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SJC-13105

MATTHEW SACKS & another<sup>1</sup> vs. NANCY DISSINGER & others.<sup>2</sup>

Middlesex. September 8, 2021. - December 29, 2021.

Present: Gaziano, Lowy, Cypher, Kafker, Wendlandt,  
& Georges, JJ.

Trust, Beneficiary. Undue Influence. Unlawful Interference.  
Unjust Enrichment. Limitations, Statute of. Uniform Trust  
Code.

Civil action commenced in the Superior Court Department on November 22, 2019.

A motion to dismiss was heard by Michael D. Ricciuti, J.

The Supreme Judicial Court on its own initiative transferred the case from the Appeals Court.

Robert L. Hamer for the plaintiffs.  
Mardic A. Marashian for the defendants.

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<sup>1</sup> Rebecca Sacks.

<sup>2</sup> Donna Sacks, individually and as personal representative of the estate of Sheila Sacks; Joan Rosenthal; and Cheryl Sacks O'Toole.

LOWY, J. This case involves three generations of the Sacks family. After learning that they had been removed as beneficiaries of their grandfather's trust, the plaintiffs, Matthew and Rebecca Sacks,<sup>3</sup> brought suit against their aunts and their grandmother's estate. The plaintiffs alleged that their exclusion from the trust -- and their aunts' correspondingly larger shares of distributions -- arose from undue influence exerted by one of their aunts and their grandmother upon their grandfather.

The defendants moved to dismiss the plaintiffs' claims, arguing that the claims were time barred under G. L. c. 203E, § 604 (§ 604), which requires that actions "contest[ing] the validity of a trust" be brought within one year of the trust settlor's death. A Superior Court judge agreed and granted the defendants' motion. The plaintiffs appealed, maintaining that their claims for intentional interference and unjust enrichment did not challenge the validity of the trust and, therefore, were not time barred by § 604. We transferred this case from the Appeals Court on our own motion.

We conclude that the plaintiffs' claims for intentional interference and unjust enrichment are substantively different from the trust contests governed by § 604 and therefore are not

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<sup>3</sup> Because many parties share a surname, we refer to them all by their first names.

time barred. We reverse and remand to the Superior Court for further proceedings consistent with this opinion.

Background. We take the following facts from the complaint as supplemented by undisputed facts from the plaintiffs' grandparents' probate records. See Galiastro v. Mortgage Elec. Registration Sys., Inc., 467 Mass. 160, 164 (2014).

The grandparents, Aaron and Sheila Sacks, are deceased; Aaron was the settlor of the trust at issue, and Sheila's estate is represented as one of the defendants. Aaron and Sheila had five children: Jeffrey Sacks, who is deceased, and four of the defendants, Nancy Dissinger, Joan Rosenthal, Donna Sacks, and Cheryl Sacks O'Toole. The plaintiffs, Matthew and Rebecca, are Jeffrey's children.

Aaron established the Aaron H. Sacks Revocable Trust (trust) in August 2011. The original terms of the trust provided that, after Aaron's and Sheila's deaths, each of their five children would receive one-fifth of the trust's assets. If any of their children predeceased Aaron and Sheila, that child's share would go to that child's heirs. By contemporaneous wills and subsequent codicils, both Aaron and Sheila devised the residues of their estates to the trust, including their interests in their family home.

In June 2012, Jeffrey died after battling a brain tumor for almost two years. Based on the recommendation of his doctors

and with the support of his son, Matthew, and his sisters Donna and Joan, Jeffrey made the difficult decision to decline any further treatment. Sheila by then was suffering from the effects of a stroke and the onset of dementia. Distraught over her son's end-of-life decision, she blamed grandson Matthew and daughters Donna and Joan for supporting it. Sheila considered them complicit in Jeffrey's "murder." Nancy, another of Aaron and Sheila's children, encouraged this belief in their mother.

