

IN THE SUPREME COURT OF IOWA

NO. 19-1724
Pottawattamie County No. CVCV115108

DAVID BUBOLTZ and DONA REECE,
Plaintiffs-Appellants/Cross-Appellees,

v.

PATRICIA BIRUSINGH, Individually and in her capacity as Co-Executor
of The Estate of Cletis C. Ireland, and KUMARI DURICK,
Defendants-Appellees'/Cross-Appellants.

APPEAL FROM THE IOWA DISTRICT COURT IN AND FOR
POTTAWATTAMIE COUNTY ORDERS DATED AUGUST 7 AND
DURING TRIAL ENDING SEPTEMBER 13, 2019
Honorable Craig Dresimeier, Judge

APPELLANTS' -SURREPLY BRIEF

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945 N.W.2d 25, 37–38 (Iowa 2020)(July 17, 2020), 4, 5

STATEMENT OF ISSUES PRESENTED FOR REVIEW

**I. THE RECENT SUPREME COURT OF IOWA OPINION IN
THE *YOUNGBLUT* CASE SUPPORTS APPELLANTS’
POSITION?**

Youngblut v. Youngblut, 945 N.W.2d 25, 37–38 (Iowa 2020), reh'g denied (July 17, 2020)

APPELLANTS' REPLY & CROSS-APPELLES' ARGUMENTS

I. THE RECENT SUPREME COURT OF IOWA OPINION IN THE *YOUNGBLUT* CASE SUPPORTS APPELLANTS' POSITION.

The Defendants' Reply Brief argues that the recent decision in *Youngblut* compels dismissal of Plaintiffs' intentional interference claim. To arrive at this inaccurate conclusion, Defendants cherry-pick limited portions of the opinion and ignore its expressly limited holding. A complete and accurate read of the *Youngblut* opinion unmistakably supports Plaintiffs' position in this appeal.

The Defendants' accurately indicate that the *Youngblut* opinion explicitly examined many of the arguments they present in this appeal. Unfortunately for the Defendants, the Court did **not** agree with the conclusion Defendants' urge:

*We emphasize what today's decision does and does not hold...**It simply holds that the claim of tortious interference must be joined with a timely will contest.***

Youngblut v. Youngblut, 945 N.W.2d 25, 37–38 (Iowa 2020), reh'g denied (July 17, 2020). It is undisputed that the Plaintiffs did comply with this mandate, as their claim for interference was brought with the timely will

contest. The Defendants' suggestion that the *Youngblut* decision stands for something more in this case is without merit.

Youngblut also undercuts the Defendants' assertion that undue influence cannot support a claim for tortious interference. *Id.* Although Plaintiffs' claim asserts other independently tortious conduct (i.e. fraud), the *Youngblut* opinion purposely discussed undue influence as qualifying under the "fraud or other tortious means" requirement. *Id.*

The *Youngblut* opinion evaluated a vast majority of the arguments presented by Defendants as they pertain to Plaintiffs' claim for interference. However, contrary to the Defendants' argument, these issues were decided favorably for the Plaintiffs.

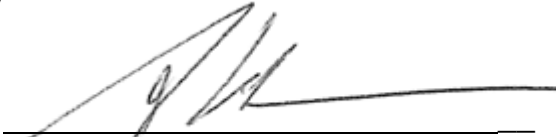
CONCLUSION

The Supreme Court of Iowa should reinstate Plaintiffs' claim for intentional interference with inheritance.

CERTIFICATE OF SERVICE

On the 30th day of July 2020, the undersigned served the within Appellant’s Reply Brief on all parties to this appeal by e-filing it on the State of Iowa’s Electronic Data Management System.

I further certify that on the 30th day of July 2020, I filed this document with the Clerk of the Supreme Court, Iowa Judicial Branch Building, 1111 E. Court Avenue, Des Moines, Iowa 50319, by e-filing it in the State of Iowa’s Electronic Data Management System.



ALEXANDER E. WONIO

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ALEXANDER E. WONIO

July 30, 2020

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