Restatement (Second) of Torts § 222A (1965)

Restatement of the Law - Torts | October 2022 Update

Restatement (Second) of Torts

Division One. Intentional Harms to Persons, Land, and Chattels

Chapter 9. Intentional Invasions of Interests in the Present and Future Possession of Chattels

Topic 2. Conversion

§ 222A What Constitutes Conversion

(1) Conversion is an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel.
(2) In determining the seriousness of the interference and the justice of requiring the actor to pay the full value, the following factors are important:

(a) the extent and duration of the actor's exercise of dominion or control;
(b) the actor's intent to assert a right in fact inconsistent with the other's right of control;
(c) the actor's good faith;
(d) the extent and duration of the resulting interference with the other's right of control;
(e) the harm done to the chattel;
(f) the inconvenience and expense caused to the other.

See Reporter's Notes.

Comment:

a. The modern action for the tort called conversion is descended from the old common law action of trover. This action originated at an early date as a remedy against the finder of lost goods who refused to return them to the owner but instead "converted" them to his own use. Until comparatively recent times the fiction of losing and finding persisted in many jurisdictions in the pleading of the action.

Trover was soon extended to cases of dispossession, or of withholding possession by others than finders. The basis of the tort was considered to be an interference with possession of the chattel, or with the right to immediate possession. Trover became a

more or less universal remedy applicable to cases in which the plaintiff had been deprived of his chattel, whether by a wrongful taking, a wrongful detention, some wrongful disposal, or other interference with it. It was not at all clearly distinguished from the action of trespass.

The modern law of conversion began with Fouldes v. Willoughby, 8 M. & W. 540, 151 Eng.Rep. 1153 (1841), where the court first drew a distinction between a mere trespass interfering with possession of a chattel, and a conversion, which must involve some exercise of the defendant's hostile dominion or control over it. From this there has developed the present rule, which regards conversion as an exercise of the defendant's dominion or control over the chattel, as distinguished from a mere interference with the chattel itself, or with the possession of it. Since any interference with the chattel is to some extent an exercise of "dominion," the difference between the two becomes almost entirely a matter of degree.

b. *Extension beyond trover.* Under the older common law, the tort of conversion was identified with the action of trover; and where trover would not lie, there could be no conversion. With the abolition of the forms of action under procedural codes, and their modification in those states which still retain common law pleading, the name "conversion" has been extended to include some interferences with chattels for which the action of trover would not lie. For example, "conversion" is used by many courts to describe an interference with the rights of one who is not in possession of the chattel, and who has no right to immediate possession, but has only a right of future possession. (See § 243.) Trover would not lie in such a case, but there was a common law action on the case which permitted recovery of the same damages. Other courts, while refusing to call such an interference conversion, say that there is an action "in the nature of conversion," which leads to the same result. Apart from the technicalities of pleading, it is obviously of little importance what the action is called. In this Restatement, "conversion" is used in this broader sense, and is not restricted to torts for which the action of trover would lie.

c. *Recovery of full value of chattel.* The importance of the distinction between trespass to chattels and conversion, which has justified its survival long after the forms of action of trespass and trover have become obsolete, lies in the measure of damages. In trespass the plaintiff may recover for the diminished value of his chattel because of any damage to it, or for the damage to his interest in its possession or use. Usually, although not necessarily, such damages are less than the full value of the chattel itself. In conversion the measure of damages is the full value of the chattel, at the time and place of the tort. When the defendant satisfies the judgment in the action for conversion, title to the chattel passes to him, so that he is in effect required to buy it at a forced judicial sale. Conversion is therefore properly limited, and has been limited by the courts, to those serious, major, and important interferences with the right to control the chattel which justify requiring the defendant to pay its full value.

d. No one factor is always predominant in determining the seriousness of the interference, or the justice of requiring the forced purchase at full value. Those listed in Subsection (2) are not intended to be exclusive. The question is nearly always one of degree, and no fixed line can be drawn. There is probably no type of conduct with respect to a chattel which is always and under all circumstances sufficiently important to amount to a conversion, since the interference with the right of the plaintiff may in each case be either trivial or serious. Not only the conduct of the defendant, but also its consequences, are to be taken into account. In each case the question to be asked is whether the actor has exercised such dominion and control over the chattel, and has so seriously interfered with the other's right to control it, that in justice he should be required to buy the chattel.

Illustrations:

1. On leaving a restaurant, A by mistake takes B's hat from the rack, believing it to be his own. When he reaches the sidewalk A puts on the hat, discovers his mistake, and immediately re-enters the restaurant and returns the hat to the rack. This is not a conversion.

2. The same facts as in Illustration 1, except that A keeps the hat for three months before discovering his mistake and returning it. This is a conversion.

3. The same facts as in Illustration 1, except that as A reaches the sidewalk and puts on the hat a sudden gust of wind blows it from his head, and it goes down an open manhole and is lost. This is a conversion.

4. Leaving a restaurant, A takes B's hat from the rack, intending to steal it. As he approaches the door he sees a policeman outside, and immediately returns the hat to the rack. This is a conversion.

5. A takes possession of a house and finds B's furniture in it. A removes the furniture to a storage warehouse, stores it in the name of B, and notifies B that he may come and get it. This is not a conversion.

6. The same facts as in Illustration 5, except that A removes the furniture to a warehouse at a distance, so that B is subjected to great inconvenience and expense in recovering it. This is a conversion.

7. The same facts as in Illustration 5, except that while the furniture is in the warehouse, and before B can remove it, it is destroyed by fire. This is a conversion.

8. The same facts as in Illustration 5, except that A moves the furniture to the warehouse and stores it in his own name, with the intent to keep it for himself. This is a conversion.

9. A ships goods over B carrier, consigned to himself. By mistake B delivers the goods to C. B discovers the mistake immediately, and within twenty-four hours recovers the goods from C, and delivers them to A. This is not a conversion.

10. The same facts as in Illustration 9, except that the goods are not recovered, and remain in the possession of C. This is a conversion.

11. A leaves his furniture in B's house with B's consent. B sells and delivers the house to C, telling C that the furniture belongs to A, and C agrees to hold it for A until he calls for it. B neglects to notify A of the transfer for a month, during which time A makes no demand for the furniture. This is not a conversion.

12. A takes possession of a house, and finds in it some of B's furniture. In order to keep out intruders, A changes the locks on the doors, as a result of which B, coming to get his furniture, is prevented from obtaining it for one day, until he can find A and get the keys. This is not a conversion.

13. The same facts as in Illustration 12, except that A changes the locks with the intention of appropriating the furniture and preventing B from recovering it. This is a conversion.

14. A stores his car in B's locked garage. A comes to get the car, and demands it. B intentionally delays half an hour in giving A the key to the garage. This is not a conversion.

15. The same facts as in Illustration 14, except that B delays a month. This is a conversion.

16. The same facts as in Illustration 14, except that during the delay of half an hour a fire breaks out in the garage, and the car is destroyed before it can be removed. This is a conversion.

17. A intentionally shoots B's horse, as a result of which the horse dies. This is a conversion.

18. The same facts as in Illustration 17, except that the horse is merely scratched, and quickly recovers. This is not a conversion.

19. A stores his fur coat with B. Without A's knowledge or consent, B repairs a hole in the lining of the coat. This is not a conversion.

20. The same facts as in Illustration 19, except that B alters the coat by cutting down its size so that A can no longer wear it. This is a conversion.

21. A entrusts an automobile to B, a dealer, for sale. On one occasion B drives the car, on his own business, for ten miles. This is not a conversion.

22. The same facts as in Illustration 21, except that B drives the car 2,000 miles. This is a conversion.

23. The same facts as in Illustration 21, except that B uses the car for the illegal transportation of narcotics, as a result of which it is confiscated by the federal government. This is a conversion.

24. The same facts as in Illustration 21, except that B drives the car with the intent to appropriate it, and to deprive A of its use. This is a conversion.

25. A rents an automobile to B to drive to X City and return. In violation of the agreement, B drives to Y City, ten miles beyond X City. No harm is done to the car. This is not a conversion.

26. The same facts as in Illustration 25, except that while the car is in Y City it is seriously damaged in a collision, with or without negligence on the part of B. This is a conversion.

Reporter's Notes

This Section has been added to the first Restatement. As to the origin of the distinction between major and minor interferences with the chattel, see, in addition to Fouldes v. Willoughby, 8 M. & W. 540, 151 Eng.Rep. 1153 (1841), mentioned in Comment *a*, the decision in Johnson v. Weedman, 5 Ill. 495 (1843), in which Abraham Lincoln was counsel for the defendant. As to the Section generally, see Prosser, The Nature of Conversion, 42 Cornell L.Q. 168 (1957); Faust, Distinction Between Conversion and Trespass to Chattel, 37 Ore.L.Rev. 256 (1958).

Illustration 1 is supported by Blackinton v. Pillsbury, 260 Mass. 123, 156 N.E. 895 (1927), employee of club removed personal property from the locker of one member, believing it to be the locker of another; Hushaw v. Dunn, 62 Colo. 109, 160 P. 1037 (1916), officer took money from the person of a prisoner before he was locked up, and returned it the next day when he pleaded guilty; Frome v. Dennis, 45 N.J.L. 515 (1883), defendant innocently borrowed a plow from a bailee who had no right to lend it; MacBryde v. Burnett, 44 F.Supp. 833 (D.Md.1942), affirmed 132 F.2d 898 (C.A.4), trustee by mistake transferred shares of stock into his own name, with no other interference with the stock.

Illustration 3 is supported by Donahue v. Shippee, 15 R.I. 453, 8 A. 541 (1887), defendant, in good faith, cut grass on plaintiff's land, and the grass was appropriated by third persons. See also Blackinton v. Pillsbury, 260 Mass. 123, 156 N.E. 895 (1927), dictum that if the property were lost or destroyed there would be a conversion.

Illustration 4 is supported by Lawyers' Mortgage Inv. Corp. v. Paramount Laundries, 287 Mass. 357, 191 N.E. 398 (1934); Hutchinson v. Merchants' & Mechanics Bank, 41 Pa. 42, 80 Am.Dec. 596 (1861).

Illustration 5 is taken from Zaslow v. Kroenert, 29 Cal.2d 541, 176 P.2d 1 (1946). In accord are Bush v. Lane, 139 Cal.App.2d 376, 293 P.2d 465 (1956), motion denied 146 Cal.App.2d 381, 303 P.2d 830; Lucas v. Durrence, 25 Ga.App. 264, 103 S.E. 36 (1920); Lash v. Ames, 171 Mass. 487, 50 N.E. 996 (1898); Shea v. Inhabitants of Milford, 145 Mass. 525, 14 N.E. 769 (1888); Geisler v. David Stephenson Brewing Co., 126 App.Div. 715, 111 N.Y.S. 56 (1908); O.J. Gude Co. v. Farley, 25 Misc. 502, 54 N.Y.S. 998 (1898); Hammond v. Sullivan, 112 App.Div. 788, 99 N.Y.S. 472 (1906); Lee Tung v. Burkhart, 59 Or. 194, 116 P. 1066 (1911); Browder v. Phinney, 37 Wash. 70, 79 P. 598 (1905).

Illustration 6 is supported by Forsdick v. Collins, 1 Starkie 173, 171 Eng.Rep. 437 (1816). Cf. Electric Power Co. v. Mayor of New York, 36 App.Div. 383, 55 N.Y.S. 460 (1899). Also, where A does not notify B, or does not follow B's instructions: McGonigle v. Victor H. Belleisle Co., 186 Mass. 310, 71 N.E. 569 (1904); Borg & Powers Furniture Co. v. Reiling, 213 Minn. 539, 7 N.W.2d 310 (1943).

Illustration 7 is based on McCurdy v. Wallblom Furniture & Carpet Co., 94 Minn. 326, 102 N.W. 873, 3 Ann.Cas. 468 (1905). Cf. Ryan v. Chown, 160 Mich. 204, 125 N.W. 46, 136 Am.St.Rep. 433 (1910); Tobin v. Deal, 60 Wis. 87, 18 N.W. 634, 50 Am.Rep. 345 (1884).

Illustration 8 is based in Hicks Rubber Co. Distributors v. Stacy, 133 S.W.2d 249 (Tex.Civ.App.1939).

Illustration 9 is taken from Gulf, C. & S.F.R. Co. v. Wortham, 154 S.W. 1071 (Tex.Civ.App.1913).

Illustration 10 is based on Hall v. Boston & Worcester R. Co., 14 Allen (Mass.) 439, 92 Am.Dec. 783 (1867); Marshall & Michel Grain Co. v. Kansas City & Ft. Scott R. Co., 176 Mo. 480, 75 S.W. 638, 98 Am.St.Rep. 508 (1903); Knapp v. Guyer, 75 N.H. 397, 74 A. 873 (1909); Suzuki v. Small, 214 App.Div. 541, 212 N.Y.S. 589 (1925), affirmed, 243 N.Y. 590, 154 N.E. 618; Hiort v. Bott, L.R. 9 Ex. 86 (1874); Youl v. Harbottle, 1 Peake 68, 170 Eng.Rep. 81 (1791).

Illustration 11 is taken from Brandenberg v. Northwestern Jobbers Credit Bureau, 128 Minn. 411, 151 N.W. 134, L.R.A. 1915D, 474 (1915).

Illustration 12 is based on Zaslow v. Kroenert, 29 Cal.2d 451, 176 P.2d 1 (1946); Edinburg v. Allen-Squire Co., 299 Mass. 206, 12 N.E.2d 718 (1938); Poor v. Oakman, 104 Mass. 309 (1870).

Illustration 13 is based on Thomas v. Westbrook, 206 Ark. 841, 177 S.W.2d 931 (1944); Kirby v. Porter, 144 Md. 261, 125 A. 41 (1923); Jones v. Stone, 78 N.H. 504, 102 A. 377 (1917); Henderson v. Beggs, 207 S.W. 565 (Tex.Civ.App.1918).

Illustration 14 is supported by Peck v. Patterson, 119 Vt. 280, 125 A.2d 813 (1956). See also Daggett v. Davis, 53 Mich. 35, 18 N.W. 548, 51 Am.Rep. 91 (1884).

Illustration 16 is based on Donnell v. Canadian Pacific R. Co., 109 Me. 500, 84 A. 1002, 50 L.R.A.N.S. 1172 (1912).

Illustration 17 is based on Keyworth v. Hill, 3 B. & Ald. 685, 106 Eng.Rep. 811 (1820); Simmons v. Sikes, 2 Ired. (N.C.) 98 (1841).

Illustration 18 is based on Simmons v. Lillystone, 8 Ex. 431, 155 Eng.Rep. 1417 (1853); Philpott v. Kelley, 3 Ad. & El. 106, 111 Eng.Rep. 353 (1835). Cf. G.W.K., Ltd., v. Dunlop Rubber Co., 42 T.L.R. 376 (1926).

Illustration 19 is based on Donovan v. Barkhausen Oil Co., 200 Wis. 194, 227 N.W. 940 (1929).

Illustration 20 is taken from Douglass v. Hart, 103 Conn. 685, 131 A. 401, 44 A.L.R. 820 (1925), and May v. Georger, 21 Misc. 622, 47 N.Y.S. 1057 (1897). Cf. Symphony Player Co. v. Hackstadt, 182 Ky. 546, 206 S.W. 803, 1 A.L.R. 1648 (1918); Jackson v. Innes, 231 Mass. 558, 121 N.E. 489 (1919); Peltola v. Western Workman's Pub. Society, 113 Wash. 283, 193 P. 691, 20 A.L.R. 374 (1920); Aschermann v. Philip Best Brewing Co., 45 Wis. 262 (1878).

Illustration 21 is based on Jeffries v. Pankow, 112 Or. 439, 223 P. 745, 229 P. 903 (1924). In accord are Johnson v. Weedman, 5 Ill. 495 (1943), agister to feed horse rode him fifteen miles; Frome v. Dennis, 45 N.J.L. 515 (1883), using plow for three days; M'Neill v. Brooks, 9 Tenn. (1 Yerg.) 73 (1822), horse rented for riding used on one occasion to carry goods; Buice v. Campbell, 99 Ga.App. 334, 108 S.E.2d 339 (1959).

Illustration 22 is taken from Miller v. Uhl, 37 Ohio App. 276, 174 N.E. 591 (1929). Cf. E.J. Caron Enterprises v. State Operating Co., 87 N.H. 371, 179 A. 665 (1935), theatre fixtures used in wrong theatre; West Jersey R.R. v. Trenton Car Works Co., 32 N.J.L. 517 (1866), car which defendant was under a duty to forward used in its own service.