Within months of Jeffrey's death, Aaron was persuaded by Sheila and Nancy to remove Jeffrey's heirs as beneficiaries of the trust. Aaron executed an amendment to the trust in July 2012, providing that after Aaron's and Sheila's deaths, the trust property would be divided equally among only their four daughters.

When Aaron died in August 2017, the trust, as amended, became irrevocable. Sheila survived her husband, and during her lifetime, the trust property was to be available only for her health, education, support, and maintenance. Sheila died in July 2019, precipitating the events that brought this matter before us.

The plaintiffs claim that they learned of their exclusion from the trust only upon Sheila's death in July. In November 2019, the plaintiffs commenced this action in the Superior Court, filing a three-count complaint. The plaintiffs first

sought rescission of the 2012 amendment; second, they brought a claim against Sheila's estate and against Nancy for intentional interference with advantageous relations;<sup>4</sup> and finally, they brought a claim against all four of their aunts for unjust enrichment. In each of these claims, the plaintiffs alleged that Nancy and Sheila had exerted undue influence upon Aaron.

The defendants filed a motion to dismiss on the basis that all three counts were time barred under § 604. In response, the plaintiffs voluntarily dismissed count I (rescission) but maintained that counts II and III (intentional interference and unjust enrichment, respectively) were not governed by § 604 and thus timely.<sup>5</sup> A Superior Court judge ruled in favor of the defendants and dismissed the plaintiffs' claims. The plaintiffs appealed, and we transferred the case to this court on our own motion.

Discussion. 1. Standard of review. We review the grant of a motion to dismiss de novo, "accept[ing] as true the facts alleged in the plaintiffs' complaint as well as any favorable

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<sup>4</sup> In their complaint, the plaintiffs pleaded their claim as "interference with advantageous relationship." We interpret this to be for interference with an expectancy. See Labonte v. Giordano, 426 Mass. 319, 320-321 (1997). See also Restatement (Third) of Torts: Liability for Economic Harm § 19 (2020).

<sup>5</sup> The plaintiffs argue that count II is governed by the three-year statute of limitations set forth in G. L. c. 260, § 2A, and that count III is governed by the six-year statute of limitations set forth in G. L. c. 260, § 2.

inferences that reasonably can be drawn from them." Galiastro, 467 Mass. at 164.

2. Section 604. Adopted as part of the Massachusetts Uniform Trust Code (MUTC), § 604 states in relevant part: "A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within . . . [one] year after the settlor's death." G. L. c. 203E, § 604 (a) (1).<sup>6</sup> Aaron undoubtedly is the settlor of the trust, and the plaintiffs filed their complaint over two years after Aaron's death; thus, to the extent the plaintiffs are seeking to "contest the validity" of the trust, their claims are time barred. The plaintiffs argue, however, that their claims of intentional interference and unjust enrichment are not trust contests but rather distinct causes of action. The Superior Court judge rejected this argument, holding that, although the plaintiffs' claims were not pleaded as challenges to the

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<sup>6</sup> General Laws c. 203E, § 604 (a), states in full: "A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of: (1) [one] year after the settlor's death; or (2) [sixty] days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, the trustee's name and address and the time allowed for commencing a proceeding." Neither party suggests that G. L. c. 203E, § 604 (a) (2), applies here.

validity of the trust, they remained, in substance, trust contests. We disagree.<sup>7</sup>

The plain language of § 604 suggests that the statute applies to proceedings to litigate, call into question, or challenge the validity of a trust instrument (or any part thereof). Black's Law Dictionary 398 (11th ed. 2019). See Uniform Trust Code § 604 comment (2003) ("A 'contest' is an action to invalidate all or part of the terms of the trust or of property transfers to the trustee").

