

## Question

The wife filed an uncontested divorce document despite knowing the case was contested. The wife lied about having an active order of protection and about family violence in a protective order. Under Texas law, fraudulent misrepresentation occurs when a false statement is made knowingly, with the intent to deceive, and causes harm to another party. By filing false documents and making false claims, the wife may have committed fraudulent misrepresentation, which could be grounds for legal action to hold her accountable.

## Answer (Texas)

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### Introduction:

The issue at hand involves the potential fraudulent misrepresentation by a wife who filed an uncontested divorce document despite knowing the case was contested. Additionally, she allegedly lied about having an active order of protection and about family violence in a protective order. Under Texas law, fraudulent misrepresentation occurs when a false statement is made knowingly, with the intent to deceive, and causes harm to another party. This note outlines the legal arguments supporting the claim that the wife's actions may constitute fraudulent misrepresentation, drawing on relevant legal principles and authorities.

### Relevant Facts and Assumptions:

In this case, the following facts are relevant:

1. The wife filed an uncontested divorce document despite the case being contested.
2. She falsely claimed the existence of an active order of protection.
3. She made false allegations of family violence in a protective order.
4. These actions were allegedly taken with the intent to deceive and have caused harm to the other party.

### Legal Principles:

The following legal principles are applicable:

**Fraudulent Misrepresentation Elements:** Under Texas law, the elements of fraudulent misrepresentation include: (1) a material representation was made; (2) the representation was false; (3) the speaker knew it was false or made it recklessly; (4) the representation was made with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury. This is well-established in cases such as [Berdin v. Allstate Ins. Co.](#), [Anderson v. Am. Risk Ins. Co.](#), and [Guevara v. Lackner](#).

**Duty of Honesty in Pleadings:** [Tex. Civ. Prac. and Rem. Code § 10.001](#) requires that pleadings and motions are not presented for any improper purpose and that each claim or factual contention has evidentiary support. This statute underscores the requirement for honesty in legal proceedings and supports the argument that filing false documents constitutes fraudulent misrepresentation.

**Fraudulent Inducement:** As outlined in [Desta v. Anyaoha](#), fraudulent inducement requires proving a false material misrepresentation that was known to be false, intended to be acted upon, relied upon, and caused injury. This principle is relevant to the wife's alleged false claims in the divorce proceedings.

**Contractual Fraud:** Texas law imposes a duty to abstain from inducing another to enter into a contract through fraudulent misrepresentations, as seen in [Formosa Plastics Corp. USA v. Presidio Engineers and Contractors, Inc.](#). However, this case was declined to follow by [Heil Co. v. Polar Corp.](#), which may impact its applicability.

**Certification of Pleadings:** [Tex. Civ. Prac. and Rem. Code § 9.011](#) further emphasizes that pleadings must not be groundless or filed in bad faith, aligning with the principles of fraudulent misrepresentation.

These principles are relevant because they establish the legal framework for assessing the wife's actions and their potential classification as fraudulent misrepresentation.

### Application and Analysis:

Applying the law to the facts, it follows that:

Given that the wife filed an uncontested divorce document despite the case being contested, and under the legal principle of fraudulent misrepresentation, it is likely that her actions meet the criteria for fraud. This argument is supported by the elements outlined in [Berdin v. Allstate Ins. Co.](#) and [Anderson v. Am. Risk Ins. Co.](#)

The false claims about an active order of protection and family violence further support the argument of fraudulent misrepresentation, as these actions were allegedly taken with the intent to deceive and have caused harm to the other party. This is reinforced by the duty of honesty in pleadings as per [Tex. Civ. Prac. and Rem. Code § 10.001](#).

Alternatively, even if the court finds that the wife's actions were not intended to deceive, the outcome should remain the same because the false representations were material and caused harm, satisfying the elements of fraudulent inducement as outlined in [Desta v. Anyaoha](#).

### Key Submissions:

1. The wife's actions constitute fraudulent misrepresentation as they meet the elements outlined in [Berdin v. Allstate Ins. Co.](#) and [Anderson v. Am. Risk Ins. Co.](#)

2. The false claims about an active order of protection and family violence violate the duty of honesty in pleadings under [Tex. Civ. Prac. and Rem. Code § 10.001](#).
3. The principles of fraudulent inducement further support the argument that the wife's actions were intended to deceive and caused harm.

