But like those beneficiaries, his challenge, too, is not a validity challenge. 449 S.W.3d at 7-8.

This Court confirmed this distinction again in *Baldwin v. Baldwin*, 667 S.W.3d 199 (Mo. App. 2023). There, a trustee sought reformation under §

456.4-415 based on mistake in the trust document. *Id.* at 201-03. The Court held that the claim was one for reformation, not a trust contest, because the trustee “did not assert that the trust itself was invalid” but instead sought to correct the instrument to conform to the settlor’s intent. *Id.* at 205-07. That is, reformation presupposed a valid instrument and operated on it. *Id.*

A *Lynch*-type claim says the instrument is legally defective and should not control from the outset. A *Baldwin*-type claim says the instrument is valid but should be corrected. Mr. Jennings’ petition plainly is in the latter category. He does not challenge the trusts’ validity. He seeks to alter them.

This distinction between *Lynch*-like validity claims and mere reformation claims was even clearer in *Finkle-Rowlett Revocable Tr. v. Stiens*, 558 S.W.3d 95 (Mo. App. 2018). There, as in *Lynch*, the challenger alleged that the trust amendment itself was invalid because the settlor lacked testamentary capacity to execute it. *Id.* at 97-100. The probate court attempted to dismiss for lack of standing based on the amendment’s no contest clause, but this Court reversed, explaining that this “erroneously assumed the validity of the Second Amendment, a proposition that [the challenger] was specifically challenging.” *Id.* at 99-100. The Court held that the validity issue had to be resolved first because if the amendment were invalid, its provisions would be void and unenforceable. *Id.*

Finkle-Rowlett is what a true validity challenge looks like after *Lynch*. The plaintiff attacks the legal sufficiency of the very instrument or that excludes him. *Finkle-Rowlett*, 558 S.W.3d at 99-100. Mr. Jennings does nothing of the sort. He did not allege that the 2020 amendments are void for

incapacity, undue influence, fraud, or any other defect in execution or procurement. So, the sequencing principle that controlled in *Lynch* and *Finkle-Rowlett* cannot come into play here. There is no threshold validity issue to decide first, because Mr. Jennings does not raise one.

Once these authorities are placed side by side, the line is clear. *Lynch* and *Finkle-Rowlett* apply when the plaintiff says, in substance, “this instrument or amendment is invalid and should not govern.” But that is not what Mr. Jennings does. Instead, he says, in substance, “this instrument is valid, but the court should modify or reform it because it does not reflect what should happen.” He accepts the validity of the trust amendments and seeks to alter their effect. As a result, *Lynch* has no application here.

The point is that only a true challenge to the validity of a trust supplies the premise on which *Lynch* turned. In *Lynch*, if the pleaded facts were true, the challenged disinheritance provision could be declared void and equity could impose a constructive trust. 260 S.W.3d at 837-39. Here, by contrast, even taking Mr. Jennings’ allegations as true, his petition still does not challenge the legal validity of the instruments that disinherit him. It asks the court to revise concededly valid instruments. That is a different theory.

Lynch provides no basis for Mr. Jennings to avoid dismissal because it applies only where the plaintiff challenges the validity of the instrument itself. Mr. Jennings does not. His petition assumes the trusts are valid and seeks to alter them. That is not a *Lynch* claim, and it does not supply standing. Because Mr. Jennings does not challenge the validity of the trusts, the Court must apply them as written in determining standing.

E. Because Mr. Jennings lacks standing, all of his trust-based claims fail as a matter of law.

Because standing is a threshold requirement, its absence disposes of a plaintiff's entire petition. A court may not consider the merits of any claim where the plaintiff lacks a legally cognizable interest in the subject matter of the action. *Switzer*, 932 S.W.2d at 896. That is exactly the case here.

Each of Mr. Jennings' claims depends on the same premise. He seeks relief relating to the administration of the trusts, including judicial supervision, breach of trust, and breach of fiduciary duty (D2 pp. 12-15). But each of those claims requires him to be a beneficiary or otherwise have a legally cognizable interest in the trust estate. Without that interest, there is no fiduciary relationship, no right to an accounting, and no basis for judicial intervention. *Siefert*, 975 S.W.2d at 492-93.