The question that follows is: what does it mean to litigate, call into question, or challenge the validity of a trust? As the plaintiffs seemed to acknowledge by voluntarily dismissing count I (rescission), this definition clearly captures claims -- whatever those claims may be titled -- that seek relief against the trust (e.g., rescission or reformation). Because the relief sought would change or revoke the trust, implicit in any such claim is that the trust, as is, is not legally enforceable or valid. However, while it is necessary to consider the relief sought when determining whether a claim constitutes a trust contest, it is not sufficient. That is, a claim that does not seek rescission or reformation can still be

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<sup>7</sup> Because we hold that the plaintiffs' claims are timely and not governed by § 604, we do not reach the question whether § 604 serves as a statute of repose or a statute of limitations.

a trust contest. To focus exclusively on the relief sought would be to elevate the labels placed on a claim or prayer for relief over the substance of a claim. Cf. Hendrickson v. Sears, 365 Mass. 83, 85 (1974) ("we have looked to the 'gist of the action' or the essential nature of the plaintiff's claim" to determine whether it sounds in contract or tort).

Our treatment of will contests is informative here. Although the processes by which wills and trusts become objects of contests are quite different, see infra, our analyses of these two instruments -- once they have become objects of contests -- are quite similar. Compare G. L. c. 203E, § 406 ("A trust shall be void to the extent its creation was induced by fraud, duress or undue influence"), with Neill v. Brackett, 234 Mass. 367, 370 (1920) ("Fraud or undue influence . . . invalidates a will . . ."). See G. L. c. 203E, § 112 ("The rules of construction that apply in the [C]ommonwealth to the interpretation of and disposition of property by will shall also apply, as appropriate, to the interpretation of the terms of a revocable trust and the disposition of the trust property"). See also Report of the Ad Hoc Massachusetts Uniform Trust Committee § 112 comment, at 11 (rev. July 18, 2012) ("[T]his section made applicable to all trusts the rules of construction applicable to wills. The Committee revised this section to provide that such rules of construction should apply only to

'revocable trusts,' defined as trusts intended to be will substitutes").

In the context of wills, we have recognized the distinction between contests, which seek to determine the validity of a legal instrument, and other causes of action, which do not. We have reasoned that "a will contest is in the nature of a property right" and is not a "vindication of personal rights." Sheldone v. Marino, 398 Mass. 817, 819 (1986). The determination of a will's validity "establishes the will against all the world"; it does not ultimately speak to a specific relationship among persons. Finer v. Steuer, 255 Mass. 611, 616 (1926).

We understand a trust contest, then, as an action where the underlying facts are assessed for their effect on all or part of a trust (e.g., invalidity), while a noncontest is an action where the underlying facts are assessed for their effect on a person (e.g., harm). The ultimate object of a contest is a determination of a trust's validity, not the personal liability or even culpability of the settlors, beneficiaries, or trustees. Cf. Harvey v. Fiduciary Trust Co., 299 Mass. 457, 464 (1938) (treating matter about trustee's proper distribution of trust

property as matter in rem or quasi in rem). We now apply this reasoning to the plaintiffs' claims.<sup>8</sup>

3. Intentional interference. The Uniform Trust Code (UTC), in an explanatory comment to its own nearly identical § 604, explicitly carves out intentional interference with an expectancy claims from the statute's purview: "An action against a beneficiary or other person for intentional interference with an inheritance or gift, not being a contest, is not subject to this section" (emphasis added). Uniform Trust Code § 604 comment. The MUTC was modeled on the UTC, and the UTC comment sheds valuable light on the statute at issue here. Report of the Ad Hoc Massachusetts Uniform Trust Code Committee,