Illustration 23 is taken from Vermont Acceptance Corp. v. Wiltshire, 103 Vt. 219, 153 A. 199, 73 A.L.R. 792 (1931), illegal transportation of liquor. Cf. Collins v. Bennett, 46 N.Y. 490 (1871), boarded horse used and foundered.

Illustration 24 is based on Cheshire R. Co. v. Foster, 51 N.H. 490 (1871); Forster v. Juniata Bridge Co., 16 Pa. 393, 55 Am.Dec. 506 (1851); Oakley v. Lyster, [1931] 1 K.B. 148 (C.A.).

Illustration 25 is based on Farkas v. Powell, 86 Ga. 800, 13 S.E. 200, 12 L.R.A. 397 (1891); Daugherty v. Reveal, 54 Ind.App. 71, 103 N.E. 381 (1913); Doolittle v. Shaw, 92 Iowa 348, 60 N.W. 621, 26 L.R.A. 366, 54 Am.St.Rep. 562 (1894); Wentworth v. McDuffie, 48 N.H. 402 (1869); Harvey v. Epes, 12 Gratt. (Va.) 153 (1855); Carney v. Rease, 60 W.Va. 676, 55 S.E. 729 (1906).

Illustration 26 is based on Palmer v. Mayo, 80 Conn. 353, 68 A. 369, 15 L.R.A.N.S. 428, 125 Am.St.Rep. 123, 12 Ann.Cas. 691 (1907); Perham v. Coney, 117 Mass. 102 (1875); Hall v. Corcoran, 107 Mass. 251, 9 Am.Rep. 30 (1871); Baxter v. Woodward, 191 Mich. 379, 158 N.W. 137, Ann.Cas. 1918C, 946 (1916); Fisher v. Kyle, 27 Mich. 454 (1873); Disbrow v. Tenbroeck, 4 E.D. Smith (N.Y.) 397 (1855); Towne v. Wiley, 23 Vt. 355, 56 Am.Dec. 85 (1851).

Case Citations - by Jurisdiction

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C.A.1

C.A.1, 2011. Cit. in sup. Chapter 7 debtor's purported successor-in-interest sued company that had serviced debtor's remaining customers during the wind-up period, asserting state-law claims for conversion, interference with contractual relations, breach of fiduciary duty, and civil conspiracy; unaware of the state-court action, the bankruptcy court closed the bankruptcy case. After the bankruptcy trustee became aware of the state-court action, the bankruptcy court granted trustee's motion to reopen the bankruptcy case, authorized him to take over the state-law claims, and approved a proposed settlement of the claims. On appeal by successor, the district court affirmed. Affirming, this court held that the claims were commercial tort claims, they remained property of debtor's estate, and trustee had exclusive standing to assert them. The court rejected successor's argument that the claims were proceeds of the collateral that it had acquired from debtor's secured lender, and that, therefore, it had standing to pursue the claims; the right to pursue a commercial tort claim could not be passed to a secured creditor as proceeds of the original collateral. In re American Cartage, Inc., 656 F.3d 82, 88.

C.A.1, 2002. Cit. in disc. Buyers of restaurant and liquor establishment sued town, town police officers, and town officials for, in part, conversion. The district court granted summary judgment for defendants. Affirming in part, reversing in part, and remanding, this court held, inter alia, that genuine issues of material fact existed as to whether individual defendants intentionally deprived plaintiffs of their personal property, including inventory, equipment, and cash, in the establishment when they assisted seller in retaking possession of the premises, and caused or permitted the locks to be changed; summary judgment, however, was properly granted the town because there was no evidence that it was complicit in the conversion, and it was immune from liability. Kelley v. LaForce, 288 F.3d 1, 12.

C.A.1, 1993. Cit. in sup., illus. 9 cit. in sup. An ocean carrier that had delivered cargo to a buyer without receiving bills of lading brought a conversion action when the discharged cargo was seized by banks that held security interests in the consignee's after-acquired inventory. This court, vacating the district court's grant of summary judgment for the banks and remanding, held that the conversion claim was governed by Massachusetts law rather than maritime law, as before the banks asserted dominion over the cargo it had been removed from the point of disaffreightment. Consequently, the carrier's interest was an entrustment rather than a sale, so that the banks' security interests did not attach and the carrier retained a possessory claim. Evergreen Marine Corp. v. Six Consignments of Frozen Scallops, 4 F.3d 90, 94, 98.

C.A.1, 1984. Quot. in disc. The insurer of a company whose employee had made unauthorized use of the company's checks to pay personal credit card bills sued the bank to which some of the checks had been sent in payment. The district court entered judgment for the bank, and this court affirmed. The court ruled that the insurer could not recover even if its common law conversion claim were recognized by the civil law system of Puerto Rico. The bank's actions did not justify, said the court, requiring it to repay the value of the checks. Federal Ins. Co., I. C. v. Banco De Ponce, 751 F.2d 38, 41.

C.A.1, 1982. Cit. but dist. (Erron. cit. as s 222a.) A debtor operated a shop on premises leased from his creditors. The debtor defaulted on his rent and later in the month closed his store and ceased doing business. The creditors brought an action against the debtor for trespass and ejectment in the state court. The debtor received notice of the action but failed to appear. The court entered a default judgment and issued an execution ordering the debtor's eviction. A constable, acting under the execution, moved the debtor's inventory from the premises to a warehouse. Unbeknown to the creditors, the state court, or the constable, the debtor had filed a petition for reorganization in bankruptcy under Chapter 11 four days before the commencement of the creditors' trespass and ejectment action. The creditors first received notice of the bankruptcy proceeding several days after the property had been moved to the warehouse. On that same day the debtor, now acting as debtor-in-possession, brought this action in the bankruptcy court charging the creditors with conversion of the inventory. The bankruptcy court issued a comprehensive memorandum and order finding for the creditors. The court ruled that the absence of notice or knowledge of the filing of a bankruptcy petition at the time the goods were being removed rendered the removal nontortious notwithstanding the automatic stay provisions of 11 U.S.C. § 362. The bankruptcy appellate court reversed and held that the continued withholding of the goods amounted to conversion. On appeal, this court held that the appellate panel erred in overturning the findings of the bankruptcy judge. The debtor argued that the creditors' good-faith unawareness that the debtor had become bankrupt was not a defense to conversion because his property was moved without sanction of effective legal process. The court ruled that this question need not be decided, but held that the creditors' ignorance of the filing of the bankruptcy petition was directly attributable to the plaintiff's unreasonable behavior in these circumstances. Therefore, the court concluded, the creditors' defense of having acted under state legal process was not nullified by the automatic stay provision of the bankruptcy code. The judgment of the bankruptcy court was affirmed. In re Smith Corset Shops, Inc., 696 F.2d 971, 976.

C.A.1, 1973. Com. (b) cit. in ftn. in dictum. (Erron. cit. as 226A). In an action by a subtenant's parent corporation against a landlord for loss of close to nine tons of cartons containing teaching materials, which the subtenants had left on the premises and which the landlord discarded after the departure of the tenant, the court affirmed the opinion of the trial court, which rendered judgment for defendant. The court noted that the defendant may not have even been within the range of interests protected by a Connecticut statute requiring the finder or bailee of abandoned goods to advertise in a local newspaper before disposing of them. Although defendant failed to advertise, this would not have been negligence, as a matter of law, if the statute had been intended to relieve finders and bailee from near-absolute liability for conversion by providing for the legal disposal of unwanted and unclaimed property. Boston Educational Research Co. v. American M. & F. Co., 488 F.2d 344, 347.

C.A.2,

C.A.2, 2019. Cit. in ftn.; subsec. (2) cit. in sup.; subsec. (2)(f) and com. (d) quot. in sup. In consolidated actions, defendants appealed from their conviction by a jury of, among other things, violating the federal conversion statute by misappropriating confidential nonpublic information from a government agency and trading on it. Affirming, this court held that there was sufficient evidence to support the jury's finding that defendants seriously interfered with the agency's ownership of its confidential information, as required to state a claim for conversion. The court cited the multi-factor test for determining the seriousness of interference set forth in Restatement Second of Torts § 222A in noting that, while the jury was free to consider the fact that the agency was able to use the misappropriated information and did not suffer any monetary loss, it was also free to consider other factors, including the strength of the government's interest in maintaining confidentiality, the risk of harm to the government's interests posed by the unauthorized disclosure, and the extent of the unauthorized disclosure. United States v. Blaszczak, 947 F.3d 19, 37-39.

C.A.2

C.A.2, 1983. Cit. in sup. Two publishers sued a third alleging conversion, tortious interference with contract, and violation of copyright. After the district court dismissed the contract and tort claims but awarded damages for copyright infringement, appeals were taken by both the plaintiffs and the defendant. This court ruled that plaintiffs had failed to state a conversion claim because they had alleged only temporary interference by the defendant with their property rights in a manuscript. While

plaintiffs had tried to amend their complaint to state a claim for trespass to chattels for the temporary misappropriation of their manuscript, they would have been unable to succeed on such a claim because they could not allege actual damage to the manuscript during the time defendant possessed it. The court also ruled that the contract claim was preempted by federal copyright law, but it reversed the trial court, finding that the defendant had not violated the plaintiffs' copyright. Harper & Row Publishers, Inc. v. Nation Enterprises, 723 F.2d 195, 201, judgment reversed _ U.S. ___, 105 S.Ct. 2218, 85 L.Ed.2d 588 (1985).

C.A.3

C.A.3, 1979. Com. (c) quot. in sup. Plaintiff, original owner of a racehorse, brought this diversity action for conversion against defendants, who had received possession from the original converter. At the time suit was brought, plaintiff had recovered a judgment from the original converter and had received an actual payment for the value of the horse. The district court entered judgment in favor of the plaintiff owner, and defendants appealed. On appeal, defendants argued that the judgment must be reversed because the payment by the original converter for the value of the horse extinguished any further claim in conversion by the original owner. This court agreed with defendants' argument and held that payment of the horse's value to the original owner effectuated a common law forced sale of the horse to the original converter at the time and place of conversion, and this precluded the original owner's further recovery of damages for subsequent conversions. Baram v. Farugia, 606 F.2d 42, 44.

C.A.3, 1975. Com. (c) cit. in ftn. in disc. A steel fabricator brought suit against a steel company, seeking a lien on steel coils belonging to the steel company, but which were in the possession of the steel fabricator. Judgment was entered for defendant. On appeal the case was affirmed and remanded on subsidiary issues. It is not the policy of the law in Pennsylvania to extend the application of common law liens, and it has been held that there is a waiver of such a lien when a contract between parties provides for delivery of goods on credit. There were no contractual limitations on possession involved here, and, therefore, the court would not find that the district court erred in finding that the right to an artisan's lien had been waived by the agreement to permit deliveries on a credit basis. In Pennsylvania, the right to a lien for storage is not extended to an artisan in the absence of contractual entitlement, but is limited to warehousemen and those in the business of storage. Having concluded that plaintiff did not have a lien and was not entitled to retain possession, the court concluded that plaintiff was liable to defendant for conversion of its property when it refused to relinquish possession of the coils upon demand. Furthermore, as plaintiff had no right to possession after defendant's demand for return of the steel, its claim for storage for this period was disallowed. But the case was remanded for a clarification of the trial court's holding on the claim for storage before the demand date, as the lower court did not correctly address the question of whether, independent of the claim for the lien, the plaintiff was entitled to storage charges. The issue of the fair market value of the steel in plaintiff's possession was a further determination to be made on remand. Welded Tube Co. v. Phoenix Steel Corp., 512 F.2d 342, 345.

C.A.3, 1972. Cit. and subsec. (1) and com. (c) cit. in sup. The members of a cooperative brought this class action against their cooperative and certain dairies for conversion of money belonging to the members by the payment of illegal rebates to the dairies by the cooperative. The court held that by improperly permitting the plaintiff to proceed on a theory that money, not milk, was converted, the district court relieved him of the burden of establishing that the cooperative received less than the actual market value of the milk which it sold, and hence this court remanded the case to enable the plaintiff to prove what damages, if any, were suffered. Knuth v. Erie-Crawford Dairy Cooperative Ass'n., 463 F.2d 470, 478, 480, cert. denied 410 U.S. 913, 35 L.Ed.2d 278, 93 S.Ct. 966.

C.A.4

C.A.4, 2007. Com. (c) quot. in sup. Architectural firm brought copyright-infringement action against homeowner who used plans designed by firm without permission to construct his retirement home. The district court entered judgment on a jury verdict for plaintiff, but denied plaintiff's request for an injunction against the future sale or lease of the home. Affirming in part, this court held, inter alia, that, while the completed home was an infringing copy of plaintiff's copyrighted work and plaintiff had the exclusive right to distribute such copies under copyright law, defendant was entitled to peaceful ownership of the home, with good and marketable title, on satisfaction of the relief awarded plaintiff by the jury—an outcome consistent

with the result reached when a converter of property satisfied a judgment. Christopher Phelps & Associates, LLC v. Galloway, 492 F.3d 532, 545.

C.A.4, 2007. Com. (c) quot. in sup. Architectural firm brought copyright-infringement action against homeowner who, in building his retirement home, utilized without permission architectural plans designed and copyrighted by firm. After entering judgment on a jury verdict finding that homeowner infringed the copyright and awarding damages to firm, the district court, inter alia, denied firm's motion for an injunction prohibiting the future lease or sale of the infringing house and mandating the destruction or return of the infringing plans. This court affirmed that portion of the district court's decision, holding that, under the first-sale doctrine, by bringing an infringement action against homeowner, firm essentially sold him its interest in the house in exchange for the appropriate remedies under the Copyright Act and, once judgment was rendered and satisfied by homeowner, homeowner gained good title to that particular manifestation of the copyright. Christopher Phelps & Associates, LLC v. Galloway, 477 F.3d 128, 141, opinion superseded on rehearing 492 F.3d 532 (4th Cir.2007).

C.A.5

C.A.5, 1995. Cit. in headnote and disc. An art collector sued the United States for damages after it refused to turn over pieces of art and historical photographs that were removed from Germany during the allied occupation after World War II. District court awarded plaintiff $8 million. This court reversed and remanded, holding, inter alia, that plaintiff's claim was not within the waiver of sovereign immunity, and, consequently, the district court was without subject-matter jurisdiction over the conversion claim relating to the watercolors. The court rejected plaintiff's contention that the conversion occurred in the United States, where his requests for their return were rejected, and determined that the conversion occurred in Germany. It noted that the essence of the tort of conversion under both German and American law is an act by another that is inconsistent with an owner's interest is his personal property. Price v. U.S., 69 F.3d 46, 50, cert. denied 519 U.S. 927, 117 S.Ct. 295 136 L.Ed.2d 214 (1996).

C.A.5, 1982. Cit. in sup. Following remand, the district court awarded damages to the seller of wheat who had brought an in rem action against a vessel in which the wheat was to be shipped, claiming that the shipowner's assertion of a maritime lien against the cargo was improper. The court also rejected the counterclaims against the seller, and appeals were made. On the issue of the proper measure of damages, this court noted that damages in a conversion action should compensate for the loss actually sustained as a result of the tortfeasor's wrong, and a plaintiff could generally recover the reasonable market value of the goods converted, as of the time and place of conversion. In determining market value, the court was required to focus on the market to which the damaged party would resort in order to replace the subject goods. Since the amount of damages was a factual issue, this court noted that the amount was vulnerable on appellate review only if shown to be clearly erroneous. The court held that the district court's findings as to this issue were not clearly erroneous. Judgment affirmed. Goodpasture, Inc. v. M/V Pollux, 688 F.2d 1003, 1006, rehearing denied 693 F.2d 133 (5th Cir.1982), certiorari denied 460 U.S. 1084, 103 S.Ct. 1775, 76 L.Ed.2d 347 (1983).

C.A.5, 1982. Cit. in ftn. A wholesaler brought suit to recover from a retailer for carpets received but not paid for by the retailer. The wholesaler's salesman had stolen invoices from another purchaser, diverting the carpet shipment to himself and then to the retailer. Having represented himself as principal owner of the carpets, he was given a downpayment by the retailer. The trial court dismissed the suit, holding that the retailer acquired title to the carpets because he purchased them from the salesman with the good-faith belief that the salesman was a principal and not the agent of the wholesaler. This court reversed, holding that, as the salesman had not been entrusted with the carpets but had stolen them, he had acquired only “void title” and could not have passed valid title even to a good faith purchaser. The court went on to hold that the carpets either sold by the retailer or retained by him were converted by the retailer to his own use. He thereby rendered himself liable to the wholesaler for the value of the carpets at the time of conversion, plus interest to the time of trial. Textile Supplies, Inc. v. Garrett, 687 F.2d 123, 127.