This Court uniformly has applied that rule to dismiss claims in their entirety where the plaintiff lacks standing. In *Switzer*, once the Court determined the plaintiff was not a beneficiary under the governing instrument, it affirmed dismissal of all claims he asserted against the trustee. 932 S.W.2d at 896. The Court did not parse individual counts or consider whether any claim might survive independently. *Id.* The absence of a beneficial interest foreclosed the action as a whole. *Id.*

The same reasoning applies here. As shown above, the governing trust instruments conclusively establish that Mr. Jennings has no present or future beneficial interest in the trusts and was expressly disinherited (D5 pp. 2-4; D8 pp. 2-4). Because he is not a beneficiary and has no property right in or claim against the trust estate, he is not an "interested person" under §

456.1-103(11). Without that status, he cannot invoke the court's authority over the trusts.

Mr. Jennings attempts to avoid that result by recasting his claims as ones for modification or reformation and by invoking *Lynch*. But as shown above, those theories do not supply standing where it is otherwise absent. The absence of a legally cognizable interest is not a defect that he can cure by recharacterizing his claims. It is a threshold failure that requires dismissal.

Accordingly, because Mr. Jennings lacks standing, all of his trust-based claims fail as a matter of law, and the trial court correctly dismissed the petition in its entirety.

II. The trial court correctly dismissed Mr. Jennings' claim for tortious interference with inheritance.

(Response to Appellant's Point II)

The law of Missouri is that a claim for tortious interference with inheritance requires a valid, non-speculative expectancy of receiving a specific bequest, as well as independently tortious conduct that caused its loss. Where the governing instrument expressly disinherits the plaintiff, as a matter of law he cannot establish such an expectancy. Nor may he avoid that result by alleging that the decedent intended a different distribution or by repackaging a dispute over the instrument's terms as a tort claim.

Here, Mr. Jennings acknowledges that the trust amendments direct all assets to Ms. Miner and expressly state that he is to receive nothing. Despite this, he asserts a tort claim based on alleged outside intent and later conduct. Because he cannot establish a valid expectancy and fails to plead independently tortious conduct, his claim does not satisfy the elements of tortious interference. The trial court properly dismissed it.

A. Mr. Jennings cannot establish a valid expectancy of inheritance in light of his express disinheritance.

In his second point, Mr. Jennings argues that, at the very least, he stated a valid claim for tortious interference with an inheritance because he had a legally cognizable expectancy of receiving assets from the trusts and that Ms. Miner interfered with that expectancy (Aplt.Br. 18-19, 29).

Mr. Jennings' argument is in error. At the outset, the law of Missouri requires far more than that to state such a claim. A plaintiff asserting tortious interference with inheritance must plead and prove a valid, non-speculative expectancy grounded in an intended testamentary disposition of

specific property. It is not enough to allege the decedent intended a different result in some general sense or that the distribution was unfair. Rather, the expectancy must be concrete, legally cognizable, and tied to an identifiable bequest. *Brandin*, 918 S.W.2d at 837-38.

In *Brandin*, for example, the plaintiffs alleged that they were the decedent's children and that undue influence deprived them of an inheritance. *Id.* This Court affirmed dismissal because the petition failed to allege facts demonstrating that the decedent intended to leave them any particular property. *Id.* The Court emphasized that a plaintiff must plead an "intended bequest," not merely a generalized expectation of benefit or a conclusion that he was harmed. *Id.* Without that concrete allegation, the claim fails as a matter of law. *Id.*

Similarly, in *Brown*, the plaintiff asserted a claim based on an alleged expectancy of inheritance but had no vested interest and at most was an "heir expectant." 926 S.W.2d at 200-01. This Court held that this was too speculative an expectancy and was insufficient to support a tort claim. *Id.* The law of Missouri does not recognize an expectancy of an inheritance that depends on conjecture or informal understandings rather than a concrete, intended disposition of property. *Id.*

These authorities define what a valid expectancy is and is not. A valid expectancy arises from a specific, intended disposition of property that would have occurred absent the alleged interference. *Brandin*, 918 S.W.2d at 837-38. It does not arise from generalized intent, alleged fairness, or informal plans not embodied in an actual disposition. *Brown*, 926 S.W.2d at 200-01.

Mr. Jennings' theory falls squarely on the impermissible side of that line. The governing trust amendments provide that all trust assets are to be distributed to Ms. Miner and expressly state the settlors "intentionally leave nothing" to him (D5 pp. 2-4; D8 pp. 2-4). That language does not merely fail to create an expectancy. It confirms that no such expectancy exists. A plaintiff cannot have a legally cognizable expectancy of receiving property where the alleged entitlement is contradicted by the dispositive scheme itself.

