

COURT OF APPEALS OF OHIO, TWELFTH APPELLATE DISTRICT

Rolph v. Rolph

2026-Ohio-3005 · No. CA2025-08-013 · Decided August 4, 2026

SUMMARY

The Ohio Twelfth District Court of Appeals reviews a summary judgment ruling in a dispute over the transfer of a family farm from a decedent to two of her children. The court addresses whether the plaintiffs' claims involving fraud, undue influence, and intentional interference with an inheritance were barred by res judicata, including whether that affirmative defense was waived when it was not pleaded in the answer. The opinion adopts the view that res judicata is waived if not raised in a responsive pleading or an amendment, and affirms the trial court's judgment on the claims.

CASE DETAILS

COURT	Court of Appeals of Ohio, Twelfth Appellate District
WRITING FOR THE COURT	Matthew R. Byrne, Presiding Judge; Robert A. Hendrickson, Judge; Mike Powell, Judge
JURISDICTION	Ohio
DECIDED	August 4, 2026
DOCKET	CA2025-08-013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed a general-division trial court order granting defendants summary judgment on claims for fraud, intentional interference with the expectancy of an inheritance, and undue influence. The appellate court held that the res judicata defense was waived because defendants first raised it in their summary-judgment motion, but affirmed because plaintiffs failed to produce evidence creating genuine issues of material fact on their substantive claims.
STANDARD OF REVIEW	De novo review of summary judgment. Summary judgment is proper when there is no genuine issue of material fact, the moving party is entitled to judgment as a matter of law, and reasonable minds can reach only a conclusion adverse to the nonmoving party.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion; precedential under applicable Ohio law.

PARTIES

Martin Rolph, James Rolph, Julie Robke, Luke Rolph v. Daniel Rolph, Christina Rolph

TOPICS

summary judgment

affirmative defenses

res judicata

civil procedure

probate

PRACTICE AREAS

civil procedure

probate

inheritance litigation

real estate

QUESTIONS PRESENTED

1. Whether defendants waived the affirmative defense of res judicata by failing to assert it in their answer and raising it for the first time in a motion for summary judgment.
2. Whether plaintiffs presented evidence establishing genuine issues of material fact on their fraud claims.
3. Whether plaintiffs presented evidence establishing genuine issues of material fact on their undue-influence claims.
4. Whether plaintiffs presented evidence establishing genuine issues of material fact on their intentional-interference-with-expectancy-of-an-inheritance claim.

HOLDINGS

1. The affirmative defense of res judicata is waived when it is not asserted in a responsive pleading or an amendment to the pleading and is raised for the first time in a motion for summary judgment.
2. Summary judgment was proper on plaintiffs' fraud claims because the complaint did not plead fraud with particularity and plaintiffs produced no evidence of specific false statements, knowledge of falsity, or other evidence sufficient to create a genuine issue of material fact.
3. Summary judgment was proper on plaintiffs' undue-influence claims because plaintiffs produced no evidence that defendants exerted or attempted to exert improper influence over Gray, even though the evidence concerning Gray's susceptibility or dementia created a factual dispute.
4. Summary judgment was proper on plaintiffs' intentional-interference claims because plaintiffs presented no evidence that defendants engaged in fraud, duress, undue influence, or other tortious conduct intentionally interfering with an inheritance expectancy.

KEY QUOTATIONS

"Affirmative defenses other [than] those listed in Civ.R. 12(B) are waived if not raised in the pleadings or in an amendment to the pleadings." (§ 45)

"The Defendants therefore waived the defense. We sustain Plaintiffs' first assignment of error." (§ 60)

"Even though we have sustained Plaintiffs' first assignment of error, the decision to grant summary judgment in favor of Defendants does not constitute reversible error because Plaintiffs failed to demonstrate genuine issues of fact for trial on their claims of fraud, undue influence, and HIEI." (§ 79)

FACTUAL BACKGROUND

Judy Martin Gray owned an approximately 300-acre family farm in Brown County, Ohio. In 2014, she entered into a land contract with her son Daniel Rolph and Christina Rolph, and in 2020 conveyed the farm to them by general warranty deed, with the deed releasing and referencing the land contract. After Gray's death, her other children and grandson claimed that the conveyance resulted from fraud, undue influence, or other tortious conduct that deprived them of expected inheritances. In discovery, however, plaintiffs could not identify specific false statements, acts of undue influence, or other evidence showing that defendants improperly induced the transfer.

