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Tortious Interference in California: Della Penna, Korea Supply, and What Plaintiffs Must Prove in 2026

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Interference with an existing contract and interference with a prospective relationship carry different burdens under California law.

California recognizes two intentional interference torts: interference with an existing contract and interference with prospective economic advantage. The line between them determines whether a plaintiff must prove an independently wrongful act. This memorandum states the elements and the wrongfulness requirement as of November 2026.

I. Question Presented

What must a California plaintiff plead and prove to recover for intentional interference with contract or with prospective economic advantage, and when must the defendant's conduct be independently wrongful?

II. Short Answer

For a contract not terminable at will, the plaintiff need not show that the interference was wrongful apart from the interference itself. For a prospective relationship, *Della Penna* requires conduct "wrongful by some legal measure other than the fact of interference itself," and *Korea Supply* defines that as conduct proscribed by a determinable legal standard. *Reeves* and *Ixchel* apply the same requirement to at-will employment and other at-will contracts. Specific intent is not required. Inducing litigation is actionable only on a showing akin to malicious prosecution.

III. Governing Law

A. Interference With Contract

The elements are "(1) the existence of a valid contract between the plaintiff and a third party; (2) the defendant's knowledge of that contract; (3) the defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage." (*Ixchel Pharma, LLC v. Biogen, Inc.* (2020) 9 Cal.5th 1130, quoting *Reeves v. Hanlon* (2004) 33 Cal.4th 1140, 1148; see *Pacific Gas & Electric Co. v. Bear Stearns & Co.* (1990) 50 Cal.3d 1118, 1126.)

In *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, the court held that "it is not necessary that the defendant's conduct be wrongful apart from the interference with the contract itself." The fourth element is "actual breach or disruption of the contractual relationship," and the tort does not require that disruption be the actor's primary purpose.

B. Interference With Prospective Economic Advantage: *Della Penna*

Della Penna v. Toyota Motor Sales, U.S.A., Inc. (1995) 11 Cal.4th 376 arose from Toyota's effort to stop the export of Lexus automobiles to Japan. The court held that a plaintiff "must plead and prove as part of its case-in-chief" that the defendant "engaged in conduct that was wrongful by some legal measure other than the fact of interference itself." (*Id.* at p. 393.) It disapproved contrary pleading language in earlier decisions. It stressed the need to distinguish existing contracts from relationships still in the realm of competition. It expressly left "the precise scope of 'wrongfulness'" for another case. (*Ibid.*)

C. Defining Independent Wrongfulness: *Korea Supply*

Korea Supply Co. v. Lockheed Martin Corp. (2003) 29 Cal.4th 1134 supplied the definition. An act is independently wrongful "if it is unlawful, that is, if it is proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard." The court held that the requirement limits the class of defendants: "only defendants who have engaged in an unlawful act can be held liable for this tort." Alleged bribery of foreign officials in violation of the Foreign Corrupt Practices Act satisfied the requirement.

On intent, the court held that a plaintiff need not plead specific intent to interfere. "[I]t is sufficient to plead that the defendant knew that the interference was certain or substantially certain to occur as a result of its action." The court enumerated five elements for the prospective tort: an economic relationship with a third party containing the probability of future benefit; the defendant's knowledge; intentional wrongful acts designed to disrupt it; actual disruption; and economic harm proximately caused.

D. At-Will Relationships: *Reeves* and *Ixchel*

Reeves held that a plaintiff suing for interference with at-will employment relations must plead and prove an independently wrongful act. (33 Cal.4th at pp. 1152–1153.) It reasoned that an at-will relation is primarily an interference with a future relation. It added that "one commits no ac-

tionable wrong by merely soliciting or hiring the at-will employee of another." In *Reeves*, the defendants' misappropriation of confidential information and related unlawful conduct supported liability.

Ixchel extended the rule beyond employment: "to state a claim for interference with an at-will contract by a third party, the plaintiff must allege that the defendant engaged in an independently wrongful act." The court disapproved two Court of Appeal decisions to the extent they were inconsistent. It reaffirmed that intentionally inducing the breach of a contract not terminable at will is a wrong in itself.

E. Inducing Litigation: *Pacific Gas & Electric*

In *Pacific Gas & Electric*, Bear Stearns allegedly encouraged a public water agency to seek termination of a long-term power contract. The court held that a plaintiff basing interference on the inducement of litigation must allege "that the litigation was brought without probable cause and that the litigation concluded in plaintiff's favor." (50 Cal.3d at p. 1137.) It explained: "It is repugnant to this basic philosophy to make it a tort to induce potentially meritorious litigation." (*Ibid.*)

IV. Analysis

A. Classifying the Relationship Comes First

The threshold question is whether the disrupted relationship is a contract terminable only for cause or on a fixed term, an at-will contract, or a mere expectancy. Only the first escapes the wrongfulness requirement. After *Ixchel*, labeling a claim "interference with contract" does not avoid *Della Penna* if the contract is terminable at will.

B. Identifying the Independent Wrong

Korea Supply requires a determinable legal standard. The bribery statute in *Korea Supply* and the misappropriation in *Reeves* are examples. *Korea Supply* added that an act "is not independently wrongful merely because defendant acted with an improper motive." In *Guild Mortgage Co. LLC v. CrossCountry Mortgage LLC* (May 27, 2026, D085036, D085273) ___ Cal.App.5th ___, the defendant argued that the plaintiff "pleaded no viable independently wrongful act." The Fourth District disagreed. It held that allegations that departing employees breached a duty of loyalty, and that a branch manager breached a fiduciary duty, were sufficient at the demurrer stage.

Two cautions follow. First, if the independent wrong is trade-secret misappropriation, the interference claim may be displaced by Civil Code section 3426.7; *Guild Mortgage* avoided that result because the gravamen was a broader scheme. Second, an independent wrong supplied by a lawsuit must satisfy *Pacific Gas & Electric*.

C. Intent and Indirect Victims

Because knowledge of substantially certain interference suffices, a defendant cannot defeat the claim by showing it acted for its own benefit. *Korea Supply* applied that rule to a plaintiff whose expectancy was a commission contingent on a competing bid, and which was not the direct object of the defendants' conduct.

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D. Remedies Interaction

Korea Supply also held that the plaintiff could not obtain nonrestitutionary disgorgement under the Unfair Competition Law. The interference tort, which carries damages, therefore remained the vehicle for monetary recovery. Pleading both claims preserves injunctive relief under the UCL and damages under the tort.

V. Practical Considerations

- Determine whether each disrupted contract is terminable at will; plead its term and termination provisions.
- Identify the specific statute, regulation, or common-law rule that makes the conduct unlawful, and plead facts satisfying each of its elements.
- Plead knowledge that disruption was certain or substantially certain; specific intent is unnecessary.
- In employee-raiding cases, frame loyalty and fiduciary breaches during employment as the independent wrong, and keep the gravamen distinct from trade-secret theft.
- Where the alleged interference consists of encouraging a lawsuit or arbitration, evaluate probable cause and favorable termination before filing.
- Defendants should test the wrongfulness allegation on demurrer; *Della Penna* places the burden on the plaintiff's case-in-chief.

VI. Authorities Cited

- *Della Penna v. Toyota Motor Sales, U.S.A., Inc.* (1995) 11 Cal.4th 376
- *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134
- *Pacific Gas & Electric Co. v. Bear Stearns & Co.* (1990) 50 Cal.3d 1118
- *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26
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