C.A.5, 1964. Quot. in part in sup. in ftn. Plaintiffs were leaseholders of certain Texas oil fields. The defendants, leaseholders adjoining them to the west, wrongfully conducted slant drilling operations taking oil from under plaintiffs' tracts without their knowledge. The defendants then mortgaged their land to a financing institution to secure loans made, with provision that all

proceeds from the sale of oil would go directly to the lender and conferring on the lender considerable control over the operation of the wells. In an action for conversion, the court held that the elaborate covenants, assignments of "runs", and division orders with which the secured party exercised dominion and control over the operation of the wells, were sufficient in nature and degree to render the lender a converter and liable for all the proceeds received from the sales. Pan American Petroleum Corporation v. Long, 340 F.2d 211, 220, certiorari denied 381 U.S. 926, 14 L.Ed.2d 684, 85 S.Ct. 1562.

C.A.6

C.A.6, 1982. Cit. in sup. The original owner of a diamond brought an action for conversion against three defendants. The plaintiff delivered the diamond to the first defendant under an agreement which expressly reserved title and the power to pass title. Contrary to the agreement, the first defendant transferred the diamond to the second defendant, who was aware that the transferor did not own it, and who used it as collateral on a loan. When the borrower defaulted, the lender retained the collateral. The district court found each of the three defendants liable as a matter of law for conversion of the plaintiff's diamond. Only the lender appealed. On appeal, this court affirmed, rejecting the lender's assertion that under the UCC, the borrower could pass good title. The first defendant had neither title nor authority to pass title to the borrower. The borrower's lack of possessory interest in the stone resulted in the lender's obtaining merely naked possession. Even if the UCC were applicable, the lender would fail to qualify as a bona fide purchaser. Kimberly & European Diamonds, Inc. v. Burbank, 684 F.2d 363, 365.

C.A.7,

C.A.7, 2019. Quot. in sup. Non-union employee of state agency challenged a state statute that authorized agency and union to enter into an exclusive-representation scheme in which union received fair-share fees from non-union employees to cover costs incurred when it acted on their behalf over terms of employment. After the U.S. Supreme Court ruled that the fees were inconsistent with employee's First Amendment rights, the district court denied employee's request for a refund of previously paid fees. Affirming, this court held that union was entitled to a good-faith defense to liability for fees collected before they were found unconstitutional. The court rejected employee's argument that a good-faith defense did not apply because union's conduct was most analogous to the common-law tort of conversion under Restatement Second of Torts § 222A, explaining that, in a conversion-style claim, union's actions would be privileged under §§ 265 and 266, because it acted pursuant to state law. Janus v. American Federation of State, County and Municipal Employees, Council 31; AFL-CIO, 942 F.3d 352, 365.

C.A.7, 2016. Cit. in disc. Motorists who asserted that they were wrongfully accused of parking their cars in a parking lot without paying filed a class action against debt-collection agency hired by owner of the lot to collect unpaid parking fees and nonpayment penalties, alleging violations of the Fair Debt Collection Practices Act. The district court granted summary judgment for defendant. Reversing, this court held that the obligations at issue—unpaid parking fees and nonpayment penalties—were "debts" within the meaning of the Act. Although the Act did not cover a thief's obligation to pay for stolen goods if the obligation was created by tort law, such as by a claim for conversion under Restatement Second of Torts § 222A, the obligations here were premised exclusively on a contract that was formed when owner offered to provide parking spaces in its lot in exchange for a fee, and motorists accepted owner's offer by parking in the lot. Franklin v. Parking Revenue Recovery Services, Inc., 832 F.3d 741, 745.

C.A.8

C.A.8, 2012. Subsec. (1) quot. in case quot. in sup., subsec. (2) quot. in sup. After construction company sold equipment in a sale-and-leaseback transaction to financial group, and financial group transferred the equipment to corporation, bank that claimed a perfected security interest in the equipment sued financial group and corporation, and then repossessed and sold the equipment. The trial court granted summary judgment for defendants, rejecting plaintiff's claim that defendants had converted the equipment and the collateral proceeds acquired upon the equipment's sale. Affirming, this court held that, although defendants' transaction documents may not have adequately recognized plaintiff's security interest, any interference

with plaintiff's right in the equipment was not so serious as to constitute conversion. The court explained that defendants' purchase did not substantially alter the condition or location of the equipment, increase plaintiff's expense or inconvenience in recovering the equipment, or hinder plaintiff's right to possess the equipment upon company's default and sell it to satisfy company's obligations. Platte Valley Bank v. Tetra Financial Group, LLC, 682 F.3d 1078, 1083, 1084.

C.A.8, 2010. Cit. in sup. Contractor that provided security and consulting services to casino operators sued Native-American tribe that ran a casino/hotel, seeking a declaratory judgment that the tribal court lacked jurisdiction over tribe's conversion and other claims against contractor, as a nonmember of the tribe. The district court granted tribe's motion to dismiss. Reversing in part, this court held that tribe failed to establish that it had adjudicatory jurisdiction over its conversion claim against contractor based on contractor's conduct inside the reservation, since tribe made no allegation that contractor's receipt or retention of tribe's funds occurred within the tribal settlement. The court, however, remanded for a determination as to whether jurisdiction could be established on the basis that the conversion claim had a sufficient nexus to the consensual relationship between contractor and tribal member who hired contractor. Attorney's Process and Investigation Services, Inc. v. Sac & Fox Tribe of Mississippi in Iowa, 609 F.3d 927, 940.

C.A.8, 2009. Illus. 2 cit. in diss. op. County, as lessor under a prospecting lease with fossil hunters, brought various claims against fossil hunters, alleging that fossil hunters failed to disclose during lease negotiations that they had entered county property to search for fossils and found, excavated, removed, and attempted to sell fossilized dinosaur remains before the lease was signed. The district court granted summary judgment for defendants. Affirming, this court held, inter alia, that county no longer had a cause of action for conversion after it signed the lease, which contained a provision in which county agreed to transfer title to any prior discoveries for 10% of their sale price. The dissent argued that where, as here, defendant had taken physical possession of the chattel and attempted to sell it, the degree of interference with county's right to control the remains could hardly be more complete, and defendants' initial possession of the remains was not “rightful” under any interpretation of the record. Harding County, S.D. v. Frithiof, 575 F.3d 767, 778.

C.A.8, 2009. Subsecs. (1) and (2) quot. in sup., coms. (a) and (c) quot. in disc. Owners of descendible possessory interests on allotted Indian land held in trust by the Bureau of Indian Affairs (BIA) sued the United States for, inter alia, conversion of their farm equipment, after the BIA leased out half of plaintiffs' allotments against their will, and plaintiffs' abandoned their remaining land and equipment. On remand, the district court entered judgment for plaintiffs. Reversing in part and remanding, this court held that defendant was not liable for conversion, because the BIA's leasing of plaintiffs' allotments, alone, was insufficient to constitute an actionable degree of interference rising to the level of a forced sale of the farm equipment to the BIA; even assuming that the BIA's actions “paralyzed” plaintiffs' farming operations, such indirect and incomplete interference with the farm equipment without interference with its physical possession could not support a conversion claim. Wilkinson v. U.S., 564 F.3d 927, 931, 932.

C.A.8, 2003. Cit. in case quot. in disc. After jury convicted defendant of theft from an Indian tribe, district court sentenced him to probation, restitution, and a special assessment. This court reversed, holding that although defendant knowingly and substantially underpaid the rent on the unit he leased from the tribe's housing authority, his failure to pay the full amount did not constitute criminal conversion. The plain language of the criminal statute could not be construed to encompass real property or a tenant's failure to pay arrears on real property. Housing authority retained ownership of the real property and could have effected defendant's eviction, had its efforts to do so not been interfered with. U.S. v. Big Crow, 327 F.3d 685, 688.

C.A.8, 1989. Cit. in disc. A distributor of agricultural equipment and machinery, which went out of business after its distributorship was terminated by a manufacturer of farm equipment, the sales of whose products constituted approximately 90% of the plaintiff's business, sued the manufacturer for conversion, inter alia. The district court entered judgment on a jury verdict for the plaintiff. Reversing and remanding, this court held that the claim that the defendant converted the plaintiff's alleged property interest in a network of agricultural supplies dealers it had built up should never have gone to the jury because Minnesota courts were unlikely to expand the tort of conversion to protect an intangible interest in a business relationship with a group of dealers. H.J., Inc. v. International Tel. & Tel. Corp., 867 F.2d 1531, 1547, rehearing denied 876 F.2d 59 (8th Cir.1989).

C.A.8, 1989. Cit. in disc., subsec. (2) quot. in disc., illus. 1 and 2 cit. in disc. Minority shareholders who objected to the 1973 merger of an insurance company into another insurer filed a class action suit against the purchasing company, inter alia, alleging that the merger was accomplished in violation of the common law and various state statutes, as well as federal securities laws. The district court entered judgment for the plaintiffs for compensatory damages but entered a judgment n.o.v. against punitive damages and reduced the interest allowed the plaintiffs. Affirming in part and reversing in part, this court stated that the district court properly entered summary judgment for the plaintiffs on their conversion claim under state law. The court said that the defendant was liable for conversion of the plaintiffs' shares despite good faith on the defendant's part, since all of the other elements of conversion were present and the defendant had used and derived the benefits of the plaintiffs' stock rights for 16 years and could not return the plaintiffs to their original position. Nelson v. All American Life & Financial Corp., 889 F.2d 141, 147, 148.

C.A.8, 1985. Cit. in case cit. in disc. Plaintiff brought suit alleging conversion and breach of contract. The defendant counterclaimed for goods sold and delivered. The defendant was a primary supplier for the plaintiff until the plaintiff encountered financial difficulties. To secure continued supplies, the plaintiff and defendant agreed to allow the defendant to manage the plaintiff's business and receive a security interest in inventory and accounts receivable. The agreement also provided that the two officers and directors would remain employees of the plaintiff. However, both employees resigned and the defendant terminated the plaintiff's business and sold its assets. The jury found for the plaintiff on the issue of conversion and awarded actual and punitive damages. Reversing, this court noted that the instructions to the jury had failed to emphasize serious interference with the rights of the owner as a requirement for conversion and remanded on that issue. In addition, the court held that the breach of contract claim warranted retrial. Chemical Sales Co., Inc. v. Diamond Chemical Co., 766 F.2d 364, 367.

C.A.8, 1985. Subsec. (2) cit. in ftn. Minority shareholders sued the corporation for monetary damages for wrongful cancellation and conversion of their shares, contending that a cash out merger of the shareholders of common stock was in violation of state statutes and common law and federal securities law. On appeal of the trial court's rejection of the claims, this court held that the trial court correctly rejected the claims asserted under the Securities Exchange Act of 1934 and the claim for breach of contract; however, the trial court erred in ruling that the state law claims were barred, because a private cause of action may be implied under the state corporation law. Additionally, the court said, the trial court erred in rejecting the common law conversion claim. Shidler v. All American Life & Financial Corp., 775 F.2d 917, 926, appeal after remand 889 F.2d 141 (8th Cir.1989).

C.A.8, 1980. Cit. in disc. The defendant, a former adjutant general of the Iowa National Guard, directed a series of unauthorized flights, using military aircraft, that served his own convenience, rather than that of the National Guard. The defendant was convicted of unauthorized personal use of military aircraft and several other charges, and the defendant appealed. The appellate court stated that the touchstone of conversion is the exercise of such control over property that serious interference with the rights of the owner results. The court concluded that the lower court erred in instructing the jury on the standard for conversion because its instruction assumed that any misuse or unauthorized use of property is a conversion. The court held that such incorrect instruction was fatal to the defendant's conviction, and it reversed the judgment and remanded the case for a new trial. United States v. May, 625 F.2d 186, 190.

C.A.8, Bkrtcy.App.

C.A.8, Bkrtcy.App.2006. Quot. in sup. Estranged husband of Chapter 7 debtor brought proof of claim for conversion on behalf of his uncle's estate, after husband transferred funds from a brokerage account held jointly by husband and uncle into a bank account held jointly by husband and debtor wife, and wife withdrew some of the funds from the bank account. The bankruptcy court allowed the claim in the amount husband transferred from the brokerage account. This court affirmed in part, reversed in part, and remanded, holding that, while wife converted only the amount that she actually withdrew from the account held jointly with husband, because that withdrawal was the only action she took to deprive the estate of the right of ownership to its property, her good-faith belief that she had a right to the funds was irrelevant. In re Litzinger, 340 B.R. 897, 903.

C.A.9,

C.A.9, 2015. Cit. in disc. Adult child of taxpayer brought a wrongful-levy claim against the United States, alleging that, when he was 10 years old, the Internal Revenue Service wrongfully seized money that belonged to him and used it to pay down taxpayer's tax debts. The district court granted the government's motion to dismiss the matter as untimely. Reversing and remanding, this court held that the limitations period set by the wrongful-levy statute was not jurisdictional and could be equitably tolled until plaintiff reached the age of majority. The court rejected the government's argument—that the rebuttable presumption that filing deadlines could be equitably tolled unless Congress provided otherwise did not apply, because plaintiff's claim against the government was not analogous to a claim that could be asserted against a private party—reasoning that the search for a private-suit analogue was conducted with a high level of generality, and, here, plaintiff's claim was akin to the traditional common-law torts of conversion and trespass to chattels, as set out in Restatement Second of Torts §§ 222 and 222A, claims that had long been asserted against private parties. Volpicelli v. U.S., 777 F.3d 1042, 1045.

C.A.11,

C.A.11, 2019. Subsec. (1) quot. in sup. Former client filed a class action against attorney and law firm who sent him an unsolicited multimedia text message in violation of the Telephone Consumer Protection Act. The district court denied defendants' motion to dismiss for lack of standing. On interlocutory appeal, this court reversed and remanded, holding that the receipt of a single unsolicited text message sent in violation of a federal statute was not a concrete injury in fact that established standing to sue in federal court. The court reasoned, in part, that the intangible harm alleged by plaintiff did not have a close relationship to the generally accepted torts of conversion or trespass to chattel under Restatement Second of Torts § 222A or §§ 217 and 218, because defendants' text message did not result in a complete and permanent dominion over plaintiff's phone, but rather, was the type of fleeting infraction upon personal property that tort law had resisted addressing. Salcedo v. Hanna, 936 F.3d 1162, 1171.

C.A.11, 2014. Quot. in ftn. Broker sought an injunction in federal court, seeking to prevent investor from pursuing a state-court action against it for breach of contract and civil conspiracy, based on the dismissal of investor's claims against broker for breach of fiduciary duty and constructive fraud in a prior federal-court action. The district court granted the injunction. Reversing in part and remanding, this court held, inter alia, that the district court lacked authority to enjoin investor's prosecution of its conspiracy claim in state court. The court cited Restatement Second of Torts § 222A in concluding that, because investor's new allegations of ongoing intentional acts of conversion—as to which broker had knowledge, with which it assisted, and which it concealed from investor—had never been placed before any federal court, the state court now faced tort claims that were not identical to the ones decided in the prior federal court case. SFM Holdings Ltd. v. Banc of America Securities, LLC, 764 F.3d 1327, 1340.

C.A.11

C.A.11, 1982. Illus. 23 cit. in sup. The plaintiff brought an action against the insurer of its company aircraft to recover for damages sustained when the plane was leased to another company, used for the illegal purpose of smuggling marijuana into the United States, and seized by Bahamian police. The lease of the aircraft provided that the lessee would use the plane for transporting passengers and precluded its use for cargo. The insurer denied the plaintiff's insurance claim under a policy provision excluding from coverage losses due to conversion. The lower court granted the plaintiff's motion for partial summary judgment. This court reversed the lower court and remanded, holding that under Georgia law, the insured's aircraft was converted by the lessee. The court stated that conversion occurred when one who was authorized to make a particular use of a chattel used it in a manner exceeding the authorization. The court asserted that this also covered the present case, where the chattel was used for the transportation of contraband and was confiscated by the authorities as a result. The court concluded that, as the lessee's unauthorized use of the aircraft for illegal purposes was a conversion, the plaintiff was not entitled to coverage. Swish Mfg. v. Manhattan Fire & Marine Ins., 675 F.2d 1218, 1220.

C.A.D.C.