PROCEDURAL HISTORY

The probate division denied Martin Rolph's motion to disqualify Daniel and Christina Rolph as estate co-executors and determined that the land-contract payment terms had merged into the later deed conveying the farm. Martin did not appeal that probate ruling. Plaintiffs later filed a general-division action asserting fraud, intentional interference with inheritance expectancy, undue influence, unjust enrichment, and quiet title. The general division granted defendants summary judgment on all claims, and the Twelfth District affirmed the judgment despite sustaining the assignment concerning waiver of res judicata.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The court directed that a mandate be sent to the Brown County Court of Common Pleas for execution upon the judgment. No further substantive proceedings were ordered.

CASES CITED

- Franchas Holdings, L.L.C. v. Dameron, 2016-Ohio-878, ¶ 16 (12th Dist.)
- State ex rel. Becker v. Faris, 2021-Ohio-1127, ¶ 14 (12th Dist.)
- Spitzer v. Frisch's Restaurants, Inc., 2021-Ohio-1913, ¶ 6 (12th Dist.)
- Baker v. Bunker Hill Haven Home, 2024-Ohio-875, ¶¶ 9-10 (12th Dist.)
- Hillstreet Fund III, L.P. v. Bloom, 2010-Ohio-2961, ¶ 9 (12th Dist.)
- Berkheimer v. REKM, L.L.C., 2023-Ohio-116, ¶ 18 (12th Dist.)
- Faith Lawley, L.L.C. v. McKay, 2021-Ohio-2156, ¶ 26 (12th Dist.)
- State ex rel. Freeman v. Morris, 62 Ohio St.3d 107 (1991)
- Johnson v. Lindner, 14 Ohio App.3d 412 (3d Dist. 1984)
- Jim's Steak House, Inc. v. Cleveland, 81 Ohio St.3d 18, 1998-Ohio-440
- State ex rel. Anderson v. Wilson, 2025-Ohio-493
- State ex rel. Deiter v. McGuire, 2008-Ohio-4536, ¶ 28
- Nationstar Mtge., L.L.C. v. Young, 2016-Ohio-8287 (9th Dist.)

- E.B.P., Inc. v. 623 W. St. Clair Ave., L.L.C., 2010-Ohio-4005 (8th Dist.)
- Internatl. EPDM Rubber Roofing Sys., Inc. v. GRE Ins. Group, 2001 WL 477251 (6th Dist. May 4, 2001)
- Adena at Miami Bluffs Condominium Owners' Assn., Inc. v. R. Hugh Woodward, 2021-Ohio-3872, ¶ 32 (12th Dist.)
- Ostigny v. Brubaker, 2024-Ohio-384, ¶ 38 (12th Dist.)
- Lebanon v. Ballinger, 2015-Ohio-3522, ¶ 27
- Hellmuth v. Stephens, 2023-Ohio-4592, ¶ 23
- Estate of Everhart v. Everhart, 2014-Ohio-2476, ¶¶ 35-36 (12th Dist.)
- Lakes v. Ryan, 2003-Ohio-504, ¶ 18 (12th Dist.)
- Treadway v. Free Pentecostal Pater Ave Church of God, Inc., 2008-Ohio-1663, ¶ 22
- Firestone v. Galbreath, 67 Ohio St.3d 87, 88 (1993)
- Fountain v. H&R Cincy Properties, L.L.C., 2022-Ohio-1000, ¶ 67 (12th Dist.)

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