

INDIANA COURT OF APPEALS

Joseph Grillo and Linda Bour v. Margaret Grillo

Grillo v. Grillo · No. 24A-PL-1780 · Decided February 11, 2026

SUMMARY

The Indiana Court of Appeals affirmed dismissal of Joseph Grillo and Linda Bour’s claims against Margaret Grillo for breach of fiduciary duty and tortious interference with inheritance. The court held that alleged wrongful transfers from joint accounts during the decedent’s lifetime implicated claims belonging to the estate and had to be pursued through available probate remedies rather than an independent tort action. The court relied primarily on Indiana probate statutes, *Minton v. Sackett*, *Salmon v. Tafelski*, and *Shourek v. Stirling*.

CASE DETAILS

COURT	Indiana Court of Appeals
WRITING FOR THE COURT	May, Judge; Weissmann, Judge; Scheele, Judge
JURISDICTION	Indiana Court of Appeals
DECIDED	February 11, 2026
DOCKET	24A-PL-1780
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the Marion Superior Court’s dismissal under Indiana Trial Rule 12(B)(6) of their claims for breach of fiduciary duty and tortious interference with inheritance.
STANDARD OF REVIEW	The court reviewed the Rule 12(B)(6) dismissal de novo, accepting the complaint’s alleged facts as true, construing reasonable inferences in favor of the nonmoving party, and considering only the complaint.
PRECEDENTIAL VALUE	published
PARTIES	Joseph Grillo, Linda Bour v. Margaret Grillo

TOPICS

- probate procedure
- estate administration
- intentional interference with expectancy
- motions to dismiss
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether heirs may maintain an independent tort action for alleged improper transfers of a decedent's assets during the decedent's lifetime when the probate code provides remedies within the estate proceedings.
2. Whether alleged transfers from a joint account constitute claims belonging to the decedent's estate when the complaint does not allege that the other joint owners contributed funds.
3. Whether the trial court properly dismissed the complaint under Indiana Trial Rule 12(B)(6).

HOLDINGS

1. Heirs may not maintain an independent tort action when Indiana's probate code provides an adequate avenue for addressing the alleged misconduct; the claims must be pursued within the decedent's probate proceedings.
2. Because the complaint alleged that no one other than Giuseppe deposited money into the joint account, the funds belonged to Giuseppe during his lifetime under Indiana's joint-account statute; any wrongful transfer injured Giuseppe and the resulting claim passed to his estate upon his death.
3. Dismissal was proper because the complaint's claims were required to be pursued through the available probate remedies rather than as an independent tort action.

KEY QUOTATIONS

"The reach of the code is comprehensive. It preempts and precludes common law actions that would interfere with or impinge upon administration of a probate estate." (at 7)

"Plaintiffs' claim against Margaret therefore must be brought within the proceedings to probate Giuseppe's estate and cannot be asserted as an independent tort action." (at 10)

FACTUAL BACKGROUND

Giuseppe Grillo executed a durable power of attorney naming his daughter Margaret as his attorney-in-fact. After Giuseppe died, his children Joseph and Linda alleged that approximately \$280,000, along with other withdrawals and payments, had been transferred from accounts allegedly held jointly by Giuseppe and all three children to accounts or uses benefiting Margaret. Joseph and Linda sued Margaret for breach of fiduciary duty and tortious interference with inheritance, seeking recovery of the transferred property and an accounting. Giuseppe's will had been admitted to probate in Johnson County, where the estate proceedings remained available to address claims involving his assets.

PROCEDURAL HISTORY

After Giuseppe Grillo's death, Joseph Grillo and Linda Bour filed an independent action in Marion Superior Court against their sister, Margaret Grillo, alleging that she improperly transferred funds from joint accounts while acting as their father's attorney-in-fact. The trial court initially denied Margaret's motion to dismiss and

ordered an accounting, but later granted reconsideration after the Indiana Court of Appeals decided *Salmon v. Tafelski*. The trial court dismissed the complaint, concluding that the plaintiffs had adequate probate remedies and could not maintain an independent tort action. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *Arflack v. Town of Chandler*, 27 N.E.3d 297, 305 (Ind. Ct. App. 2015)
- *Trail v. Boys & Girls Clubs of Nw. Ind.*, 845 N.E.2d 130, 134 (Ind. 2006)
- *Bellwether Props., LLC v. Duke Energy Ind., Inc.*, 87 N.E.3d 462, 466 (Ind. 2017)
- *Safeco Ins. Co. of Ind. v. Blue Sky Innovation Grp., Inc.*, 230 N.E.3d 898, 901 (Ind. 2024), reh'g denied
- *Minton v. Sackett*, 671 N.E.2d 160 (Ind. Ct. App. 1996)
- *Salmon v. Tafelski*, 235 N.E.3d 867 (Ind. Ct. App. 2024)
- *Shourek v. Stirling*, 621 N.E.2d 1007, 1009 (Ind. 1993)
- *Inlow v. Henderson, Daily, Withrow & DeVoe*, 787 N.E.2d 385, 393 (Ind. Ct. App. 2003), trans. denied