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<sup>8</sup> The defendants cite a number of cases from other States, interpreting those States' equivalents of § 604, which likewise were modeled on or adopted from the Uniform Trust Code. In each of those cases, the court held that the plaintiff's claims, although not pleaded as such, actually were contests and thereby time barred under the equivalent of § 604. However, we do not find those cases persuasive as to the matter before us, as all of those cases addressed claims that centered on the validity of all or part of a trust, not, as here, on the personal consequences of the defendants' conduct. See, e.g., Derringer v. Emerson, 729 F. Supp. 2d 286, 290-291 (D.D.C. 2010), aff'd, 435 Fed. Appx. 4 (2011) (claim seeking declaratory judgment on invalidity of trust amendments was time-barred contest); In re Gerald L. Pollack Trust, 309 Mich. App. 125, 147 (2015) (claim seeking to set aside trust was time-barred contest); Morris v. Trust Co. of the Ozarks, 423 S.W.3d 918, 919 (Mo. Ct. App. 2014) (claim seeking to terminate trust was time-barred contest); In re the Admin. of the Lee R. Wintersteen Revocable Trust Agreement, 2018 S.D. 12, ¶ 16 (claim challenging validity of trust amendment was time-barred contest); Matter of Elizabeth A. Briggs Revocable Living Trust, 2017 S.D. 40, ¶¶ 9-10 (claim to invalidate trust amendments was time-barred contest).

supra at 3 (although not officially adopted, "the official comments to the [UTC] are helpful to understand [the MUTC's] provisions"). We agree with the UTC commentary's explicit carveout -- which was not disavowed in the MUTC's own commentary -- and hold that the plaintiffs' intentional interference claim is not a trust contest.

"[W]e have long recognized a cause of action for tortious interference with the expectancy of receiving a gift[, including an inheritance,] in certain limited conditions." Labonte v. Giordano, 426 Mass. 319, 320 (1997). The claim derives from the harm one person causes another: to prevail, a plaintiff must show that a defendant intentionally interfered through unlawful means with the plaintiff's legally protected interest by acting on the would-be donor continuously "until the time the expectancy would have been realized." Id. at 321. See Restatement (Third) of Torts: Liability for Economic Harm § 19 (2020) ("A defendant is subject to liability for interference with an inheritance or gift if: [a] the plaintiff had a reasonable expectation of receiving an inheritance or gift; [b] the defendant committed an intentional and independent legal wrong; [c] the defendant's purpose was to interfere with the plaintiff's expectancy; [d] the defendant's conduct caused the expectancy to fail; and [e] the plaintiff suffered economic loss

as a result"). This is an in personam action, not an in rem or quasi in rem action.

Here, the plaintiffs seek recourse against their grandmother, Sheila, via her estate, and against their aunt Nancy, in her capacity not as a trustee but as an individual. The plaintiffs' claim for intentional interference does not challenge the nature or validity of the trust, but rather seeks a determination of the harm caused by Sheila and Nancy. Moreover, the plaintiffs' intentional interference claim is predicated upon the amendment's effectiveness: without such amendment being given effect, the plaintiffs would suffer no harm flowing from its enforcement.

In ruling for the defendants, the Superior Court judge adopted the defendants' view that the plaintiffs' reliance on undue influence rendered this claim substantively indistinguishable from a contest. However, a charge of undue influence may underlie a tort claim, in addition to a trust or will contest, and thus may equally be a basis for a claim of tortious interference with an expectancy.<sup>9</sup> See Brignati v.

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<sup>9</sup> It is hardly unusual for a factual predicate to give rise to more than one cause of action. Section 604 establishes an unforgiving one-year deadline by which to bring a trust contest. While the Legislature may have good reason to preclude a challenge to a revocable trust beyond one year from its settlor's death, the Legislature could not have intended that this one-year statutory deadline preclude intended beneficiaries

Medenwald, 315 Mass. 636, 637-638 (1944) (undue influence claim not brought as part of will contest sounded in tort). Compare G. L. c. 203E, § 406 ("A trust shall be void to the extent its creation was induced by fraud, duress or undue influence"), with Labonte, 426 Mass. at 321 n.4 ("unlawful means" required as element of interference with expectancy tort "include duress, fraud, or undue influence"). Cf. Metropolitan Life Ins. Co. v. DeNicola, 317 Mass. 416, 419-420 (1944) (distinguishing between action to "recover damages for fraud" and "the right to have a contract annulled for fraud or mistake"). The difference between a trust contest and a tort claim derives not from the predicate conduct -- which may be identical across the claims -- but rather from where the effect of the conduct is being assessed (i.e., on the trust or on a person).