#### **Alternative Arguments:**

- If the court finds that the wife's actions were not intended to deceive, the argument remains strong due to the materiality of the false representations and the harm caused, as supported by the principles of fraudulent inducement in [Dest v. Anyaoha](#).

#### **Areas of Risk:**

The argument is potentially weakened by the fact that [Formosa Plastics Corp. USA v. Presidio Engineers and Contractors, Inc.](#) was declined to follow by Heil Co. v. Polar Corp., which may impact its applicability. However, mitigating this risk by focusing on the elements of fraudulent misrepresentation and the duty of honesty in pleadings may strengthen the user's position.

#### **Conclusion:**

Based on the facts and legal principles discussed, the strongest argument is that the wife's actions constitute fraudulent misrepresentation. The user has a solid basis for pursuing legal action to hold the wife accountable, as demonstrated by the application of the law to the facts.

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## **Legal Authorities**

[Formosa Plastics Corp. USA v. Presidio Engineers and Contractors, Inc.](#), 960 S.W.2d 41, 41 Tex. Sup. Ct. J. 289 (Tex. 1998)

### **Texas Supreme Court**

#### **Extract**

*Texas law has long imposed a duty to abstain from inducing another to enter into a contract through the use of fraudulent misrepresentations. As a rule, a party is not bound by a contract procured by fraud.*

#### **Summary**

Texas law imposes a duty to avoid fraudulent misrepresentations in contractual dealings. This principle is relevant to the proposition because it suggests that if the wife knowingly made false statements with the intent to deceive, she may have violated this duty. The passage supports the idea that fraudulent misrepresentation can invalidate agreements or actions taken based on such misrepresentations, which aligns with the proposition that the wife's actions could be grounds for legal action.

[Partners v. the Prudential Ins. Co. of Am.](#), 341 S.W.3d 323, 54 Tex. Sup. Ct. J. 822 (Tex. 2011)

### **Texas Supreme Court**

#### **Extract**

*The elements of fraud are: (1) that a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury.*

#### **Summary**

Elements required to establish a claim of fraud under Texas law. These elements include making a false material representation knowingly, with the intent to deceive, causing the other party to rely on the false representation, and resulting in injury. This directly relates to the proposition, as the wife's actions of filing false documents and making false claims could meet these elements, potentially constituting fraudulent misrepresentation.

[Dest v. Anyaoha](#), 371 S.W.3d 596 (Tex. App. 2012)

### **Texas Court of Appeals**

#### **Extract**

*Fraudulent inducement is established by proving that a false material misrepresentation was made that (1) was known to be false when it was made; (2) was intended to be acted upon; (3) was relied upon; and (4) caused injury. Id.; see also Montenegro v. Avila, 365 S.W.3d 822, 826–27 (Tex.App.-El Paso 2012) (not designated for publication) (concluding evidence sufficient to support finding that husband fraudulently induced wife to marry). Significantly, fraud requires a material misrepresentation. See Transport Ins. Co. v. Faircloth, 898 S.W.2d 269, 276 (Tex. 1995). A material misrepresentation, as an element of fraud, means a reasonable person would attach importance to and would be induced to act on the information in determining his cause of action.*

#### **Summary**

Fraudulent inducement in Texas requires proving a false material misrepresentation that was known to be false, intended to be acted upon, relied upon, and caused injury. This aligns with the proposition that the wife's actions in filing false documents and making false claims could constitute fraudulent misrepresentation if these elements are met.

#### [Berdin v. Allstate Ins. Co.](#)

##### **Texas Court of Appeals**

###### **Extract**

*The essential elements of a fraud claim are (1) a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury.*

###### **Summary**

Essential elements required to establish a claim of fraudulent misrepresentation under Texas law. These elements include making a false material representation knowingly or recklessly, with the intent to deceive, causing the other party to rely on the false representation, and resulting in injury. In the context of the proposition, if the wife knowingly filed false documents and made false claims with the intent to deceive, causing harm to the other party, these actions could potentially meet the criteria for fraudulent misrepresentation as outlined in the passage.

#### [Anderson v. Am. Risk Ins. Co., NO. 01-15-00257-CV \(Tex. App. Jun 21, 2016\)](#)

##### **Texas Court of Appeals**

###### **Extract**

*To recover on a fraud claim, a party must prove that (1) a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party suffered injury as a result.*

###### **Summary**

Elements necessary to establish a claim of fraudulent misrepresentation under Texas law. These elements include making a false material representation knowingly or recklessly, with the intent to deceive, causing the other party to rely on the false representation, and resulting in injury. In the context of the proposition, if the wife knowingly filed false documents and made false claims with the intent to deceive, causing harm to the other party, these actions could meet the criteria for fraudulent misrepresentation as outlined in the passage.