C.A.D.C.1995. Cit. in disc. A technical analyst for the government who was convicted under 18 U.S.C. § 641 of converting government computer time and storage, as well as the use of photocopiers and office supplies, to support his ballroom dance activities appealed his conviction, alleging in part that § 641 only criminalized the conversion of tangible property. This court affirmed, holding, inter alia, that while intangible property was within the purview of § 641, the government here presented no evidence that defendant seriously interfered with the government's computer time and storage. In concluding that the statute encompassed a prohibition on the conversion of intangible property, the court noted that Congress intended to enact a broad prohibition against the misappropriation of anything belonging to the government, unrestrained by common law technicalities. U.S. v. Collins, 56 F.3d 1416, 1419, 1420, cert. denied 516 U.S. 1060, 116 S.Ct. 737, 133 L.Ed.2d 687 (1996).

C.A.D.C.1969. Quot. but dist. The plaintiff, Senator Thomas J. Dodd, sued the defendants Drew Pearson and Jack Anderson (newspaper columnists), for conversion of personal private property. The defendants published in their column copies of documents taken from the plaintiff's office files in an exposée of the plaintiff's alleged misdeeds in regard to his Senate post. The court held that, by definition, the action of the defendants was merely trespass of chattel, not conversion because the defendants had not deprived the plaintiff of possession of the documents. Pearson v. Dodd, 133 App.D.C. 279, 410 F.2d 701, 706, 707, cert. denied 395 U.S. 947, 23 L.Ed.2d 465, 89 S.Ct. 2021 (1969).

Ct.Fed.Cl.

Ct.Fed.Cl.2009. Subsec. (1) quot. in sup. Claimant filed a pro se complaint against the U.S. Marshals Office and two deputy marshals in their official capacity, demanding payment of $4,500 for a ring that allegedly was seized and subsequently lost or misplaced while claimant was in custody. Denying in part the government's motion to dismiss, this court held that, by contending that the government/officers unlawfully retained his property as a result of theft and not negligence, claimant effectively asserted a tort claim for conversion, which might not be barred by sovereign immunity under the Federal Tort Claims Act; accordingly, the court transferred the case to federal district court for further proceedings. Husband v. U.S., 90 Fed.Cl. 29, 40.

D.Ariz.

D.Ariz.1991. Subsec. (1) quot. in sup. A company resold combines, which it had purchased pursuant to an agreement giving the supplier a security interest in them, without paying the full debt owed to the supplier. The company's attorney had handled the paperwork and held the sale's proceeds as an escrow agent. The supplier sued the company and its attorney for breach of contract, conversion, RICO violations, and negligence, when it could not repossess the combines, which had been transported to Australia after being resold. Denying the defendants' motion for summary judgment, this court held, inter alia, that the attorney, as the company's agent, knew about the liens on the combines when they were sold and, therefore, could be liable for conversion, even though the sale was negotiated by the company. The court stated that although the attorney did not exercise dominion over the actual combines, he did exercise dominion and control over the proceeds of the sale. John Deere Co. v. Walker, 764 F.Supp. 147, 151.

C.D.Cal.

C.D.Cal.1990. Com. (a) cit. in ftn. An action was brought under the Federal Tort Claims Act (FTCA) for conversion. The government moved for dismissal or summary judgment on the ground that because conversion was a strict liability tort, there had been no waiver of sovereign immunity, which was allegedly waived only for torts based on the negligent or wrongful act or omission of its employees. This court denied the government's motion, holding that, insofar as the FTCA's requirement of wrongful conduct was concerned there was no principled distinction between the tort of conversion and the tort of trespass, which the United States Supreme Court had held was cognizable under the FTCA. The court stated that the two torts were analogs of one another and did not require wrongful conduct, or intent in either case. It noted that the primary difference between

trespass to chattel and conversion was the degree of interference with the possessory interest in the chattel. Nottingham, Ltd. v. U.S., 741 F.Supp. 1447, 1449.

D.Conn.

D.Conn.2006. Cit. in sup. Possessors of three original oil paintings sued owners of the copyrights to the paintings, seeking, in part, a declaratory judgment confirming their ownership of the paintings, and defendants counterclaimed. Granting plaintiffs' motion for summary judgment on their claim and denying defendants' motion for summary judgment on the counterclaim, this court held that plaintiffs were entitled to a declaration that they owned the paintings. The court reasoned that defendants' counterclaim, which was essentially for conversion, was time-barred, because, according to defendants' allegations, the statute of limitations began to run, at the latest, either in the early 1960s, when plaintiffs' predecessor-in-interest wrongfully took the paintings from defendants' place of business, or in 1970, when he first publicly asserted ownership or exercise of dominion or control over the paintings. Stuart & Sons, L.P. v. Curtis Pub. Co., Inc., 456 F.Supp.2d 336, 343.

D.Del.

D.Del.2007. Com. (a) quot. in ftn. Scientist and company that allegedly owned a virus used to produce smallpox vaccinations sued competitors for, among other things, tortious conversion of the virus. Noting that scientist had given a sample of the virus to a third party, who had "plaque purified" and cloned it before distributing the "progeny" of the virus to defendants, this court granted summary judgment for defendants, holding, inter alia, that there was no dispute that neither plaintiff ever had physical possession of the specific material at issue, and such possession was a requirement for the tort of conversion. The court explained that, consistent with its descendance from the common-law action of trover, conversion could not lie in the absence of physical possession of the actual good or chattel in question. Bavarian Nordic A/S v. Acambis Inc., 486 F.Supp.2d 354, 363.

D.Del.Bkrtcy.Ct.

D.Del.Bkrtcy.Ct.2010. Cit. in ftn. In a bankruptcy proceeding in which corporate debtors objected to proofs of claim filed by claimant for tort, conversion, and breach of good faith and fair dealing regarding insurance policies, this court cited Restatement Second of Torts § 222A in support of the proposition that, in order to establish a prima facie case of conversion, claimant would have to provide evidence necessary to establish the common-law elements of a conversion, i.e., the unauthorized intentional exercise of dominion or control over property in a manner that interfered with the owner's rights to that property. In re Federal-Mogul Global, Inc., 438 B.R. 787, 788.

D.D.C.

D.D.C.2005. Subsec. (1) cit. in ftn. Victim of vehicle theft brought pro se action against District of Columbia police department and its employees, alleging various causes of action based on employees' operation of a car-theft ring, as well as for not entering the car's vehicle-identification number in the national stolen vehicle database. This court granted defendant's motion to dismiss, holding that although plaintiff's claims for negligence, fraud, infliction of emotional distress, and conversion could stand, his potential recovery was limited to compensation for the stolen car's value, plus punitive damages. However, punitive damages of $69,500—to meet the $75,000 amount-in-controversy requirement of 28 U.S.C. § 1332(a)—was unconstitutionally excessive and not recoverable as a matter of law. The court thus dismissed the complaint for lack of subject-matter jurisdiction. Hunter v. District of Columbia, 384 F.Supp.2d 257, 261.

D.D.C.2004. Com. (d) quot. in disc. Homeowner and his wife sued homeowner's cousin and cousin's business for, inter alia, breach of contract to repair plaintiffs' two properties and conversion of plaintiffs' property. This court granted defendants summary judgment, holding, inter alia, that plaintiffs' conversion claim could not be maintained, because conversion claims could not be predicated solely on the misappropriation of money. Although plaintiffs' pleadings alleged that defendants took

plaintiffs' appliances, tools, and architectural plans, plaintiffs' conversion claim as set forth in their complaint was based solely on the assertion that defendants converted plaintiffs' property through the transfer of money by way of cash and checks to defendants. Calvetti v. Antcliff, 346 F.Supp.2d 92, 106.

D.D.C.2003. Cit. in ftn. Subcontractor sued general contractor for breach of contract and sought punitive damages for tort of conversion after general contractor denied existence of oral contract between parties and retained subcontractor's drawings relating to project. Denying contractor's motion to dismiss, this court held, inter alia, that subcontractor sufficiently stated conversion claim such that request for punitive damages satisfied amount-in-controversy requirement for diversity jurisdiction. Federal Fire Protection Corp. v. J.A. Jones/Tompkins Builders, Inc., 267 F.Supp.2d 87, 92.

D.D.C.2003. Cit. in disc., com. (a) quot. in disc. Prospective property buyers sued seller for breach of contract and conversion, alleging that, although buyers chose not to follow through with the agreement to purchase, seller should return their security deposit since it found another buyer. This court denied seller's motion to dismiss the breach-of-contract claim, but granted seller's motion to dismiss the conversion claim. The court held, inter alia, that the conversion claim failed because buyers had only contractual rights, and did not have a property interest in the deposit. Buyers had no immediate right to possession or control of the money, as their control was contingent on seller finding another buyer and then remitting to buyers any unused or unneeded portion of the deposit. Shulman v. Voyou, L.L.C., 251 F.Supp.2d 166, 170.

D.D.C.1979. Cit. in disc. Plaintiff, credit union, which had been chartered under the Federal Credit Union Act, brought action against corporate defendants seeking compensatory and punitive damages and presenting several alternative theories of recovery: default on notes, mutual mistake, conversion, fraud, and violation of the Securities and Exchange Act. Regarding the claim for conversion, the court stated that although the motive or intent of the taker as to his right to the property is irrelevant, the evidence here concerning a loan transaction established conversion with knowledge of its impropriety. Regarding the other claims for relief, the court held that the evidence was insufficient to establish common law fraud or a violation of Section 10(b) of the Securities and Exchange Act. No specific holding was made in regard to the claims for default and mutual mistake. In addition, the court held that plaintiff was entitled to compensatory, but not punitive, damages for the conversion of its funds. Langley Federal Credit Union v. Harp, 471 F.Supp. 565, 574.

M.D.Fla.

M.D.Fla.2020. Cit. in sup. Recipient of a junk fax advertisement through an online service, which collected faxes on recipient's behalf and emailed them to recipient as attached PDFs, sued original sender of the fax, alleging that the fax violated the Telephone Consumer Protection Act. This court granted in part sender's motion for summary judgment, holding that recipient lacked standing, because its alleged harm—in the form of employee time wasted in reviewing the fax attached to the email, deciding it was junk, and dragging the email to a spam folder—did not constitute an injury in fact. The court reasoned, in part, that the emailed fax did not amount to a trespass to chattels under Restatement Second of Torts § 217 or a conversion under § 222A, because it did not deprive recipient of the use of its fax machine, computer, fax line, or printing resources, nor did it constitute such a serious, intentional interference with property that payment of full value was necessary. Daisy, Inc. v. Mobile Mini, Inc., 489 F.Supp.3d 1287, 1294.

M.D.Fla.2014. Cit. in ftn. and cit. in case cit. in ftn., subsec. (1) and com. (c) quot. in sup. Medical office filed a proposed class action asserting claims for conversion and violation of the Telephone Consumer Protection Act against owner of a website that was designed to connect doctors to potential patients, after defendant sent plaintiff unsolicited facsimiles promoting its website. Granting in part defendant's motion to dismiss, this court held that defendant's alleged interference with plaintiff's fax machines, toner, paper, and employee time when printing the faxes was insufficient to state a claim for conversion because, even if the interference suffered by the more than 39 putative class members was aggregated, that interference was not sufficiently serious, major, or important. The court explained that, under Restatement Second of Torts § 222A, there was no claim for conversion when the alleged interference, inconvenience, and expense were minimal, unsubstantial, or insignificant. Neurocare Institute of Central Florida, P.A. v. Healthtap, Inc., 8 F.Supp.3d 1362, 1368.

N.D.Fla.

N.D.Fla.1988. Subsec. (1) quot. in disc. A former secretary-treasurer of a local union sued another local union, which merged with her former employer, and its international union for back pay, alleging that the international union breached a contract in which it agreed to pay her a certain sum of money in exchange for her cooperation in transferring the assets of her employer to the other local union. Granting the international union's motion for summary judgment in part, this court held, inter alia, that the plaintiff could not maintain an action for conversion on the theory that the international union converted the assets of her former employer to her detriment because the plaintiff had no right to possession of the assets belonging to her former employer. The court stated that, at best, her wage claim was an unsecured lien on her employer's assets with no right to possession, and to maintain an action for conversion, one must have possession of the property or an immediate right to possession. Scherer v. Laborers' Intern. Union of N. America, 746 F.Supp. 73, 84.

S.D.Ga.

S.D.Ga.2015. Subsec. (1) quot. in case quot. in sup. After contractor was terminated from a roadwork project, and replacement contractor acquired certain traffic-control equipment that contractor was required to leave behind for safety reasons, contractor and its equipment lessor obtained a consent judgment for conversion against replacement contractor, and, as assignees of replacement contractor, filed bad-faith and indemnification claims against replacement contractor's insurer. This court granted insurer's motion to dismiss, holding that plaintiffs' conversion claim was not covered by the policy, because a conversion—whether "willful and malicious" or merely "negligent"—was not an accident for purposes of a general-liability policy under Georgia law, and thus was not a covered occurrence. The court noted that, under Restatement Second of Torts § 222A, conversion required an intentional exercise of dominion or control over a chattel that seriously interfered with the right of another to control the chattel. Spivey v. American Casualty Company of Reading, Pennsylvania, 128 F.Supp.3d 1281, 1285.

D.Hawaii

D.Hawaii, 2012. Cit. in sup. Mortgagor brought 13 state and federal claims against mortgagee, its assigns, and mortgage broker, alleging various improprieties in the processing and issuance of the mortgage loan. Granting in part defendants' motion to dismiss, this court held that plaintiff failed to state a claim as to the conversion count of the complaint, because he failed to allege any of its elements. Plaintiff did not provide any facts identifying what defendants allegedly took, how the taking was unwarranted, how defendants illegally or abusively used the unknown chattel, or that plaintiff demanded its return. Newcomb v. Cambridge Home Loans, Inc., 861 F.Supp.2d 1153, 1164.

D.Hawaii, 2010. Cit. in disc. Optionee sued optionors, asserting a claim for conversion, inter alia, upon allegations that because there was no contractual basis for the deposit of his $280,000—i.e., the purchase option for certain land, a warehouse, and orchard was never exercised—he had a right to, and demanded, immediate possession of his funds in escrow, yet defendants withheld the fund from him for 10 months. This court denied defendants' motion for summary judgment on the claim, holding that, while it was clear that plaintiff had a right to the funds, fact issues existed as to whether at the time of his demand, defendants wrongfully detained the funds in bad faith and would thereby be liable to plaintiff. Sung v. Hamilton, 710 F.Supp.2d 1036, 1044.

D.Hawaii, 2000. Cit. in disc. Owner of a lumber business sued police department, police chief, police officers, and others for violations of 42 U.S.C. § 1983 and several state-law torts, including conversion. This court granted county defendants' motion for summary judgment on the conversion claim, holding, inter alia, that plaintiff failed to prove that the county police officer who assisted in serving civil writ of execution on plaintiff took chattel from plaintiff without his consent, assumed ownership of any chattel, illegally used or abused chattel, or wrongfully detained chattel. Pourny v. Maui Police Dept., County of Maui, 127 F.Supp.2d 1129, 1146.

D.Idaho Bkrtcy.Ct.

D.Idaho Bkrtcy.Ct.1992. Cit. in case quot. in disc. Bankruptcy trustee objected to bean growers' proofs of claim in grain elevator president's Chapter 7 proceeding. Overruling the objections, the court held, inter alia, that the grain elevator's liability to its customers for conversion of their beans did not preclude president's individual liability for conversion, and growers' proofs of claim, alleging that they deposited beans with the elevator and that president unlawfully converted beans, were sufficient where trustee presented no evidence that claims were not valid other than the fact that growers might have received partial payment of their claims from the elevator's bankruptcy case. In re Hawkins, 144 B.R. 481, 485.

N.D.Ill.

N.D.Ill.2019. Quot. in ftn.; com. (c) quot. in disc.; com. (d) quot. in ftn. Data integration company that managed car dealer management information brought a lawsuit against providers of car dealer management systems; defendants counterclaimed, alleging, among other things, that plaintiff committed conversion by accessing defendants' data systems without permission, because the unauthorized access forced defendants to invest significant resources in investigating and mitigating plaintiff's intrusion and reduced the efficiency of defendants' systems. This court granted in part plaintiff's motion to dismiss defendants' counterclaims, holding, inter alia, that defendants failed to allege sufficient facts that plaintiff converted defendants' systems. The court cited Restatement Second of Torts § 222A in explaining that plaintiff's conduct did not constitute the serious interference with defendants' property necessary for a claim of conversion, and noted that other courts had examined several factors set forth in § 222A in determining whether a tortfeasor's conduct constituted serious interference with another's property, including the extent and duration of the tortfeasor's control, the inconvenience and expense caused to the other, and whether tortfeasor acted in good faith. In re Dealer Management Systems Antitrust Litigation, 362 F.Supp.3d 558, 577.