Even so, in the wills context, this court has held that there could be no separate cause of action in tort based on a defendant's undue influence if there had been an adequate remedy during probate (i.e., through a contest). See Brignati, 315 Mass. at 638-639. See also Restatement (Third) of Torts: Liability for Economic Harm § 19 comment c ("Some common forms of interference with inheritance can be adequately redressed in

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from seeking recovery simply because they suffered from tortious conduct that also gives rise to grounds for a trust contest. Rather, the legislative history, common sense, and basic fairness suggest the opposite.

a probate court, and thus cannot form the basis of a claim under this Section"). In Brignati, supra at 637-638, we affirmed a directed verdict against the plaintiff for her claim of intentional interference with an expectancy -- where the expectancy was a testamentary bequest -- reasoning that the plaintiff had tried to make a claim inconsistent with the "final and conclusive" probate decree. See Tobin v. Larkin, 187 Mass. 279, 282 (1905) ("A decree of the Probate Court within its jurisdiction is good unless it is set aside, and it cannot be attacked collaterally"). Cf. Alba v. Raytheon Co., 441 Mass. 836, 841 (2004) ("The judicial doctrine of collateral estoppel provides that '[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim'" [citation omitted]). In prohibiting a separate claim for intentional interference with an expectancy where a final and conclusive probate decree necessarily addresses such a claim, we do not permit plaintiffs "a second bite at the apple" where probate proceedings invariably provide a forum. The implication is, of course, that where there is no such decree, it may be permissible for plaintiffs to bring suit.

If the plaintiffs' claim for intentional interference with

an expectancy fell within the ambit of Brignati, then it would be unable to stand as a distinct cause of action sounding in tort: even if it were substantively distinguishable from a contest, that distinction would be inconsequential, and this inquiry irrelevant. However, our holding in Brignati was based on the universal nature of the probate process to which wills are uniquely subject. While wills and trusts are treated similarly when objects of contests, they arrive at being such objects in different ways. Unlike trusts, the property of which is often distributed without a formal declaration of the trust's validity by a court, virtually every will subject to the jurisdiction of the Commonwealth must be declared valid before any transfers of property may occur pursuant to the will. G. L. c. 190B, § 3-102. Indeed, revocable trusts have become such popular will substitutes precisely because they typically remain out of probate, providing greater administrative ease and privacy.<sup>10</sup> Unless a trust contest expressly is brought, there is

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<sup>10</sup> See, e.g., E.P. Hayes, S.T. Donovan, & L. Macauley, *Understanding and Using Trusts* § 2.1 (Mass. Cont. Legal Educ. 4th ed. 2020) ("[A] revocable pour-over trust is not filed with the court. Thus, its dispositive provisions also remain unavailable to the public"); P.L. Halter, D.L.S. Freytag, & J.W. Murphy, *Seminar, How to Structure Revocable Living Trusts* (Mass. Cont. Legal Educ. June 9, 2020) (touting cost, time, and privacy saved by using revocable trusts to avoid probate); J.E. Steffensen, T.E. Bator, T.A. Craig, W.N. Friedler, J.W. Moore, E.V. Moreno, L.M. Neeley, J.W. Roberts, & M.J. Simolo, *A Practical Guide to Estate Planning in Massachusetts* § 3.3, at 3-

no affirmative ruling on the validity of a revocable trust; in fact, usually no court ever sees a trust instrument. Therefore, our holding in Brignati -- which was premised on the understanding that virtually every will in the Commonwealth is reviewed by a judge of the Probate and Family Court and subject to a probate decree regarding its validity -- does not apply.