Recognizing that problem, Mr. Jennings attempts to construct an expectancy from alleged statements and understandings outside the trust instruments. He claims the settlors intended to "equalize" distributions, certain equity accounts were to be his, and Ms. Miner was expected to carry out that plan (Aplt.Br. 10, 18-19, 29). But those allegations do not identify a legally operative bequest. They do not tie any specific property to an enforceable disposition in his favor. At most, they describe a hoped-for result, which is insufficient as a matter of law. *Brandin*, 918 S.W.2d at 837-38.

The defect in Mr. Jennings' allegations is more pronounced than those in *Brandin* and *Brown*. There, the plaintiffs at least alleged some basis for expecting to receive property, even if legally insufficient. Here, the alleged expectancy is foreclosed at the outset. The settlors directed the entire trust estate to Ms. Miner and expressly stated that Mr. Jennings is to receive nothing (D5 pp. 2-4; D8 pp. 2-4). If the plaintiffs in *Brandin* and *Brown* lacked a valid expectancy, then Mr. Jennings necessarily lacks one, too.

Nor can Mr. Jennings avoid dismissal by recasting the absence of an expectancy as a factual dispute. These insufficient claims are dismissed at

the pleading stage where the alleged expectancy is legally insufficient. *Brandin*, 918 S.W.2d at 837-38. Because the governing instruments here conclusively establish that Mr. Jennings was disinherited, no set of additional facts could supply the required expectancy.

Accordingly, Mr. Jennings cannot establish a valid expectancy of inheritance as a matter of law. Without that essential element, his claim for tortious interference fails, and the trial court correctly dismissed it.

B. Mr. Jennings fails to plead independently tortious conduct sufficient to support his claim.

Even if Mr. Jennings somehow could establish a valid expectancy, his tort claim still fails because he does not plead independently tortious conduct.

The law of Missouri requires more than a disappointed expectation or a dispute over how property was handled. A claim for tortious interference with inheritance must be based on conduct that is itself independently wrongful, such as fraud, undue influence, duress, or similar misconduct. *See Brandin*, 918 S.W.2d at 838; *Blasdel*, 141 S.W.3d at 455. Alleged unfairness, disagreement, or failure to carry out alleged intent are not enough.

This Court has strictly enforced this requirement. In *Brandin*, the plaintiffs alleged that undue influence affected the decedent's estate plan, but this Court affirmed dismissal because the petition failed to plead sufficient facts showing actionable wrongdoing. 918 S.W.2d at 837-38. Conclusory assertions of misconduct do not suffice. *Id.* The plaintiff must allege specific facts demonstrating conduct that would be independently actionable. *Id.*

Similarly, in *Blasdel*, this Court recognized tortious interference claims only where the defendants engaged in fraud or similar misconduct that

deprived the plaintiffs of a legally cognizable expectancy. 141 S.W.3d at 455. The focus is on the nature of the defendant's conduct, not merely the result. *Id.* Without independently tortious conduct, there is no claim.

Mr. Jennings' petition does not meet that standard. His allegations consist of claims that Ms. Miner failed to follow the settlors' alleged intent, did not distribute certain assets to him, and engaged in "subterfuge" or self-dealing in connection with certain accounts (D2 pp. 10-12). But these are labels, not facts establishing independently actionable wrongdoing. He does not allege that the trust amendments were procured by undue influence. He does not allege that Ms. Miner committed fraud in the execution of the instruments. He does not allege duress or any other recognized form of independently tortious conduct affecting the creation of the estate plan.

At most, Mr. Jennings alleges that Ms. Miner handled certain assets in a way that did not conform to his understanding of what the settlors intended (D2 pp. 10-12). But a disagreement over the handling or distribution of assets, even if characterized as "self-dealing," does not itself constitute tortious interference with inheritance. Those kinds of allegations may implicate other legal theories in appropriate circumstances, but they do not satisfy the requirement of independently tortious conduct necessary to support this claim, nor does Mr. Jennings cite any authority holding they do.

Mr. Jennings' brief does not cure this defect. He continues to rely on generalized assertions of wrongdoing and characterizations such as "subterfuge" without identifying specific conduct that would be actionable

under Missouri law (Aplt.Br. 18-19, 29). As in *Brandin*, that conclusory pleading is insufficient.

This is in sharp contrast to examples of tortious interference claims that *were* sufficient. In decisions like *Lynch*, the plaintiffs alleged specific wrongful conduct in procuring the instrument itself, including undue influence and abuse of a confidential relationship. 260 S.W.3d at 836-38. Mr. Jennings makes no such allegations. He does not challenge the validity of the trust instruments or allege that they were procured through wrongful conduct. His claim instead rests on disagreement with their outcome.