#### [Frankoff v. Norman, 448 S.W.3d 75 \(Tex. App. 2014\)](#)

##### **Texas Court of Appeals**

###### **Extract**

*The elements of fraud are (1) that a false, material representation was made; (2) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (3) the speaker made the representation with the intent that the other party should act upon it; (4) the party acted in reliance on the representation; and (5) the party thereby suffered injury.*

###### **Summary**

Elements required to establish a claim of fraud under Texas law. These elements include making a false, material representation knowingly or recklessly, with the intent to deceive, causing the other party to act in reliance on the false representation, and resulting in injury. This directly supports the proposition that the wife's actions could constitute fraudulent misrepresentation if she knowingly filed false documents and made false claims with the intent to deceive, causing harm to the other party.

#### [Guevara v. Lackner, 447 S.W.3d 566 \(Tex. App. 2014\)](#)

##### **Texas Court of Appeals**

###### **Extract**

*To recover on an action for fraud based on affirmative misrepresentations, a subcategory of fraud, the plaintiff must prove: (1) the defendant made a material representation; (2) the representation was false; (3) when made, the defendant knew the representation was false or made it recklessly as a positive assertion without any knowledge of its truth; (4) the defendant made the representation with the intent to induce the plaintiff to act upon it; (5) the plaintiff actually and*

justifiably relied upon the representation; and (6) the plaintiff thereby suffered injury.

## Summary

Elements required to establish a claim of fraud based on affirmative misrepresentations under Texas law. These elements include making a false material representation knowingly or recklessly, with the intent to deceive, leading to justifiable reliance by the plaintiff and resulting in injury. In the context of the proposition, if the wife knowingly filed false documents and made false claims with the intent to deceive, and if the husband relied on these misrepresentations to his detriment, the elements of fraudulent misrepresentation could be satisfied.

### [Tex. Civ. Prac. and Rem. Code § 9.011 Tex. Civ. Prac. and Rem. Code § 9.011 Signing of Pleadings](#)

#### Extract

*The signing of a pleading as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry, the pleading is not: groundless and brought in bad faith; groundless and brought for the purpose of harassment; or groundless and interposed for any improper purpose, such as to cause unnecessary delay or needless increase in the cost of litigation.*

## Summary

The signing of a pleading in Texas is a certification by the signatory that the pleading is not groundless or filed in bad faith or for improper purposes. This aligns with the proposition that filing false documents and making false claims could be considered fraudulent misrepresentation. If the wife knowingly filed an uncontested divorce document despite the case being contested, and made false claims about an order of protection and family violence, she may have violated this certification, potentially constituting fraudulent misrepresentation.

### [Tex. Civ. Prac. and Rem. Code § 10.001 Tex. Civ. Prac. and Rem. Code § 10.001 Signing of Pleadings and Motions](#)

#### Extract

*The signing of a pleading or motion as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry: the pleading or motion is not being presented for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation; each claim, defense, or other legal contention in the pleading or motion is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; each allegation or other factual contention in the pleading or motion has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and each denial in the pleading or motion of a factual contention is warranted on the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief.*

## Summary

The signing of a pleading or motion in Texas constitutes a certification by the signatory that the document is not being presented for any improper purpose and that each claim or factual contention has evidentiary support. If the wife knowingly filed false documents and made false claims, she would be in violation of this statute, as her actions would not meet the certification requirements. This supports the proposition that her actions could be considered fraudulent misrepresentation, as they were made with the intent to deceive and could cause harm to another party.

### [Related State Torts](#)

#### **Litigating Employment Discrimination Cases. Volume 1-2 - James Publishing - Andrew H. Friedman - 2023-05-01**

#### Extract

*In order to make out a claim for fraud, a plaintiff must generally be able to establish the following elements: • A material misrepresentation of a presently existing or past fact; • Knowledge by the defendant of its falsity or a reckless disregard as to whether it is true or false; • Intention that the other person rely on the statement; • Justifiable or reasonable reliance thereon by the other person; and • Resulting damage.*

## Summary

The elements of fraud include making a false statement knowingly, with the intent to deceive, and causing harm to another party. These elements align with the proposition that the wife may have committed fraudulent misrepresentation by filing false documents and making false claims in the divorce proceedings.