Moreover, although trusts are common will substitutes, we decline to extend Brignati's line of reasoning to the instant case. Not only are trusts not probated, but also would-be beneficiaries are far less likely to learn of their exclusion from a trust. While a decedent's heirs-at-law and devisees are required to receive notice of the probate of a will, G. L. c. 190B, §§ 3-306, 3-403, only qualified beneficiaries -- who represent a subset of beneficiaries and certainly do not include family members who have been excluded -- may be entitled to information about a trust, G. L. c. 203E, § 103. See, e.g., Matter of the Colecchia Family Irrevocable Trust, 100 Mass. App. Ct. 504, 521 (2021) ("Upon Lillian's death, Michael became a distributee under the trust and, thus, met the definition of 'qualified beneficiary.' Until then, he was not a 'qualified beneficiary' . . . . Accordingly, the MUTC provides no basis

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41 (Mass. Cont. Legal Educ. 4th ed. 2017 & Supp. 2019) (listing "avoidance of probate" and "privacy" as first two advantages of revocable trusts).

for Michael to quarrel with the trustees' failure to inform him of the existence of the trust prior to Lillian's death . . ."). While the law of wills and trusts may overlap considerably, with an understanding that both often serve a single testamentary objective, the lack of preemptive judicial review of trusts and of robust notice requirements for trust beneficiaries, where such review and notice are provided for wills, marks a significant difference between the two instruments and necessitates that we do not apply the reasoning in Brignati to a tort claim involving a trust. See Restatement (Third) of Torts: Liability for Economic Harm § 19 comment c ("A probate court, for example, is the appropriate forum for determining whether a will is valid. . . . A probate court[, however,] is unable to provide a remedy for wrongful conduct in relation to a nonprobate transfer, such as a transfer by inter vivos trust. . . . Again, a restitution or tort claim may be used to address those circumstances").

Because an intentional interference with an expectancy claim inquires into one person's (harmful) effect on another -- not one person's effect on the trust's validity -- and because undue influence can support such a tort claim distinct from a contest in these circumstances, we conclude that the intentional interference claim here is not subject to § 604's one-year

deadline. Instead, it is subject to the three-year statute of limitations prescribed by G. L. c. 260, § 2A.

4. Unjust enrichment. "Unjust enrichment is defined as retention of money or property of another against the fundamental principles of justice or equity and good conscience" (quotation and citation omitted). Santagate v. Tower, 64 Mass. App. Ct. 324, 329 (2005). An unjust enrichment claim sounds in equity, see, e.g., Keller v. O'Brien, 425 Mass. 774, 778 (1997) ("Restitution is an equitable remedy by which a person who has been unjustly enriched at the expense of another is required to repay the injured party"), but may bear considerable resemblance to a claim for intentional interference with an expectancy. In fact, the two claims often go hand in hand: "[M]ost cases of liability under [intentional interference with inheritance or gift] can also be redressed by a claim in restitution rather than tort. . . . In cases that arise under this Section, as in . . . most others that involve intentional wrongdoing, a plaintiff may choose which theory of recovery to pursue."<sup>11</sup> Restatement (Third) of Torts: Liability for Economic Harm § 19 comment f. Indeed, "[a] remedy in equity where the plaintiff may lay hold of the property in the hands of the wrongdoer [is]

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<sup>11</sup> It is worth emphasizing that while we hold that plaintiffs may timely bring either or both of their remaining claims, we do not hold that plaintiffs may ultimately recover under both claims.

preferable in many cases to an action of tort [for intentional interference]. Damages at best are only an approximation of the loss, while relief in equity, by requiring the wrongdoer to transfer to the intended devisee or legatee that which would have gone to him but for the [wrongful conduct] of the former, gives the intended beneficiary exactly what he would have received in the absence of such [wrongful conduct]."<sup>12</sup>

(Citations omitted.) Monach v. Koslowski, 322 Mass. 466, 470-471 (1948). Given the reasoning supra, where, as here, a claim for unjust enrichment is predicated on allegedly tortious conduct, we hold that it is not a trust contest under § 604.