N.D.Ill.2009. Cit. in case cit. but not fol., quot. in ftn. Recipient of an unsolicited one-page fax advertisement brought a putative class action for conversion, inter alia, against sender of the fax, alleging that defendant converted the toner and paper in its fax machine for defendant's own use. This court granted defendant's motion to dismiss the conversion claim, holding that, while plaintiff sufficiently alleged defendant's conversion of its property—since, even though the paper and toner were never physically possessed by defendant, conversion could arise from any material alteration of a chattel—the claim failed because of the de minimis nature of the injury alleged. The court concluded that, although courts were divided on the issue, and Restatement Second of Torts § 222A did not require that the chattel have a substantial value, it was proper to apply the de minimis doctrine in this case. G.M. Sign, Inc. v. Stergo, 681 F.Supp.2d 929, 933.

N.D.Ill.2002. Quot. in disc., com. (c) cit. in disc. Corn farmers sued manufacturer and distributor of genetically modified corn for negligence, strict liability, private and public nuisance, and conversion, alleging that defendants disseminated a product that contaminated entire United States' corn supply, increasing their costs and depressing corn prices. This court granted defendants' motion to dismiss conversion claim, holding, inter alia, that defendants' role in contaminating corn supply did not amount to a conversion of plaintiffs' property. Plaintiffs had not alleged that defendants destroyed their crops or deprived them of possession, as they retained possession and still had total control over the corn. The only damages were a lower price, for which plaintiffs could be compensated without forcing a sale. In re Starlink Corn Products Liability Litigation, 212 F.Supp.2d 828, 844.

N.D.Ill.1992. Quot. in disc. Bank that had agreed to act as principal bank's agent in soliciting merchants to purchase services provided by principal bank in connection with processing bankcard credit charges sued principal bank's assignee for conversion, inter alia. Granting in part defendant's motion to dismiss, the court held that Illinois courts recognized a cause of action for conversion of commercial paper but that, since the agency agreement imposed restrictions on the terms of payment for the paper sales slips plaintiff submitted to defendant, the paper slips were not commercial paper and the money involved in this suit could not be considered a specific chattel subject to a claim for conversion. South Cent. Bank & Trust v. Citicorp Credit Serv., 811 F.Supp. 348, 353.

N.D.Ill.Bkrtcy.Ct.

N.D.Ill.Bkrtcy.Ct.2014. Quot. in case quot. in sup. Chapter 11 debtor-mortgagor that defaulted on its mortgage with failed bank brought an adversary complaint against successor-in-interest to bank, alleging that letters sent by defendant to tenants directing them to pay rent directly to defendant amounted to conversion, and that debtor was therefore entitled to an accounting. Granting defendant's motion to dismiss this claim, this court held, inter alia, that debtor did not sufficiently state a claim for conversion, because it failed to plead a demand on defendant or the futility of making such a demand, as required by Illinois law. The court cited Restatement Second of Torts § 222A in noting that conversion was defined as an intentional exercise of dominion or control over a chattel that so seriously interfered with the right of another to control it that the actor could justly be required to pay the other the full value of the chattel. In re Settlers' Housing Service, Inc., 514 B.R. 258, 284.

N.D.Ind.Bkrtcy.Ct.

N.D.Ind.Bkrtcy.Ct.2006. Quot. in disc. Bank that refinanced automobile loan to debtor, who later transferred the vehicle title to nonparty without authorization in exchange for a promise that nonparty would complete the loan payments, brought adversary proceeding against debtor, seeking a determination that the debt was nondischargeable, inter alia, as a debt for willful and malicious injury. This court ruled that the debt was not excepted from discharge because debtor's actions in arranging for full satisfaction of the debt established a lack of willful intent to injure the bank's interests in the vehicle. In making its decision, the court observed that conversion consisted of an intentional exercise of dominion or control over a chattel, but that a willful and malicious injury did not follow as of course from every act of conversion. In re Whiters, 337 B.R. 326, 344.

N.D.Iowa

N.D.Iowa, 2014. Subsec. (1) cit. and quot. in cases cit. and quot. in sup. Provider of telecommunications services brought a conversion claim, inter alia, against competitor, alleging that defendant used and shared plaintiff's confidential information without plaintiff's consent, contrary to an express agreement. This court denied defendant's motion to dismiss, holding that plaintiff plausibly alleged that defendant's use and sharing of the information was incompatible with plaintiff's continued confidential use of the information or deprived plaintiff of the value of its control of that information arising from the fact that it was confidential. The court cited caselaw that quoted Restatement Second of Torts § 222A(1) for the proposition that wrongful control had to amount to a serious interference with the other person's right to control the property, so that that the actor could justly be required to pay the full value of the chattel. Community Voice Line, L.L.C. v. Great Lakes Communication Corp., 18 F.Supp.3d 966, 980, 981, 983.

N.D.Iowa, 2007. Subsec. (1) cit. and quot. in cases quot. in disc. Competitive local exchange carrier sued local exchange carrier over the parties' interconnection agreements to exchange local telephone calls between their respective networks, and defendant counterclaimed, for, in part, conversion, alleging that plaintiff failed to pay or reimburse defendant for its services. This court denied plaintiff's motion to dismiss the conversion counterclaims, holding, inter alia, that, despite plaintiff's argument that the claims were not based on any duty independent of contract, the claims alleged violation of possessory rights in property, as required by the tort; additionally, defendant's allegation that plaintiff made unauthorized use of its property suggested not only violation of a contract but also the absence of a contract. McLeodUSA Telecommunications Services, Inc. v. Qwest Corp., 469 F.Supp.2d 677, 699, 700.

N.D.Iowa, 2005. Subsec. (1) quot. in case quot. in sup., subsec. (2) cit. in sup. (erron. cit. as § 222A(1)) and quot. in case quot. in sup. Biochemical company brought various claims against manufacturing company in connection with a proprietary manufacturing process that it developed and licensed to manufacturing company. This court, inter alia, denied defendant's motion to dismiss plaintiff's claim for conversion of the manufacturing process. The court acknowledged that conversion traditionally applied to chattels or tangible property but declined to predict that the Iowa Supreme Court would prohibit a claim for conversion of intellectual property. The court reasoned, inter alia, that determination of the viability of such a claim was

properly conducted on a complete record, based on consideration of the factors listed Restatement Second of Torts § 222A(2). Sioux Biochemical, Inc. v. Cargill, Inc., 410 F.Supp.2d 785, 800, 802.

N.D.Iowa, 1998. Cit. and quot. in case quot. in disc. Tow-bar manufacturer sued Nebraska competitor for patent infringement, misappropriation, and conversion, among other claims. This court granted in part and denied in part the parties' motions for summary judgment, holding, inter alia, that because Nebraska had not specifically foreclosed the possibility of a claim for conversion of an intangible, unpatented idea, this court could not conclude that there was an insuperable bar to relief. Dethmers Mfg. Co. v. Automatic Equip. Mfg. Co., 23 F.Supp.2d 974, 1006, appeal denied 185 F.3d 879 (Fed. Cir.1998).

N.D.Iowa, 1998. Cit. in case quot. in disc., subsec. (1) cit. in case quot. in disc. Rural water association sued city for, inter alia, conversion, alleging that defendant provided water service to customers it was not entitled to serve. Entering judgment for defendant on this count of the complaint, the court held, in part, that the conduct complained of was not wrongful, no harm was done to plaintiff's chattels, and the extent and duration of the alleged interference were not such as to support an action for conversion. Rural Water System #1 v. City of Sioux Center, 29 F.Supp.2d 975, 997, affirmed in part, reversed in part 202 F.3d 1035 (8th Cir.2000).

N.D.Iowa, 1996. Cit. in headnotes, cit. in sup., cit. in case quot. in sup., subsec. (1) cit. in case quot. in sup. A former county-hospital employee sued the hospital for, in part, conversion of her property interest in her privacy. Granting summary judgment for defendant as to plaintiff's conversion claim, the court held, inter alia, that plaintiff failed to show that her privacy interest in not having her identity as a patient in the hospital identified to hospital employees was generally protected as personal or intangible property under Iowa law. Hanson v. Hancock County Memorial Hosp., 938 F.Supp. 1419, 1421, 1438, 1439.

S.D.Iowa,

S.D.Iowa, 2020. Subsec. (2) quot. in case quot. in sup. Agricultural-financing company that owned a lien on farmers' proceeds from crop sales brought, among other things, claims of conversion against farm cooperative, alleging that defendant, who owned a lien subordinate to plaintiff's lien, converted the proceeds when it received a payment from farmers and used the payment for its own purposes, even though it was on notice that plaintiff had a security interest in the crops and proceeds from the crop sale pursuant to the Food Security Act. This court granted plaintiff's motion for summary judgment, holding that, according to the undisputed record, plaintiff met its burden of proof that defendant exercised total dominion and control over the proceeds in a wrongful manner that constituted serious interference with plaintiff's rights to the proceeds. The court examined the factors set forth in Restatement Second of Torts § 222A(2), noting that defendant exercised total control over and completely destroyed the funds when it received and applied the funds to its open account, and the facts that defendant did not engage in further inquiry and exercised such control despite knowing about plaintiff's senior security interest established that defendant acted in bad faith and with intent to exercise control over the crops in a way that was inconsistent with plaintiff's rights. Agrifund, LLC v. Heartland Co-op, 436 F.Supp.3d 1230, 1234.

S.D.Iowa, 2018. Subsec. (2) quot. in case quot. in sup. Motorist brought conversion and other claims against narcotics enforcement task force, among others, alleging that defendants seized a large amount of cash from his vehicle during a traffic stop, and then violated a court order directing that the cash be returned to him by turning it over to the Federal Trade Commission pursuant to a writ of execution that the Commission had obtained in connection with its unsatisfied judgment against him for violating the Federal Trade Commission Act. This court granted summary judgment for defendants on plaintiff's conversion claim, holding that plaintiff failed to show that defendants exercised wrongful control or dominion over the cash contrary to plaintiff's possessory right to the property, as required to state a claim for conversion under Restatement Second of Torts § 222A. The court pointed out that defendants had probable cause to seize the cash under state law, and that plaintiff did not allege that defendants retained any of his cash. Flora v. Southwest Iowa Narcotics Enforcement Task Force, 292 F.Supp.3d 875, 906.

S.D.Iowa

S.D.Iowa, 2009. Subsec. (2) quot. in case quot. in sup. Employer, a provider of lease equipment financing, sued former employee, alleging, among other things, that defendant converted its customer spreadsheet. Entering judgment for defendant on this claim, this court held that, while defendant exercised wrongful control over plaintiff's spreadsheet when he used it to book leases on a competitor's behalf, plaintiff did not establish that defendant seriously interfered with its use of the property; evidence that plaintiff received substantial benefits in commissions from defendant's use of the spreadsheet at a trade show supported the conclusion that defendant did not seriously interfere with plaintiff's possessory interest in the spreadsheet. NCMIC Finance Corp. v. Artino, 638 F.Supp.2d 1042, 1081.

S.D.Iowa, 2001. Subsec. (2) cit. in case quot. in disc. Insurance agents sued insurer for breach of contract, fraud, and conversion, among other claims. This court entered judgment for defendant on fraud and conversion claims, holding, inter alia, that while insurer may have converted one agent's money for its own use when it increased the cost of insurance for reasons other than those stated in agent's policies, the agent could not claim legal damages for this amount. Agent was reimbursed for his damages through an adjustment to policyholders' interest rates, and any difference in the appropriate compensation was waived when agent accepted the five-basis-point adjustment as a way to pay back affected policies. Jeanes v. Allied Life Ins. Co., 168 F.Supp.2d 958, 991, judgment affirmed in part, reversed in part 300 F.3d 938 (8th Cir.2002).

S.D.Iowa, 1993. Cit. in sup., subsec. (1) quot. in ftn., subsec. (2) quot. in case quot. in sup., coms. (c) and (d) cit. in sup. Assignee of a master lease for a radio transmitter sued lessee for unpaid rent; lessee counterclaimed and brought third-party complaint for conversion against manufacturer that had delivered title to the radio transmitter to lessor. Entering judgment for manufacturer on lessee's third-party complaint, the court held, inter alia, that, under Iowa law, manufacturer's delivery of a bill of sale to lessor to consummate the lease transaction did not constitute conversion since lessee was not deprived of use and possession of the transmitter. Further, said the court, lessee explicitly consented to delivery of the bill of sale. Citicorp of North America, Inc. v. Lifestyle Communications Corp., 836 F.Supp. 644, 664, 665.

D.Kan.

D.Kan.2009. Cit. in case cit. in sup. Seller of fuel distributor sued, among others, law firm that represented a lender for the transaction, alleging that it converted plaintiff's right of ownership in distributor by failing to return to plaintiff a stock certificate issued by distributor to purchaser. This court rejected defendants' argument that plaintiff could not maintain a claim for conversion based on the retention of a certificate issued to purchaser rather than to plaintiff and denied defendants' motion for judgment on the pleadings as to plaintiff's conversion claims, holding, inter alia, that the Kansas Supreme Court would recognize a claim for liability, similar to that for conversion, for the interference with the exercise of the intangible rights of ownership in a company, even without conversion of the particular certificate evidencing the plaintiff's ownership rights. Near v. Crivello, 673 F.Supp.2d 1265, 1282.

D.Kan.2007. Quot. in sup., cit. in case cit. in sup., com. (c) cit. in sup. Mortgagors brought putative class action against title insurer, alleging that defendant, in acting as their closing agent in a real-estate financing, collected and retained an amount for recording fees in excess of the actual fees paid. This court denied plaintiffs' motion for class-action certification, rejecting plaintiffs' attempt to distinguish a Kansas precedent's conflict-of-laws rule whose application defeated their manageability argument seeking to arrive at a single state's punitive-damages law. Federal courts in this district had applied the precedent in cases involving financial harm, which was all that was alleged here, and plaintiffs' argument that their conversion claims merited different treatment from their other tort claims, e.g., fraud and breach of fiduciary duty, because damages were not a required element of conversion claims, was unavailing; every claim for conversion necessarily involved an element of harm. Doll v. Chicago Title Ins. Co., 246 F.R.D. 683, 692.

E.D.Ky.

E.D.Ky.2013. Subsec. (1) quot. in case quot. in sup. Part owners of a thoroughbred stallion brought, inter alia, a conversion claim against co-owners and breeding managers, alleging that defendants willfully and/or negligently deprived plaintiffs of

their right to possess the books and billing records, and their rightful share of moneys and assets relating to and generated by the stallion. Dismissing this claim, this court held that plaintiffs failed to plausibly state a claim for conversion of their right to possess the books and billing records, because they did not allege legal title to or right to possess the books or records, nor did they allege that they made a demand for the property that was refused. In addition, plaintiffs failed to allege a claim of conversion for money from certain breedings that they contended was contractually owed to them, because, while a conversion action could be maintained for the recovery of money physically taken from a person's possession, a conversion claim could not be brought where the property right alleged to have been converted arose entirely from contractual rights. James T. Scatuorchio Racing Stable, LLC v. Walmac Stud Management, LLC, 941 F.Supp.2d 807, 826.

W.D.Ky.

W.D.Ky.2011. Quot. in sup. Secured creditor of mining company brought claims for trespass and conversion against purchasers of collateralized mining equipment that company had sold without creditor's authorization. This court granted summary judgment for purchasers on statute of limitations grounds, holding that creditor's claim that purchasers intentionally took the collateral and then scrapped it was properly viewed as a claim for conversion, which involved consequences that justified recovery of the full value of the personal property affected, rather than for trespass to chattels, which involved relatively minor damages or deprivation; here, the alleged level of interference was total destruction rather than mere interference or intermeddling, and plaintiff sought the full value of the collateral as damages, without discussing the calculation of damages for a trespass claim. Madison Capital Co., LLC v. S & S Salvage, LLC, 794 F.Supp.2d 735.

E.D.La.