Accordingly, because Mr. Jennings fails to plead independently tortious conduct sufficient to support a claim for tortious interference, his claim fails as a matter of law. The trial court correctly dismissed it.

C. Mr. Jennings' authorities and his allegations regarding the equity accounts do not transform his tort claim into being sufficient.

In his brief, Mr. Jennings attempts to avoid dismissal by relying on *Backer v. Backer*, 705 S.W.3d 632, 643 (Mo. App. 2024), *Hammons v. Eisert*, 745 S.W.2d 253, 258 (Mo. App. 1988), and his allegations concerning the retitling of certain equity accounts (Aplt.Br. 40-44). None of those arguments states a claim as a matter of law.

Hammons does not help Mr. Jennings. There, this Court recognized a tortious interference claim where the defendant allegedly used undue influence to induce the settlor to revoke a trust, diverting assets otherwise passing to the plaintiff. 745 S.W.2d 253, 258 (Mo. App. 1988).

That is a classic “procurement” case in which the claim arose from alleged wrongful conduct affecting the creation or revocation of the governing instrument itself. Mr. Jennings alleges no such conduct. He does not contend the 2020 amendments were procured by undue influence or that any trust was revoked through wrongful means. His claim instead assumes the validity of the trusts and seeks to alter their effect. *Hammons* is inapposite.

Nor does *Backer* help him. There, this Court allowed a tortious interference claim to proceed where the plaintiff alleged that assets were diverted through *inter vivos* transfers that placed them outside the reach of probate or trust remedies. 705 S.W.3d 632, 643 (Mo. App. 2024). The claim did not concern the distribution of assets under a governing instrument but instead was about the alleged removal of assets from the estate framework altogether. *Id.*

Again, that is not what Mr. Jennings alleges. He does not claim that assets were removed from the estate or placed beyond the reach of trust law. His claim concerns how assets were treated in relation to the trusts and whether he should have received them. That is a dispute that the trusts govern, not an independent tort.

Mr. Jennings’ reliance on the trust language itself is also misplaced. He asserts that the trusts “make clear” that he was to receive certain equity accounts (Aplt.Br. 42-43). But the provisions he cites do not distribute any trust assets to him. As discussed above, the amendments direct that all trust assets be distributed to Ms. Miner and expressly state that Mr. Jennings is to receive nothing (D5 pp. 2-4; D8 pp. 2-4). The reference to an equity account

appears only as an explanation for that decision, not as a dispositive provision. It does not create a legally enforceable bequest. It therefore cannot establish either a valid expectancy or a basis for a tort claim.

The same is true of Mr. Jennings' allegations regarding the December 2023 "retitling" of an equity account (D2 pp. 10-11; Aplt.Br. 42-43). Even taken as true, those allegations do not state a claim for tortious interference with inheritance. They do not identify an intended bequest under the governing instruments. They do not allege conduct affecting the validity or procurement of the trusts. And they do not describe the kind of independent wrongdoing that Missouri law requires. Indeed, by his own pleading, the accounts Mr. Jennings' allegations concern are *outside* the trusts. But at most, they assert that Ms. Miner handled certain assets in a manner inconsistent with Mr. Jennings' understanding of the settlors' intent. That is insufficient as a matter of law.

Finally, Mr. Jennings' appeal to a need for discovery does not salvage his claim. He argues he cannot determine the "true disposition" of the equity accounts without discovery and so should be permitted to proceed (Aplt.Br. 43-44). But discovery does not create a claim where none exists. Dismissal of a tortious interference claim at the pleading stage is required where the alleged expectancy or wrongdoing is legally insufficient. *Brandin*, 918 S.W.2d at 837-38. Because the governing instruments conclusively establish that Mr. Jennings was disinherited and his allegations do not satisfy the elements of the tort, no amount of discovery can cure those defects.

The authorities and allegations on which Mr. Jennings relies do not bring this case within the limited circumstances in which Missouri recognizes a claim for tortious interference with inheritance. His claim remains a dispute over the distribution of assets governed by the trusts, not a tort arising outside them.

D. Mr. Jennings' claim is barred because he had an adequate remedy under trust and probate law.

The trial court also correctly dismissed Mr. Jennings' tortious interference claim because the law of Missouri does not permit this type of claim to be brought as a tort.