It is true that liability for unjust enrichment, unlike liability for intentional interference, may extend to recipients who were not responsible for wrongful conduct.<sup>13</sup> See, e.g.,

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<sup>12</sup> Vitally, "[r]estitution is not damages" (citation omitted). Santagate, 64 Mass. App. Ct. at 336. Rather, restitution serves as a flexible remedy, arising from equitable unjust enrichment claims, and may be distinguishable in form but not in substance from remedies that seek reformation or rescission.

<sup>13</sup> While an unjust enrichment claim may be brought against innocent recipients, those innocent recipients "are entitled to the standard affirmative defenses, the most significant in this context being change of position." Restatement (Third) of Restitution and Unjust Enrichment § 46 comment h (2011). Additionally, a plaintiff bringing a claim for unjust enrichment must give "fair notice" to any innocent recipients that restitution is sought "under an 'innocent recipient' theory" and "provide [a] foundation for entry of judgment against [the innocent recipients] on such a theory." Jensen v. Daniels, 57 Mass. App. Ct. 811, 818 (2003).

Demoulas v. Demoulas, 428 Mass. 555, 572 (1998) (constructive trust to remedy unjust enrichment may be imposed against property transferred by wrongdoer to his children, who committed no wrong but were not bona fide purchasers). See also Stevens v. Nagel, 64 Mass. App. Ct. 136, 139-140 (2005); Jensen v. Daniels, 57 Mass. App. Ct. 811, 818 (2003) ("There are, to be sure, circumstances under which the innocent recipient of money, or goods the money bought, may be required to make restitution to the person from whom the money was wrongfully obtained"); Restatement (Third) of Restitution and Unjust Enrichment § 46 ("The misconduct that invalidates the transfer to the recipient may be the act of the recipient or of a third person"). Cf. Cavadi v. DeYeso, 458 Mass. 615, 627 (2011) ("[A] constructive trust, implied by law as a result of mistake, violation of a fiduciary duty, or unjust enrichment, may be imposed, generally as between transferor and transferee, without proof of fraudulent intent" [emphasis added]). But in claims for unjust enrichment such as the one before us, these so-called innocent parties have benefited directly due to the harm one person has tortiously perpetrated against another. Where intentional interference claims seek a determination of the harm effected by wrongful conduct, unjust enrichment claims seek a determination of the benefit resulting from that conduct. Thus, the inquiry

still goes to the effects of tortious conduct on people and not to the validity of a legal instrument.

Therefore, because this claim for unjust enrichment -- like the intentional interference with an expectancy claim -- derives from tortious conduct perpetrated by one person against another, for the reasons stated supra, the plaintiffs' claim for unjust enrichment is not a contest under § 604.<sup>14</sup>

Conclusion. Because the plaintiffs' claims of intentional interference with an expectancy and unjust enrichment do not constitute trust contests, they are not governed by G. L. c. 203E, § 604. The order granting the defendants' motion to dismiss is reversed, and the case is remanded to the Superior Court for further proceedings consistent with this opinion.

So ordered.

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<sup>14</sup> The plaintiffs argue that the six-year statute of limitations set forth in G. L. c. 260, § 2, applies to their unjust enrichment claim. While we need not reach the issue, we presume that the statute of limitations for an unjust enrichment claim predicated on tortious conduct is instead the three-year statute of limitations set forth in G. L. c. 260, § 2A. See, e.g., SiOnyx, LLC v. Hamamatsu Photonics K.K., 332 F. Supp. 3d 446, 466 (D. Mass. 2018) ("Where an unjust-enrichment claim is contractual in nature, the limitations period for that claim is . . . six years" under Massachusetts law); Cambridge Literary Props., Ltd. v. W. Goebel Porzellanfabrik G.m.b.H. & Co. Kg., 448 F. Supp. 2d 244, 262-263 (D. Mass. 2006), aff'd, 510 F.3d 77 (1st Cir. 2007), cert. denied, 555 U.S. 815 (2008) (unjust enrichment claim governed by three-year tort statute of limitations). Nonetheless, since the plaintiffs commenced their action within the shorter three-year limitations period, it is unnecessary for us to determine which period applies to this, or other, unjust enrichment claims.