

SUPREME COURT OF NEBRASKA

Green Plains Trade Group LLC et al. v. Archer Daniels Midland Company

320 Neb. 882 (2026) · No. S-25-127 · Decided February 27, 2026

SUMMARY

The Nebraska Supreme Court answered a certified question from the U.S. District Court for the Central District of Illinois concerning whether Nebraska would recognize a tortious-interference claim under § 766A of the Restatement (Second) of Torts. The court concluded that its prior decisions had neither adopted nor rejected § 766A and held, as a matter of first impression, that it would not recognize the theory under Nebraska law. The opinion discusses Nebraska’s reception statute and the historical origins of tortious interference claims.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Papik, J.; Funke, C.J.; Cassel, J.; Stacy, J.; Freudenberg, J.; Bergevin, J.; Alioth, District Judge
JURISDICTION	Nebraska Supreme Court
DECIDED	February 27, 2026
DOCKET	S-25-127
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Nebraska answered a certified question from the U.S. District Court for the Central District of Illinois concerning whether Nebraska would recognize Restatement (Second) of Torts § 766A as a basis for tortious interference liability.
STANDARD OF REVIEW	De novo determination of the certified question of Nebraska law; the court addressed an issue of first impression rather than reviewing factual findings.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Green Plains Trade Group LLC et al. v. Archer Daniels Midland Company

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Nebraska Supreme Court precedents had previously recognized or rejected Restatement (Second) of Torts § 766A as a basis for tortious interference liability.
2. Whether Nebraska would recognize § 766A as a valid basis for tort liability concerning interference with a business relationship or expectancy.
3. Whether article I, § 13, of the Nebraska Constitution requires recognition of a cause of action under § 766A.
4. Whether Nebraska's common-law reception statute and judicial authority to modify the common law warranted judicial adoption of § 766A.

HOLDINGS

1. Nebraska decisions citing or discussing § 766A, including *Pettit v. Paxton* and *Recio v. Evers*, neither recognized § 766A as a valid basis for tort liability nor rejected it outright.
2. Nebraska would not recognize § 766A as a valid basis for tort liability.
3. Article I, § 13, does not require recognition of § 766A.
4. Nebraska courts possess authority to modify common-law rules, but the court declined to exercise that authority to adopt § 766A.

KEY QUOTATIONS

“In light of the foregoing concerns, we are not inclined to recognize a cause of action not recognized by the common law in the absence of highly compelling reasons to do so.” (320 Neb. at 901-902)

“We are not persuaded that we should recognize § 766A.” (320 Neb. at 905)

“This court would not recognize § 766A as a valid basis for tort liability in Nebraska.” (320 Neb. at 905)

FACTUAL BACKGROUND

Green Plains and ADM are ethanol producers. Green Plains alleged that ADM strategically timed large deliveries and below-market sales at an Illinois terminal to drive down the Chicago Benchmark Price for ethanol, while also profiting from derivative contracts that increased in value when the benchmark declined. Green Plains claimed that because its sales contracts used the benchmark price, ADM's conduct caused Green Plains to receive less money than it otherwise would have received. The alleged theory was tortious interference under Restatement (Second) of Torts § 766A, which addresses conduct making the plaintiff's contractual performance more expensive or burdensome without necessarily inducing a third-party breach.

PROCEDURAL HISTORY

Green Plains sued ADM in the U.S. District Court for the Central District of Illinois, alleging that ADM manipulated the Chicago Benchmark Price for ethanol and thereby interfered with Green Plains' contractual performance. The district court dismissed the complaint, reasoning that Nebraska had not recognized § 766A. The Seventh Circuit vacated and remanded, directing the district court to predict Nebraska law or consider certification. On certification under Neb. Rev. Stat. § 24-219, the Nebraska Supreme Court accepted and answered the question in the negative.

DISPOSITION

other

REMAND INSTRUCTIONS

The certified question was answered, "No." The Nebraska Supreme Court entered judgment on the certified question; no independent remand instructions were issued to the federal district court.

CASES CITED

- *Pettit v. Paxton*, 255 Neb. 279, 583 N.W.2d 604 (1998)
- *Recio v. Evers*, 278 Neb. 405, 771 N.W.2d 121 (2009)
- *Green Plains Trade Group v. Archer Daniels Midland*, 648 F. Supp. 3d 1028 (C.D. Ill. 2022)
- *Green Plains Trade v. Archer Daniels Midland*, 90 F.4th 919 (7th Cir. 2024)
- *Corona de Camargo v. Schon*, 278 Neb. 1045, 776 N.W.2d 1 (2009)
- *Wilfong v. Omaha & C. B. Street R. Co.*, 129 Neb. 600, 262 N.W. 537 (1935)
- *State ex rel. Tyler v. Douglas Cty. Dist. Ct.*, 254 Neb. 852, 580 N.W.2d 95 (1998)
- *Williams v. Miles*, 68 Neb. 463, 94 N.W. 705 (1903)
- *State v. Tautges, Rerat & Welch*, 146 Neb. 439, 20 N.W.2d 232 (1945)
- *In re Estate of Lewis*, 148 Neb. 592, 28 N.W.2d 427 (1947)
- *Allen Family Foods, Inc. v. Capitol Carbonic Corp.*, No. N10C-10-313 JRS CCLD, 2011 WL 1205138 (Del. Super. Mar. 31, 2011)
- *Wilspec Tech. v. DunAn Holding Group*, 204 P.3d 69 (Okla. 2009)
- *Gemini Physical Therapy v. State Farm Mut. Auto.*, 40 F.3d 63 (3d Cir. 1994)
- *Price v. Sorrell*, 784 P.2d 614 (Wyo. 1989)
- *Windsor Securities, Inc. v. Hartford Life Ins. Co.*, 986 F.2d 655 (3d Cir. 1993)
- *Secretary of State for Health v. Servier Laboratories Ltd.*, [2021] UKSC 24
- *Allen v. Flood*, [1898] A.C. 1 (H.L.)
- *Keeble v. Hickeringill*, (1707) 103 Eng. Rep. 1127 (K.B.)
- *Tarleton v. M’Gawley*, (1793) 170 Eng. Rep. 153 (K.B.)
- *Garret v. Taylor*, (1621) 79 Eng. Rep. 485 (K.B.)

- Lumley v. Gye, (1853) 118 Eng. Rep. 749 (Q.B.)
- McNary v. Chamberlain, 34 Conn. 384 (1867)
- Cue v. Breeland, 78 Miss. 864, 29 So. 850 (1901)
- Hulsh v. Hulsh, 2025 IL 130931, 272 N.E.3d 456, 487 Ill. Dec. 402 (2025)
- Holmes v. Circo, 196 Neb. 496, 244 N.W.2d 65 (1976)
- PM Group Life Ins. v. Western Growers Assur. Trust, 953 F.2d 543 (9th Cir. 1992)
- Price v. High Pointe Oil Co., Inc., 493 Mich. 238, 828 N.W.2d 660 (2013)
- State v. Lead Industries Ass'n, Inc., 951 A.2d 428 (R.I. 2008)
- Elephant Ins. Company, LLC v. Kenyon, 644 S.W.3d 137 (Tex. 2022)
- Gamble v. United States, 587 U.S. 678, 139 S. Ct. 1960, 204 L. Ed. 2d 322 (2019) (Thomas, J., concurring)
- Torres v. JAI Dining Services (Phoenix), 256 Ariz. 212, 536 P.3d 790 (2023) (Bolick, J., concurring)
- Woodman ex rel. Woodman v. Kera LLC, 486 Mich. 228, 785 N.W.2d 1 (2010)

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