The law of Missouri recognizes tortious interference with inheritance as a limited cause of action, not a substitute for ordinary trust or probate remedies. A plaintiff may pursue such a claim only if he first seeks relief through available trust or probate procedures or demonstrates that no adequate remedy exists there. *Gianella*, 234 S.W.3d at 532. The requirement is not that the plaintiff succeed in those proceedings. It is that an adequate procedure was available to address the alleged harm. *Id.*

In *Gianella*, for example, the plaintiff brought a tortious interference claim based on the same alleged misconduct that already had been raised in probate proceedings. *Id.* at 531-32. This Court held that the claim was barred because the plaintiff had an adequate remedy in probate, even though she was dissatisfied with the outcome. *Id.* at 532. This is because a tort claim may not be used to relitigate entitlement to property or to obtain the same relief through a different theory. *Id.*

Similarly, in *McMullin*, the plaintiff attempted to pursue a tort claim based on the alleged invalidity of a later will rather than bringing a will contest. 761 S.W.2d at 720. This Court held the claim was barred because a will contest provided an adequate remedy and the plaintiff could not bypass that procedure by recasting the dispute as a tort. *Id.* The law of Missouri does not allow a plaintiff to avoid the established framework governing inheritance disputes by repackaging the same claim under a different label. *Id.*

Mr. Jennings' attempted tort claim falls squarely within this procedural bar. In his petition, he challenges the distribution of assets under the trusts and seeks relief that would alter that distribution (D2 pp. 13-15). Those are classic trust matters that the MUTC governs. The MUTC provides a comprehensive framework within trust and probate law to address these kinds of claims.

Nor does this case fall within the narrow circumstances in which tortious interference claims are permitted despite the existence of probate or trust remedies. That occurs only where the alleged wrongdoing cannot be addressed within the framework of probate or trust law, such as where a will is destroyed, assets are concealed outside the estate, or conduct prevents any meaningful invocation of those procedures. *Gianella*, 234 S.W.3d at 532.

Those circumstances are not present here. Mr. Jennings' allegations concern the distribution and administration of trust assets and the effect of the governing trust instruments (D2 pp. 12-15). Those are matters squarely

governed by the MUTC and the law of trusts. They are not independent tort injuries arising outside that framework.

This distinction turns on the nature of the claim, not on whether a particular plaintiff can ultimately obtain relief or satisfy standing requirements. The law of Missouri does not permit a party to transform a dispute over trust distribution into a tort claim simply because he disagrees with the result dictated by the governing instrument. *Gianella*, 234 S.W.3d at 532; *McMullin*, 761 S.W.2d at 720.

Because this case concerns the distribution of trust property under governing instruments, it falls within the domain of trust law, not tort law. Mr. Jennings cannot recast that dispute as one for tortious interference with inheritance. His tort claim therefore is barred as a matter of law, and the trial court correctly dismissed it.

Accordingly, Mr. Jennings' claim for tortious interference with inheritance fails as a matter of law. He cannot establish a valid expectancy, does not plead independently tortious conduct, and seeks to use a tort claim to alter the distribution of assets that the trusts govern. The law of Missouri does not permit that. The trial court correctly dismissed his claim.

Conclusion

The Court should affirm the trial court's judgment.

Respectfully submitted,

<i>Jonathan Sternberg, Attorney, P. C.</i>	Philip Wright, Mo. #61228
by <u>/s/Jonathan Sternberg</u>	<i>Wright Law Firm</i>
Jonathan Sternberg, Mo. #59533	4460 W 107th Street
2323 Grand Boulevard #1100	Overland Park, Kansas 66207
Kansas City, Missouri 64108	(913) 710-9885
Telephone: (816) 292-7020	philip@pwrightlaw.com
Facsimile: (816) 292-7050	
jonathan@sternberg-law.com	

COUNSEL FOR RESPONDENTS

Certificate of Compliance

I certify that I have prepared this brief using Microsoft Word for Office 365 in 13-point, Century Schoolbook font, which is not smaller than 13-point, Times New Roman font. I further certify that this brief complies with the word limitations of Supreme Court Rule 84.06(b) and this Court's Rule 41, as this brief contains 10,494 words.

/s/Jonathan Sternberg
Attorney

Certificate of Service

I certify that I signed the original of this brief of the appellant, which is being maintained by Jonathan Sternberg, Attorney, P.C. per Rule 55.03(a), and that on April 10, 2026, I filed a true and accurate Adobe PDF copy of this brief of the respondent via the Court's electronic filing system, which notified the following of that filing:

Mr. Joseph M. Fridkin
The Fridkin Law Firm, LLC
10620 Johnson Drive, Suite 100
Shawnee, Kansas 66203
(913) 248-9100
jfridkin@fridkinlaw.com

Counsel for Appellant

/s/Jonathan Sternberg
Attorney