E.D.La.1981. Cit. in disc. (Erron. cit. as s 222a). A Nicaraguan citizen who left her country during civil war and moved to Florida brought an action against the Nicaraguan central bank and an American commercial bank located in New Orleans to recover $150,000 on a check drawn in her favor by the central bank of Nicaragua on its account with the American commercial bank. The central bank of Nicaragua moved to dismiss the action, contending that the suit was barred under the Foreign Sovereign Immunities Act and that the court lacked personal jurisdiction over it. The court held that, although the conduct of the central bank of Nicaragua in maintaining foreign exchange rates through the regulation of foreign currency transactions was not commercial, but was governmental under the Foreign Sovereign Immunities Act, the claim of the Nicaraguan citizen fell within the "commercial activities" exception to foreign sovereign immunity created by the applicable sections of the Foreign Sovereign Immunities Act and, thus, the court had jurisdiction over the claim. The court stated that applicability of the "commercial activity" exception under the Foreign Sovereign Immunities Act rests not on whether the foreign entity generally engages in commercial conduct, but on whether the particular conduct giving rise to the claim in question actually constitutes, or is in connection with, commercial activity, regardless of the defendant's generally commercial or governmental character. The central bank's motion to dismiss was denied. De Sanchez v. Banco Central De Nicaragua, 515 F.Supp. 900, 912.

D.Me.

D.Me.2002. Cit. in disc. Seller of prepaid telephone cards brought suit for, in part, conversion against reseller of long-distance telephone capacity and reseller's owner. The court entered a default in favor of plaintiff. Granting plaintiff's motion for a default judgment, the court held, inter alia, that defendant did not have any legal entitlement to a good-faith deposit of $10,000 paid by plaintiff, and thus was liable to plaintiff for restitution in that amount. Siber Telecom, Inc. v. Ariana Telecommunications, Inc., 201 F.Supp.2d 187, 189.

D.Md.

D.Md.2018. Subsec. (1) quot. in case quot. in sup. Probiotic seller sued its former CEO, who left to form a competing company that marketed a probiotic using the same formulation as seller's, alleging that, upon his departure, CEO committed conversion

within the meaning of Restatement Second of Torts § 222A by instructing seller's attorney to send him seller's confidential and proprietary information, including the formula for the probiotic, and to destroy any remaining copies, and then by destroying the paperwork that he received from the attorney. This court denied in part CEO's motion for summary judgment, holding that there were genuine issues of material fact relating to what information the attorney sent to CEO, and whether any of that paperwork constituted seller's property that was improperly removed and destroyed. De Simone v. VSL Pharmaceuticals, Inc., 352 F.Supp.3d 471, 492.

D.Md.2009. Cit. in case quot. in sup. (cit. as § 222(A)). After former employee sued former employer for retaliation and wrongful termination, employer counterclaimed, alleging, among other things, that employee converted employer's intangible property interest in its employees' time by spending employer's work hours performing work for employer's competitors. Granting employee's motion to dismiss employer's counterclaim for conversion insofar as it relied on employee's improper use of employee time, this court held, inter alia, that an employee's conduct on company time was not in the nature of a property or right that could be the subject of conversion under New Hampshire law. Glynn v. EDO Corp., 641 F.Supp.2d 476, 484.

D.Md.1996. Cit. in ftn. Bank sued defaulting borrowers to recover on a promissory note that was secured by a mortgage on borrowers' boat. While this case was pending, bank intervened in another creditor's action in Florida, winning a personal judgment against borrowers and an in rem judgment against boat. Borrowers, who denied individual liability on the note, counterclaimed for, inter alia, breach of contract and conversion in connection with bank's disposition of the boat. Granting in part and denying in part bank's motion for summary judgment, the court held that the fully integrated note named borrowers as debtors; that under both state and federal rules, the Florida court's in rem judgment precluded borrowers from relitigating the issue of the sale of the boat; and that borrowers, having defaulted, had no right to possession of the boat and thus could not sustain their claim for conversion. Maryland Nat. Bank v. Traenkle, 933 F.Supp. 1280, 1289, affirmed 10 Fed.Appx. 194 (4th Cir.2001).

D.Md.1994. Subsec. (2) cit. in headnote and cit. in case cit. in sup. A Jewish financial analyst sued her former employer for gender and religious discrimination, and employer counterclaimed, alleging that analyst misappropriated its confidential documents and trade secrets when she left work and that she had refused to repay loans and advances. The court, among other dispositions, granted analyst's motion for summary judgment on five of the six counts of employer's counterclaim. The court held, inter alia, that employer failed to state a claim for trespass, since employer's documents suffered no harm, its business operations were not hampered by their temporary detention, and employee's possession was not exclusive, for employer had full access to the files. Furthermore, employee had a plausible, although ultimately incorrect, belief that many of the documents belonged to her as gifts or as personal correspondence. Diamond v. T. Rowe Price Associates, Inc., 852 F.Supp. 372, 411.

D.Md.1994. Subsec. (1) quot. in disc., subsec. (2) quot. in case cit. in disc., com. (d) cit. generally in headnote and in disc. United States sued medical researcher for conversion and trespass, contending that defendant intentionally tampered with and destroyed cells in a research project at a government facility. The court held that defendant's destruction of the cell line was conversion, rather than mere trespass, and assessed compensatory damages based on the market value of flasks destroyed and the cost of recreating the cell lines, denying as too speculative, however, damages for delay in the research project. U.S. v. Arora, 860 F.Supp. 1091, 1092, 1097, affirmed 56 F.3d 62 (4th Cir.1995).

D.Mass.

D.Mass.2019. Cit. in disc. Trustee of Chapter 7 debtor brought a lawsuit against, among others, limited-liability company that managed debtor, sole member of limited-liability company, and limited-liability company's subsidiaries, alleging, inter alia, that defendants committed the tort of conversion when they siphoned assets away from debtor to defraud debtor's creditors. This court granted in part and denied in part defendants' motion to dismiss, holding that plaintiff alleged sufficient facts that limited-liability company and sole member committed conversion, as defined by Restatement Second of Torts § 222A, by exercising control over debtor to transfer its assets in order to shield them from debtor's creditors. In re Blast Fitness Group, LLC, 603 B.R. 219, 243.

D.Mass.2019. Cit. in sup. Chapter 7 trustee for the bankruptcy estate of debtor that owned several fitness clubs brought an adversary proceeding against, among others, manager of the clubs and manager's principal, alleging that defendants converted debtor's funds and assets for their own use and benefit. This court entered an order denying defendants' motion to dismiss trustee's claims for conversion and civil theft under Restatement Second of Torts § 222A, holding that there were sufficient allegations in the complaint that manager improperly exercised dominion and control over debtor's property within the relevant limitations period by transferring eight of debtor's fitness clubs to an entity controlled by manager's principal without full consideration in order to shield assets from debtor's creditors. In re Blast Fitness Group, LLC, 602 B.R. 208, 229.

D.Mass.2015. Cit. in sup. Member of a real-estate partnership sued property manager hired by another member of the partnership, alleging, among other things, that defendant misappropriated rents and equipment belonging to the partnership, while failing to service the partnership's properties and pay off outstanding taxes, bills, and other debts. Denying defendant's motion to dismiss plaintiff's claim for conversion under Restatement Second of Torts § 222A, this court held that plaintiff sufficiently alleged that defendant converted funds that rightfully belonged to the partnership. While defendant might have had a right to possess the rents for purposes of his management duties, plaintiff alleged that defendant used the rents for his own benefits, and the court could infer from those allegations that defendant made a positive and wrongful act intended to appropriate the property for himself. Fiorillo v. Winiker, 85 F.Supp.3d 565, 575.

D.Mass.2015. Cit. in sup. Plaintiff brought a conversion action against defendant; after defendant filed a motion for summary judgment, plaintiff filed motions to strike all references in defendant's motion and its supporting documents to, among other things, mistake, alleging that defendant failed to plead mistake as an affirmative defense. This court denied plaintiff's motions to strike, holding that defendant's argument was that plaintiff lacked sufficient evidence to raise a genuine issue of material fact on elements of his claims, and defendant was entitled to include this defense in its motion. Citing Restatement Second of Torts § 222A, the court explained that plaintiff had to allege intent, because conversion was an intentional tort, and defendant was entitled to argue absence of evidence. Turner v. Hubbard Systems, Inc., 153 F.Supp.3d 493, 495.

D.Mass.2013. Subsecs. (1) and (2) quot. in case quot. in sup. Bicyclist brought conversion claims, inter alia, against police officer who pulled him over for riding in the middle of a state highway and confiscated his bicycle and helmet-mounted camera. Granting defendant's motion for summary judgment on those claims, this court held that defendant's confiscation of the bicycle before returning it to plaintiff when they arrived at the police station was not a serious enough interference with plaintiff's right to possess his property as to make out a conversion claim. The court explained that there was no evidence the defendant took the bicycle asserting his own right to it, that he kept the bicycle for an extended period of time, or that he damaged it in any way. Damon v. Hukowicz, 964 F.Supp.2d 120, 141, 142.

D.Mass.2010. Cit. in sup. In debtor trash disposal company's Chapter 7 bankruptcy proceedings, the bankruptcy court found, among other things, that trustee had exclusive standing to prosecute certain claims brought by debtor's purported "successor-in-interest" (which had purchased certain collateral from a nonparty that had acquired it from a secured creditor of debtor in a private sale) against debtor's competitor and competitor's employee. Affirming, this court held that the state-law claims at issue—conversion, tortious interference with contractual and business relations, breach of fiduciary duty, and civil conspiracy—were commercial tort claims (rather than proceeds) that were not included in debtor's security agreement with creditor, and thus standing to assert those claims did not transfer to successor through the nonparty's purchase of creditor's collateral. In re American Cartage, Inc., 438 B.R. 1, 12.

D.Mass.2003. Quot. in sup. After husband was arrested when he tried to enter condominium that he owned with his estranged wife as tenants by the entirety, he sued wife, man who lived in condominium, and arresting police officers. The man counterclaimed for conversion, inter alia. This court denied husband's motion to dismiss counterclaim as to conversion, holding that the man sufficiently alleged that husband took from the condominium a contract that he knew belonged to the man and exercised control over it by using it as an exhibit in husband's divorce action against wife, thus depriving the man of use of the contract. Gouin v. Gouin, 249 F.Supp.2d 62, 76.

D.Mass.2002. Cit. in disc. Architectural firm sued promoter of real-estate development for, in part, conversion of its architectural drawings. Denying in part defendant's motion for summary judgment, the court held, inter alia, that the conversion claim was not preempted by the Copyright Act. Plaintiff could attempt to show at trial that it suffered harm as a result of defendant's wrongful physical possession of the drawings. John G. Danielson, Inc. v. Winchester Conant Properties, Inc., 186 F.Supp.2d 1, 28, affirmed on other grounds 322 F.3d 26 (1st Cir.2003).

D.Mass.1992. Illus. 2 and 8 cit. in sup. A provider of computer repair services sued a competitor for copyright infringement, pursuant to federal copyright laws, after defendant allegedly used and copied certain software developed by plaintiff for use in diagnosing computer problems. Alleging several state law claims, including conversion and misappropriation of trade secrets, plaintiff claimed that defendant physically took possession of copies of plaintiff's software and retained the property for years until ordered by a court to return the property. Denying defendant's motion for partial summary judgment on the conversion count, this court held, inter alia, that plaintiff made a colorable claim that defendant converted valuable physical property of plaintiff's, and that such a claim was not preempted by federal copyright law. Data General v. Grumman Systems Support Corp., 795 F.Supp. 501, 505, affirmed 36 F.3d 1147 (1st Cir.1994).

D.Mass.1983. Cit. in sup. A man who was at various times arrested for and/or charged with kidnapping and murder during the course of an investigation into an apparent abduction filed a 38-count complaint charging a former United States attorney, seven named agents of the FBI, certain unknown agents of the Department of Justice, and one of the plaintiff's former attorneys with violations of his constitutional rights and of state law. All of the defendants except the attorney moved for summary judgment. This court held, inter alia, that valid causes of action were stated under the Federal Tort Claims Act with respect to the plaintiff's allegation that certain of the defendants unlawfully conspired with the attorney to defraud the plaintiff and to convert his property, with respect to the plaintiff's allegation that his standing and reputation were injured by the release of information by certain of the defendants to news media personnel, and with respect to the plaintiff's claims for false arrest and imprisonment. The motion for summary judgment was granted in part and denied in part. Krohn v. United States, 578 F.Supp. 1441, 1448, order reversed 742 F.2d 24 (1st Cir.1984).

D.Mass.1980. Com. (c) cit. in ftn. in sup. The plaintiff sued for damages under federal statutory law, charging that the defendants had refused to fairly consider the plaintiff's application for a position on the police force in retaliation for the plaintiff's exercise of his First Amendment rights. The plaintiff received a jury verdict in his favor and thereafter filed motions in order to have the court order, inter alia, that the defendant should give the plaintiff a position on the police force and award the plaintiff both compensatory and punitive damages. In the alternative, the plaintiff sought an additional monetary award for the loss of future wages and benefits if the court would not order that the defendant must hire him. The court held that the plaintiff had a constitutional right to fair consideration but no such right to employment, so it denied the plaintiff's motion for instatement. The court also refused the plaintiff's motion for punitive damages. The court held that the doctrine of municipal nonliability for punitive damages was applicable in this case because its underlying rationale was compatible with the purposes of the applicable federal statutes. The court stated that the federal statutes were designed to both punish the wrongdoers and deter similar conduct in the future, but the court reasoned that holding the municipality liable would punish the taxpayers rather than the individuals actually involved. In addition, the court determined that deterrence was adequately served by the compensatory damages awarded to the plaintiff. The court also refused to enter a judgment which would include damages for a loss of future wages and benefits. The court reasoned that such an award would prevent the parties from ever entering into a working relationship. The court stated that such an award would imply that the plaintiff should seek alternative and possibly less advantageous future employment and that the defendant would then be released from any obligation of ever considering the plaintiff for employment as a police officer. As an alternative, the court proposed scheduling the defendant's original damage award in installments with the condition that the payments would stop if the defendant tendered, and the plaintiff accepted, an offer to join the police force. Both parties accepted this proposal so the court entered such a judgment for the plaintiff. Valcourt v. Hyland, 503 F.Supp. 630, 636.

D.Mass.1975. Subsec. (1) quot. in sup. The plaintiff, the owner of a number of stolen negotiable securities, brought an action in conversion against the defendant bank, which had accepted the securities as collateral for a loan and had later sold them.

The defendant claimed that it could not be held liable under Massachusetts law, because it was a bona fide purchaser. The court held that since the bank had received notice of the fact that the securities were stolen before it took them as collateral, it could not be considered a bona fide purchaser, and was, therefore, liable for conversion, even though the employees conducting the loan were never advised that the securities were stolen. Morgan Guaranty Trust Co. v. Third Nat. Bank, 400 F.Supp. 383, 389, aff'd 529 F.2d 1141 (1st Cir.1976).

D.Mass.Bkrtcy.Ct.

D.Mass.Bkrtcy.Ct.2005. Cit. in case quot. in disc. Former co-worker brought an adversary proceeding against debtor, seeking, in part, an order declaring that a debt arising from debtor's alleged conversion of vending machines was nondischargeable as resulting from a willful and malicious injury. Entering, in part, judgment for plaintiff, this court held, inter alia, that plaintiff established the required elements of conversion by showing that debtor wrongfully exercised dominion and control of a snack machine at a time when debtor did not own and had no right to possession of the machine; although debtor did not remove the machine from the premises, he changed the lock on the machine, thus destroying its value to plaintiff and depriving plaintiff of the benefit of its use for his business. In re Caliri, 335 B.R. 2, 13.

D.Mass.Bkrtcy.Ct.1998. Subsec. (1) adopted in case quot. in disc. Creditor/corporation brought action against debtors, corporate president and his wife, an employee, seeking determination that their debt to corporation was nondischargeable under 11 U.S.C. § 523(a)(4) as one arising from debtors' defalcation while acting in a fiduciary capacity. Both sides moved for summary judgment, with creditor arguing that a judgment entered by an Arizona state court after a jury found debtors liable for conversion was entitled to collateral-estoppel effect here. Denying the motions in part, the court held, inter alia, that, while a fiduciary relationship was not an element of the tort of conversion, it would nevertheless examine each debtor's relationship to creditor; that debtor/president was a fiduciary for purposes of § 523(a)(4); that material factual issues existed as to whether debtor/employee was a fiduciary; and that, since the tort of conversion did not require that debtors knew or had reason to know that their actions were wrongful, the earlier finding of debtors' liability for conversion did not establish that they engaged in defalcation for purposes of a § 523(a)(4) claim. In re Sullivan, 217 B.R. 670, 675.

