

**FROM THE COMMITTEE ON
MODEL CIVIL JURY INSTRUCTIONS**

The Committee solicits comment on the following proposals by July 1, 2017. Comments may be sent in writing to Timothy J. Raubinger, Reporter, Committee on Model Civil Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

PROPOSED

The Committee is considering the adoption of new instructions for use in cases alleging common law or statutory conversion.

**[NEW] M CIV JI CHAPTER 111
CONVERSION**

[NEW] M Civ JI 111.01 Common Law Conversion—Elements

Plaintiff claims that defendant is responsible for conversion of personal property. Conversion means any distinct act of dominion or control wrongfully exerted over another's personal property that is in denial of or inconsistent with the other's right to that property. There are a number of ways that conversion can occur. Some examples of conversion are: intentionally dispossessing another of the property; intentionally destroying or altering the property; using the property without authority; or disposing of the property by selling, pledging, gifting, or leasing it.

Note on Use

Comment

Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc, 497 Mich 337 (2015.)

[NEW] M Civ JI 111.02 Common Law Conversion—Burden of Proof

Plaintiff has the burden of proving each of the following:

1. That plaintiff owned the [*insert name of personal property*];

2. That defendant committed a distinct act of dominion or control wrongfully exerted over plaintiff's [*insert name of personal property*] that was in denial of or inconsistent with plaintiff's right to that property; and
3. That plaintiff suffered damages.

Your verdict will be for the plaintiff if the plaintiff has proved all of those elements. Your verdict will be for the defendant if the plaintiff has failed to prove any one of those elements.

Note on Use

Comment

Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc, 497 Mich 337 (rel'd June 17, 2015.)

[NEW] M Civ JI 111.03 Statutory Conversion—Elements

Plaintiff [also] claims that defendant is responsible for what is known as statutory conversion of personal property. [As I just mentioned,] Conversion means any distinct act of dominion or control wrongfully exerted over another's personal property that is in denial of or inconsistent with the other's right to that property.

[Again,] There are a number of ways that conversion can occur. Some examples of conversion are: intentionally dispossessing another of the property; intentionally destroying or altering the property; using the property without authority; or disposing of the property by selling, pledging, gifting, or leasing it.

In addition, in a statutory conversion claim, the defendant must have converted the property to the defendant's own use. By "defendant's own use" I mean that defendant employed the converted property for some purpose personal to the defendant's interests, even if that purpose is not the objects ordinarily intended purpose.

Note on Use

Use the bracketed language if plaintiff alleges both common law and statutory conversion.

Comment

Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc, 497 Mich 337 (rel'd June 17, 2015). MCL 600.2919a.

[NEW] M Civ JI 111.04 Statutory Conversion—Burden of Proof

Plaintiff has the burden of proving each of the following:

1. That plaintiff owned the [insert name of personal property];
2. That defendant committed a distinct act of dominion or control wrongfully exerted over plaintiff's [insert name of personal property] that was in denial of or inconsistent with plaintiff's right to that property;
3. That defendant's conversion of the property was for his own use; and
4. That plaintiff suffered damages.

Your verdict will be for the plaintiff if the plaintiff has proved all of those elements. Your verdict will be for the defendant if the plaintiff has failed to prove any one of those elements.

Note on Use

Comment

Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc, 497 Mich 337 (2015) MCL 600.2919a.

[NEW] M Civ JI 111.05 Statutory Conversion—Treble Damages

If you find that defendant converted property to [his / her / its] own use, you may award three times the amount of actual damages sustained, but you are not required to do so.

If you find that defendant bought, received, possessed, concealed, or aided in the concealment of property that [he / she / it] knew was converted, you may award three times the amount of actual damages sustained, but you are not required to do so.

Note on Use

Either or both of these paragraphs should be used as the facts dictate.

Comment

MCL 600.2919a(1); *Aroma Wines & Equipment, Inc v Columbian Distribution Services, Inc*, 497 Mich 337 (2015).