

How do I prove a conveyance was fraudulent?

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Fraudulent Conveyance

[Koleti v. Mehlman, 1st Dist. Hamilton No. C-190015, 2020-Ohio-2708](#)

In this appeal, the First Appellate District reversed the trial court's decision and found that a debtor's liability to a creditor for a fraudulent transfer of assets does not extend to the debtor's transferee.

The Bullet Point: Pursuant to R.C. 1336.04(A)(1), a transfer made or an obligation incurred by a debtor is fraudulent as to a creditor if the debtor made the transfer or incurred the obligation with actual intent to hinder, delay, or defraud any creditor of the debtor. Under Ohio's Uniform Fraudulent Transfer Act ("OUFTA"), a creditor may set aside a debtor's fraudulent transfer of assets. This "essentially prevents debtors from divesting themselves of assets, either to avoid paying pending claims or in anticipation of future claims by creditors." When determining liability for a fraudulent transfer of assets, the court looks at the conduct and intent of the debtor, not the conduct or intent of any transferee. As such, a creditor may not recover for a fraudulent transfer against the debtor's transferee.

Quiet Title

[Lomelino v. Lomelino, 2d Dist. Montgomery No. 28530, 2020-Ohio-1645](#)

In this appeal, the Second Appellate District affirmed the trial court's decision, finding that the executor lacked standing to bring a quiet title action against the beneficiaries as the executor did not have possession of or the requisite interest in the decedent's property.

The Bullet Point: In Ohio, an action to quiet title is exclusively a statutory cause of action. Under R.C. 5303.01, an action for quiet title may be brought by a person in possession of real property against any person who claims to have an adverse interest in the real property. A quiet title action may also be brought by a person out of possession who claims to have an interest in remainder or reversion in the real property against any person who claims to have an adverse interest. It is well-settled in Ohio that this statute "gives a right of action to quiet title to one out of possession who claims an estate or interest in remainder or reversion in real property. It does not give such right to one out of possession who claims the entire estate." Stated differently, in order to have

standing to bring a cause of action for quiet title, the plaintiff must meet the minimum statutory requirements of either possession of the real property or a remainder or reversionary interest in it.

False Light Invasion of Privacy

Harvey v. Sys. Effect, LLC, 2d Dist. Montgomery No. 28497, 2020-Ohio-1642

In this appeal, the Second Appellate District affirmed the trial court's decision, finding that the plaintiff's claim of false light invasion of privacy was time-barred as the claim involved allegations that also supported a defamation claim.

The Bullet Point: Ohio courts have held that as defamation and false light invasion of privacy claims overlap, a false light claim involving allegations that would also support a defamation claim has the same statute of limitations as applicable to defamation. That being said, a claim of false light invasion of privacy and a claim of defamation are separate and distinct. As this court pointed out, "false light is a misattribution of a person's actions – something that is misleading."

Specifically, one who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability for invasion of privacy if: "(a) the false light in which the other was placed would be highly offensive to a reasonable person, and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed". To succeed on a false light claim, the plaintiff must prove the statement was untrue. In addition, the information must have been "publicized" in that the matter was communicated to the public at large. As such, claims of false light invasion of privacy are particularly hard to prove.

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