D.Mass.Bkrtcy.Ct.1991. Cit. in disc. Owners of a failing construction business used the proceeds from an account receivable to meet payroll and pay subcontractors, rather than pay its debt to a bank that held a security interest in the proceeds. The bank sued the owners so that its debt would not be discharged in the owners' bankruptcy proceedings, alleging that the conduct of the owners was willful and malicious. Dismissing the complaint and holding the debt dischargeable, this court determined that the owners willfully converted the bank's property, because the owners both desired the consequences of their action and knew that these consequences were certain to follow. However, the court proceeded to hold that the owners' conduct was not malicious, because the owners' primary motivation was to avoid harm to other creditors rather than to damage the bank. In re Brouillet, 125 B.R. 341, 343, reversed 138 B.R. 338 (D.Mass.1992).

D.Mass.Bkrtcy.Ct.1990. Quot. in sup. Suppliers of Chapter 11 debtors and the debtors' lender brought an adversary proceeding against the debtors to establish the validity and priority of their interests in the debtors' inventory and the proceeds from the sale of the inventory. One of the suppliers also sued the lender for damages in an amount equal to the cash proceeds from the sale of its products that the lender received and paid to itself under its lending agreement with the debtors. Dismissing the supplier's claim for conversion against the lender, this court held, inter alia, that there was no conversion because the supplier's contract with the debtors did not give the supplier the right to control the debtors' proceeds and the lender acted in good faith throughout, without any intent to assert rights inconsistent with the supplier's non-existent right of control. In re Halmar Distributors, Inc., 116 B.R. 328, 334.

D.Mass.Bkrtcy.Ct.1980. Quot. in disc. An adversary proceeding was brought by a debtor for an alleged conversion of its personal property. The defendant had appropriated the plaintiff's goods and placed them in storage when the defendant repossessed property leased to the plaintiff after the plaintiff failed to pay rent. Although the plaintiff had petitioned for bankruptcy, the defendant did not receive notice of the petition until four days after the plaintiff's property was taken. The court

held, inter alia, that where the goods were held available for the plaintiff, where the defendant paid the cost of storage at the warehouse facility for a full two months after causing their transfer and informed the plaintiff of their availability, and where the interference exercised by the defendant over the chattels could have been brief in duration but for the plaintiff's refusal to retake possession, the defendant did not unwarrantly interfere with the plaintiff's rights so as to constitute a conversion. In re Smith Corset Shops, Inc., 6 B.R. 324, 326, order reversed 18 B.R. 388 (1982), order reversed, 696 F.2d 971 (1st Cir.1982).

D.Minn.

D.Minn.2011. Subsec. (1) quot. in sup., com. (a) cit. in case cit. in sup. Debtor whose vehicle was repossessed and resold brought, inter alia, claims for conversion and trespass to chattel against lender, repossession company, and towing business. Granting summary judgment for plaintiff, this court held that, because lender repeatedly accepted plaintiff's late payments and did not give adequate notice before the repossession, defendants did not have a lawful right to repossess the vehicle from plaintiff, even though he was in default, and thus defendants' wrongful possession of the vehicle constituted conversion. Buzzell v. Citizens Auto. Finance, Inc., 802 F.Supp.2d 1014, 1024.

D.Minn.1992. Cit. in case cit. in disc. A physician, who was an employee of a corporation formed to provide exclusive physician services to the county medical center, was fired and told that he could not treat any patients within the corporation's clinics or the county medical center. The physician had developed a protocol for using a technique to treat multiple sclerosis, which he was also not allowed to perform. The corporation then permitted one of its physicians to give the treatments. The terminated physician sued his employer, the medical center, county officials, and various others on many counts, including breach of contract and conversion. Granting in part and denying in part the defendants' motions for summary judgment, this court held, inter alia, that because the physician's rights in the protocol were not the type of rights customarily merged in a document they were not the types of intangible rights traditionally subject to conversion, and any proposed expansion of the tort was inappropriate under Minnesota law. Bloom v. Hennepin County, 783 F.Supp. 418, 440.

S.D.Miss.

S.D.Miss.1994. Cit. in case cit. in disc. Survivors of an electrician who was killed when he fell through a corroded base pan while performing maintenance on a rooftop air conditioner brought a wrongful-death action against manufacturer of the air conditioner. Denying defendant's motion for summary judgment, the court found that the Mississippi Supreme Court would analyze the facts of this case under the superseding cause analysis of § 452 of the Restatement (Second) of Torts, noting that the state supreme court had previously adopted numerous other provisions of that Restatement. The court held that deciding whether responsibility for the prevention of harm to decedent had shifted from defendant to decedent's employer required determination of the fact issues of whether and to what extent employer was aware of the dangerous condition of the base pan prior to decedent's death. Gordon v. American Standard Inc., 858 F.Supp. 621, 624.

S.D.Miss.1993. Cit. in case cit. in sup. Reinsurer in fronting arrangement, a reinsurance device used by company not qualified or licensed to do business in particular state to profit from sale of insurance in that state, sued fronting insurer for, among other claims, conversion of plaintiff's contractual relations with two of plaintiff's primary customers. Plaintiff alleged that defendant proposed direct contract arrangements with customers, which would eliminate plaintiff's role as reinsurer. The court granted defendant summary judgment, holding that conversion claim could not reach intangible interests in business relationships, and stating that defendant's prohibition from contracting with accounts reinsured allowed plaintiff protection for life of reinsurance agreement only; moreover, customers' identity was not a trade secret subject to misappropriation, since customers were sizeable and independent mortgage bankers, easily identified from public sources. Union Sav. American Life v. North Cent. Life, 813 F.Supp. 481, 493.

W.D.Mo.

W.D.Mo.2010. Quot. in sup. Borrower whose car loan was sold or assigned to credit union brought a putative class action against credit union, asserting, inter alia, a common-law claim for conversion after defendant caused plaintiff's motor vehicle to be repossessed. This court denied plaintiff's motion for class certification for the conversion claim, holding that, because individualized questions would predominate, the claim would fail to satisfy the predominance requirement for class certification. The court explained that it would be necessary to individually determine in which state each class member's vehicle was repossessed to determine the applicable law, and then it would be necessary to look at the time when each repossession occurred to determine whether the statute of limitations applicable to a particular class member barred recovery for conversion. Hopkins v. Kansas Teachers Community Credit Union, 265 F.R.D. 483, 489.

W.D.Mo.Bkrtcy.Ct.

W.D.Mo.Bkrtcy.1981. Quot. in ftn. After judgment was entered finding all property sought by a former trustee to be held in tenancy by the entirety and therefore not property of the estate, creditors moved for leave to intervene as parties plaintiff to prosecute the action further in the name of the trustee. They alleged error in respect to the sum on deposit in the bank based on an earlier state judgment. The creditors contended that the issue of the interest of the debtor's wife in certain sheep had been adjudicated by the state court, and it had been determined that she had no interest in the sheep (and accordingly could not be considered as a tenant by the entirety in the sheep). It had also been determined in the state court that the debtors had acquired the sheep by conversion; the court therefore ordered the monies on deposit which were proceeds from the sale of the sheep be turned over to the bankruptcy trustee. Matter of Anderson, 15 B.R. 346, 350.

D.Neb.

D.Neb.1985. Cit. in disc. After a husband and wife's jointly held property was attached to satisfy the husband's debts, the wife sued the bank that invoked the attachment, alleging that the bank was liable for conversion and had violated her due process rights. The district court granted the bank's motion for summary judgment, holding that the attachment of the husband's interest in jointly held property did not, without more, amount to a conversion of or trespass upon the wife's interest, because not all exercise of dominion over or interference with the use of chattels constituted conversion. Woodring v. Jennings State Bank, 603 F.Supp. 1060, 1064.

D.N.H.

D.N.H.2009. Subsec. (2) cit. in case quot. in sup. Chapter 7 trustee brought an adversary proceeding against title-insurance company that received a $200,000 deposit from debtor to facilitate a $2 million loan that never occurred and then disbursed the deposit to third parties; plaintiff sought to avoid the transfer of the deposit and asserted claims for conversion and negligence. The bankruptcy court denied the claims. Affirming, this court held, inter alia, that defendant could not be held liable for conversion; the court accepted the bankruptcy court's finding that defendant acted in good faith, and, further, defendant did not have dominion and control over the $200,000, since the purported lender was the entity that exercised dominion and control over the funds when it instructed defendant to disburse the funds to itself and other third parties. Askenaizer v. Moate, 406 B.R. 444, 452.

D.N.H.1994. Subsec. (a) cit. in disc. and headnote. Competitor sued the inventor of a plastic clip device and his company, which manufactured the device, seeking a declaration of noninfringement and invalidity as to the patent. That action was stayed. Inventor and company then sued competitor and its president for federal patent infringement and fraudulent procurement and for state law claims, including conversion/idea misappropriation. Competitor and president asserted several counterclaims, including conversion/idea misappropriation. This court denied in part competitor's and president's motion for summary judgment, holding, inter alia, that the clip's design could be the subject of a conversion action, since the ideas embodied in the design drawing were formulated through inventor's labor and inventive genius and, therefore, inventor and his company had a right to the possession of their property, both tangible and intangible. Curtis Mfg. Co., Inc. v. Plasti-Clip Corp., 888 F.Supp. 1212, 1215, 1233.

D.N.H.1993. Cit. in disc. A homeowners' insurer sought a declaratory judgment that it had no obligation to defend or indemnify its insureds in an underlying tort action brought against them for cutting down trees and building a driveway on their neighbors' property without permission. Granting in part the insureds' motion for summary judgment, this court held that, under New Hampshire law, the term "accident" in the policy included intentional conduct, such as trespass and conversion, undertaken in the mistaken belief, based in fact, that the conduct was authorized, and thus the insurer had a duty to defend insureds with respect to the count alleging trespass and conversion in the underlying action. Lumber Ins. Companies, Inc. v. Allen, 820 F.Supp. 33, 37.

N.D.N.Y.

N.D.N.Y.2019. Cit. in case quot. in sup. Musician sued former producers, alleging that they detained his music equipment in a shipping container and refused to return it after he declined to sign certain releases concerning the end of their professional relationship and the condition of his equipment. This court granted in part plaintiff's motion for summary judgment, holding that defendants were liable for conversion and that plaintiff was entitled to replevin of his equipment. The court rejected defendants' argument that plaintiff's claim was untimely because it accrued when they first took possession of his equipment, concluding that the claim accrued when they first refused to return the equipment and thus was timely; the court cited Restatement Second of Torts §§ 221, 222A, 237, and 238 in explaining that, where, as here, a defendant's possession of a plaintiff's property was initially lawful, there was no conversion unless the defendant refused the plaintiff's demand to return the property or wrongfully transferred or disposed of it before a demand was made. Puebla Palomo v. DeMaio, 403 F.Supp.3d 42, 56.

N.D.N.Y.1983. Cit. in sup. (Erron. cit. as Torts.) A debtor's former landlord appealed from an order of the bankruptcy court granting judgment against the landlord in the amount of $1,475. The respondent alleged that the petitioner converted $1,733.95 worth of property from the commercial premises she had been renting for use as a tavern. On the issue of the value of the converted property, this court stated that the proper measure of damages in an action for conversion was the value of the chattel at the time and place of the tort, that is, the depreciated value of the item. The respondent's testimony was directly primarily to (1) the amount she paid for each item, and (2) the amount it would cost her to purchase a new replacement. In each case, she testified that the replacement cost would significantly exceed the original cost. The court below determined the value of the converted items on the basis of the lower figure supplied by the respondent: her original cost. This court found that despite the petitioner's assertions to the contrary, the lower court's determination of the value on the basis of the respondent's testimony of original cost rather than depreciated cost did not warrant a new hearing. The court found that, in the absence of any evidence of actual value other than the uncontroverted evidence offered by the respondent, the lower court made what appeared to have been the best calculation. In re Turner, 29 B.R. 419, 423, reversed 724 F.2d 338 (2d Cir.1983).

S.D.N.Y.

S.D.N.Y.2021. Subsec. (1) cit. in case cit. in sup. Kazakhstan city and Kazakhstan bank sued owner of limited-liability company, associate, and related entities, alleging, inter alia, that defendants converted plaintiffs' funds when they enacted a money-laundering scheme using U.S. and international entities to assist former Kazakhstan official's embezzlement of plaintiffs' funds. This court denied in part defendants' motion to dismiss, holding that plaintiffs stated a claim for conversion. Citing Restatement Second of Torts § 222A(1), the court explained that plaintiffs alleged that defendants' scheme intentionally exercised control over specific funds belonging to plaintiffs in order to deprive them of control over those funds. City of Almaty v. Sater, 503 F.Supp.3d 51, 62.

S.D.N.Y.2020. Cit. in case cit. in disc. In an action by minor victim of sexual abuse and exploitation against executors of deceased abuser's estate, this court granted defendants' motion to dismiss plaintiff's claim for punitive damages, holding that punitive damages were unavailable in a case against personal representatives of a deceased tortfeasor's estate. The court noted that the law of the U.S. Virgin Islands, where decedent's estate was being probated, likely followed Restatement Second of Torts § 908, and that, while the Supreme Court of the Virgin Islands had issued a decision altering its prior rule requiring courts to strictly follow the Restatements, the Superior Court of the Virgin Islands had recently concluded that Restatement Second of

Torts § 222A reflected the common law of the Virgin Islands, even though the Restatements no longer constituted binding legal authority in the Virgin Islands. Doe v. Indyke, 468 F.Supp.3d 625, 636.

S.D.N.Y.2001. Quot. in ftn. Former employee sued investment-banking firm, alleging that firm wrongfully withheld compensation, securities, and investment opportunities that were promised to him in exchange for his services. Denying firm's motion for summary judgment, this court held that tort of conversion extended to shares of stocks even if former employee did not have stock certificates, and provision in memorandum from firm to employee acknowledging earlier sale of stock to employee sufficiently identified property upon which to base conversion claim. Phansalkar v. Andersen Weinroth & Co., L.P., 175 F.Supp.2d 635, 640.

S.D.N.Y.1991. Subsec. (1) quot. in disc. Three furs, which had been held in a storage facility, disappeared after being misdelivered. After paying the owner's claim for the loss, the insurer sued, among others, the owner of the storage facility, asserting theories of negligence and conversion. This court denied the storage facility owner's motion for summary judgment, holding, inter alia, that the storage facility owner could be found liable for conversion if it misaddressed the furs, and thus caused them to be misdelivered and lost, even if, as it appeared, this was merely a mistake and the storage facility owner received no benefit from the misdelivery. The court stated that the insurer did not need to prove that the storage facility owner converted the furs for its own use in order to succeed on the conversion claim. Fireman's Fund Ins. Co. v. Wagner Fur, Inc., 760 F.Supp. 1101, 1104-1105.

S.D.N.Y.1975. Cit. in sup. The plaintiff seller brought an action against the buyer on two promissory notes and brought a third-party action against a Texas bank which was designated as drawee on the notes. The plaintiff claimed that the drawee's failure to pay for the notes or return them within a reasonable time subsequent to the due dates constituted a conversion. The drawee moved to dismiss the third-party complaint for lack of jurisdiction over the person. The plaintiff claimed that in personam jurisdiction existed by virtue of a New York long-arm statute which provided for jurisdiction where a tortious act was alleged to have been committed within New York. The court held that although the cause of action for conversion sounded in tort, the failure of the Texas bank to return the notes to the New York plaintiff was not a tortious act occurring within New York. The court therefore dismissed the third-party complaint for want of in personam jurisdiction. Security Nat. Bank v. Ubex Corp., 404 F.Supp. 471, 473.

S.D.N.Y.Bkrtcy.Ct.

S.D.N.Y.Bkrtcy.Ct.1994. Cit. in ftn. President of a truck center and his wife filed a voluntary joint petition under Chapter 7. Truck manufacturer filed an adversary proceeding against debtors, objecting to their discharge under the Bankruptcy Code, and seeking a determination of the nondischargeability of debtors' debt to manufacturer. This court held that a portion of manufacturer's claim against the wife was not dischargeable. The court stated that the wife acted deliberately and intentionally when she diverted sales proceeds from New Jersey to Connecticut accounts in order to place the funds beyond manufacturer's reach. It noted that the wife's conduct arguably constituted a conversion despite her honest belief that the sales proceeds belonged to trucking company, since ignorance or mistake regarding manufacturer's property rights provided no defense. In re Stelluti, 167 B.R. 29, 33, subsequently affirmed 94 F.3d 84 (2d Cir.1996).

S.D.N.Y.Bkrtcy.Ct.1992. Cit. in case cit. in disc. A debtor in bankruptcy filed a motion for summary judgment with respect to claims asserted under prepetition agreements whereby the debtor transferred certain tax benefits to another corporation. The dispute arose after the debtor retired assets underlying these tax benefits, causing a loss of the benefits to the corporation. In response, the corporation sought a priority claim against the debtor's estate. This court granted the debtor summary judgment, holding, inter alia, that the retirement of the underlying assets did not constitute a conversion. The court noted that the debtor owned the underlying assets and that the tax benefits were specifically disconnected from the assets. It said that the debtor always retained the right to retire its own assets and that the incidental loss of tax benefits upon retirement did not amount to a conversion. In re Chateaugay Corp., 136 B.R. 79, 85.

E.D.N.C.

E.D.N.C.1991. Cit. in disc. A repairman sued the estate of the owner of two fishing boats for conversion and unpaid repair bills. This court ruled that the defendant wrongfully converted 51% ownership in the two boats and that the plaintiff was entitled to recover the fair market value of 51% ownership in the two vessels at the time of conversion. The court held, inter alia, that because the repairman owned a 51% interest in the two boats after an inter vivos gift from the decedent, his interest in the boats was converted when the estate sold them to a third party. The court determined that the sale of the boats seriously interfered with the repairman's right to the rightful possession of the boats. Leggett v. Rose, 776 F.Supp. 229, 234.

S.D.Ohio

S.D.Ohio, 2000. Subsec. (1) cit. in disc. Shareholders of target company sued acquiring company and its officers and shareholders, alleging, inter alia, securities fraud, negligent misrepresentation, and conversion. This court granted defendants' motion to dismiss as to conversion count, holding that the president and general counsel of acquiring company did not engage in conversion, as they did not have unlawful dominion or control of plaintiffs' stock. In re SmarTalk Teleservices, Inc., 124 F.Supp.2d 487, 504.

N.D.Okl.Bkrtcy.Ct.

N.D.Okl.Bkrtcy.Ct.2014. Subsec. (1) quot. in case quot. in ftn. Former business partner brought an adversary proceeding against debtor, seeking a determination that a default judgment he obtained against debtor for selling an ultrasound machine that plaintiff had leased to their business was nondischargeable on grounds of willful and malicious injury. After a bench trial, this court concluded that debtor's debt to plaintiff was dischargeable; although, under Restatement Second of Torts § 222A, plaintiff suffered a technical conversion of property subject to a secured interest, he had not met his burden to show that debtor's actions were willful and malicious. The court reasoned, in part, even if debtors' actions in selling the machine were willful, plaintiff had not met his burden to prove that the sale was malicious or that debtor used the proceeds for his own personal benefit; on the contrary, the only evidence in the record was that the proceeds of the sale were plowed back into the business. In re White, 519 B.R. 832, 839.

D.Or.

D.Or.2020. Subsec. (1) quot. in case quot. in sup. Non-union public employees in Oregon filed a putative class action against unions that exclusively represented them in the workplace, seeking to recover fair-share fees that unions had collected from them through their employers to cover their proportionate share of the costs of collective-bargaining representation, after unions' collection of such fees was ruled unconstitutional. This court granted unions' motion to dismiss, holding that employees could not state a claim for conversion of the fees under Oregon law or Restatement Second of Torts § 222A, because they had no right to immediate possession of the fees when they were collected. The court explained that either the person in possession of the chattel at the time of the conversion or the person then entitled to its immediate possession could recover the full value of the chattel at the time and place of the conversion. Chambers v. American Federation of State, County, and Municipal Employees International Union, AFL-CIO, 450 F.Supp.3d 1108, 1114.

D.Or.2020. Cit. and quot. in sup. Vessel-repair company sued owners who hired it to perform work on their vessel but later disputed the cost of the repairs, alleging, among other things, that owners intentionally converted its tools left onboard the vessel when they sailed away from the marina without notifying company or paying its invoice. This court granted in part owners' motion for summary judgment, holding that company failed to present sufficient evidence to support a reasonable jury's verdict on company's conversion claim under Restatement Second of Torts § 222A, because company conceded that owners eventually returned the tools. The court pointed out that company conceded that it did not keep an inventory of its tools, and that it failed

to identify any particular tool left onboard the vessel that was not returned. NextWave Marine Systems, Inc. v. M/V Nelida, 488 F.Supp.3d 1004, 1015, 1016.

D.Or.2017. Subsec. (1) quot. in case quot. in sup. Producers of nationally syndicated talk-radio shows brought an action against coalition of associated broadcast media groups, alleging, among other things, that defendants collected advertising revenues for plaintiffs, but failed to disburse the revenues to plaintiffs pursuant to the parties' advertising-representation contract, and therefore converted plaintiffs' funds to their personal uses. This court adopted the report and recommendation of the magistrate judge, and dismissed the case with prejudice. The court defined Oregon's tort of conversion by quoting Restatement Second of Torts § 222A(1) and explained that plaintiffs' conversion claim failed because they did not identify sums, approximation of sums, or account holdings to which they claimed a right of possession, nor did they establish facts regarding defendants' unauthorized possession of funds belonging to plaintiffs. Talk Radio Network Enterprises v. Cumulus Media Inc., 271 F.Supp.3d 1195, 1210.

D.Or.2016. Subsec. (1) quot. in sup., subsec. (2)(b) quot. in case quot. in sup. Operator of a telecommunications network brought claims for, among other things, conversion against provider of international telephone service, alleging that defendant used technology to conceal the origin of telephone calls that it transmitted to Haiti through plaintiff's network, such that plaintiff charged lower local rates, rather than higher international rates, for the calls. This court denied defendant's motion to dismiss, holding that plaintiff sufficiently alleged that defendant wrongfully retainined possession of revenues to which plaintiff was entitled. The court cited Restatement Second of Torts § 222A in explaining that conversion was an interference with the right of another to control a chattel, and that the taking or diverting of money could constitute conversion. Unigestion Holding, S.A. v. UPM Technology, Inc., 160 F.Supp.3d 1214, 1230.

D.Or.2015. Subsec. (1) quot. in case quot. in sup. Mercantile-crime insurer that paid a claim to insured company filed, inter alia, a conversion claim against insured's former employee, alleging that employee, without insured's knowledge, formed companies that fraudulently overbilled insured for services and goods that they did not provide to insured. This court granted defendant's motion to dismiss, holding that plaintiff failed to state a claim for conversion. Citing Restatement Second of Torts § 222A(1) for the definition of "conversion," the court noted that plaintiff was required to establish that defendant exercised dominion or control over plaintiff's chattel, and determined that plaintiff's allegations that defendant overbilled insured and that defendant billed for unusual quantities of goods did not establish a plausible claim for conversion. Great American Ins. Co. v. Linderman, 116 F.Supp.3d 1183, 1188.

D.Or.2013. Quot. in case quot. in sup. Employer brought a conversion claim, inter alia, against former employee who went to work for a competitor of employer, seeking damages resulting from employee's alleged taking, retaining, and disclosing of numerous confidential documents from employer, some of which were stored electronically. Denying employee's motion to dismiss this claim, this court held, among other things, that employer stated a claim for conversion, because it adequately alleged that employee exercised control over the information inconsistently with employer's rights. The court reasoned that, even though employee allegedly merely made and retained copies of information and did nothing to prevent employer from accessing that information, employee's copying, retaining, and sharing of the information with third parties, without employer's consent, was inconsistent with employer's control over the documents and the information in the documents, and its right to keep the information confidential. K.F. Jacobsen & Co., Inc. v. Gaylor, 947 F.Supp.2d 1120, 1128.

D.Or.2012. Quot. in case quot. in sup. Alleged holder of the exclusive nationwide distribution rights for a television program sued owners and operators of a restaurant, claiming that defendants violated the Federal Communications Act and committed conversion by unlawfully intercepting, publishing, exhibiting, and divulging the program at the restaurant for private financial gain without obtaining a sublicense to do so from plaintiff. Denying summary judgment for defendants on plaintiff's conversion claim, this court held that Oregon courts would likely conclude that: plaintiff's license or contractual right to receive the transmitted broadcast signal containing the program, to rebroadcast the signal, and to determine when, where, and by whom the program contained within the signal could be displayed or exhibited fell within the definition of a "chattel" that was capable of conversion. Joe Hand Promotions, Inc. v. Jacobson, 874 F.Supp.2d 1010, 1017.

D.Or.2011. Adopted in case quot. in sup. (general cite). Mortgagor brought a wrongful-foreclosure claim against bank, successor trustee, and Federal National Mortgage Association (FNMA), alleging that, after he entered into a mortgage-modification program with bank, successor trustee sold his house to FNMA without notifying him. In response to successor trustee's motion to dismiss, plaintiff argued that his wrongful-foreclosure claim against successor trustee should be viewed as a claim of conversion, contending that, because successor trustee lacked authority to sell his home, it was liable to him for exercising dominion over his property without the right to do so. This court granted successor trustee's motion to dismiss, but allowed plaintiff leave to amend his complaint to plead a claim for conversion limited to the possessions in his home. The court reasoned that the real property subject to the trust deed was not a chattel, and thus plaintiff's claim as to the real property could not be construed as a claim for conversion, whereas plaintiff's possessions likely met the definition of "chattel." Rapacki v. Chase Home Finance LLC, 797 F.Supp.2d 1085, 1092.

D.Or.2007. Quot. in case quot. in disc., quot. in case cit. in disc., subsec. (1) cit. in case cit. in disc. Mechanical engineer brought, in part, conversion claim against manufacturer, its affiliate, and their principals to whom he had provided independent contracting services, alleging that defendants, in obtaining assignments from him to certain patents, interfered with his right to possession of his undivided interest in the patents. Denying plaintiff's motion for partial summary judgment, this court held, inter alia, that an issue remained as to whether a written independent contractor agreement governed the parties' relationship such that plaintiff had no ownership rights to the patents. Tucker v. Oregon Aero, Inc., 474 F.Supp.2d 1192, 1211.

D.Or.Bkrtcy.Ct.

D.Or.Bkrtcy.Ct.2019. Quot. in case quot. in disc. (general cite). After filing for Chapter 12 bankruptcy, dairy partnership brought an adversary proceeding against partner, alleging, inter alia, that defendant interfered with plaintiff's control over partnership assets by withdrawing partnership funds and using partnership assets after having been disassociated from the partnership. This court entered judgment in part for plaintiff, holding that defendant lacked the right to partnership property under state partnership laws. The court explained that, under Restatement Second of Torts § 222A, defendant intentionally exercised control over the property in a manner that interfered with plaintiff's rights, because the parties' partnership agreement required defendant to work for the partnership at least part time to receive cash draws from the partnership, and defendant no longer worked for the partnership at the time he took control of the property. In re Coelho Dairy, 605 B.R. 210, 217-218.

E.D.Pa.

E.D.Pa.2018. Cit. in sup. and cit. in case cit. in sup. (general cite). Debtor and his wife brought conversion and other claims against judgment creditor, its attorneys, and bank where debtor and wife co-owned a joint marital bank account, alleging that defendants unlawfully garnished funds from their account in satisfaction of a judgment against debtor alone. This court granted summary judgment for bank, holding that bank was not liable to plaintiffs for conversion under Pennsylvania law, which followed the tort of conversion as set forth in the Restatement Second of Torts. The court explained that the evidence clearly established that bank was not acting unreasonably and that it acted with lawful justification when it disbursed the funds in plaintiffs' account to creditor pursuant to a writ of execution served on it by defendants, because, at that time, it had not been provided with documentation clarifying that there was an exemption in place sparing those funds from the judgment; the court also pointed out that bank returned the money in full after one month and that plaintiffs did not present any evidence that the short interference with their right to the money caused them any lasting damage. Heaven v. Portfolio Recovery Associates, LLC, 303 F.Supp.3d 333, 342.

E.D.Pa.2014. Cit. in sup., subsec. (1) quot. in sup. In consolidated class actions, cable subscribers brought antitrust claims against cable provider. This court denied plaintiffs' motion for leave to file an amended complaint that would include, among other things, a new claim for conversion under Massachusetts law, holding plaintiff could not recharacterize their antitrust claims as conversion claims. The court reasoned that plaintiffs did not allege that defendant's right of possession of plaintiffs' overpayments was wrongful in the sense that it took plaintiffs' property as its own; rather, plaintiffs alleged only that the manner

in which defendant attained the ability to set the price for non-basic cable services was wrongful, which was insufficient to state a valid claim for conversion under Restatement Second of Torts § 222A. Rogers v. Comcast Corp., 55 F.Supp.3d 711, 717.

M.D.Pa.

M.D.Pa.1979. Cit. and quot. in sup. and coms. cit. in disc. The plaintiff company sued an airline for damages. The airline's agent had been told by the company that the solicitor of the bids would pick up their parcel containing the bid. The solicitor refused to pick up the bid and the plaintiff's employee attempted to get the parcel but was not allowed to take the package because the agent was told to release it only to the other party, therefore the bid was entered too late to be considered. A jury verdict was entered for the plaintiff and the defendant moved, inter alia, for judgment n.o.v. The court found, inter alia, that the defendant's agent had converted the plaintiff's property, a bid proposal, by refusing a reasonable demand for possession made by the owner's employee which resulted in serious interference with the owner's right to control the property. Motion for judgment notwithstanding the verdict was granted on other grounds. Universal Computer Systems v. Allegheny Airlines, 479 F.Supp. 639, 644, affirmed 622 F.2d 579 (3rd Cir.1980).

M.D.Pa.1978. Cit. in disc. A builder brought an action on an "all risk" insurance policy against the insurer to recover insured property which was taken by a terminated general contractor in the belief that the material, which was not yet incorporated in the structure, remained the contractor's property. On cross motions for summary judgment, the court held that where the terminated general contractor had come into possession of the disputed goods as a result of its work under the construction contract and carried them off under a claim of right arising from that contract, that was a risk which came within the policy exclusion for any "loss or damage caused by or resulting from misappropriation, secretion, conversion, infidelity or any dishonest act by the insured or other party in interest * * or any person or persons to whom the insured property may be entrusted." The court noted that the clear intent of this language was to exclude from coverage the intentional carrying off of insured property by those entrusted with its possession in the course of construction. Accordingly, the court entered summary judgment in favor of the insurer. Plaza 61 v. North River Ins. Co., 446 F.Supp. 1168, 1171, judgment aff'd 588 F.2d 822 (3rd Cir.1978).

D.R.I.

D.R.I.2019. Subsec. (1) quot. in case quot. in disc.; subsec. (2) quot. in sup. Detainee brought, among other things, a claim for conversion against city and police officers, alleging that defendants wrongfully seized and withheld plaintiff's legally-owned firearms after they committed him to a hospital following his threats to commit suicide. This court granted defendants' motion for summary judgment, holding that defendants' actions did not constitute conversion under Restatement Second of Torts § 222A(2), because the record reflected that defendants did not intend to assert any ownership over the firearms, did not damage them, and seized them under the reasonable belief that plaintiff was a danger to himself and to public safety. Caniglia v. Strom, 396 F.Supp.3d 227, 241.

D.R.I.2019. Subsec. (1) quot. in disc., quot. in case quot. in disc. (erron. cit. as § 222(A)). After his spouse summoned rescue personnel under the belief that he was attempting to commit suicide, firearms owner brought a lawsuit against, among others, town, alleging, inter alia, that defendants committed conversion by confiscating his firearms for the sake of public safety and failing to return them. This court granted in part defendant's motion for summary judgment, holding that defendant's failure to return the firearms did not constitute conversion under Restatement Second of Torts § 222A, because defendant never took possession of the weapons with the intent to assert ownership. Richer v. Parmelee, 388 F.Supp.3d 97, 108.

D.R.I.1988. Quot. in disc. Two secured creditors of a motorcycle dealer whose debts had been discharged in bankruptcy sued a bank that had extended a line of credit and made advances to the dealer in return for certificates of title to the motorcycles, alleging that the defendant had converted the certificates. The court held that the defendant had not converted the certificates. The court stated that when the plaintiffs became entitled to immediate possession of the dealer's inventory and proceeds, the defendant, which rightfully held the certificates with the dealer's consent, surrendered possession of the certificates on the

plaintiffs' demand. Harley-Davidson Motor Co. v. Bank of New England, 85 B.R. 1, 3, judgment affirmed in part, vacated in part 897 F.2d 611 (1st Cir.1990).

D.S.D.

D.S.D.2016. Cit. in sup.; subsecs. (2)(a)-(f) cit. in sup.; com. (d) quot. in sup. Operator of turkey-processing plant that loaned a specially-designed, live-haul trailer to a packaged-meat manufacturer brought an action against manufacturer, motor carrier, and transportation company following a motor-vehicle accident that destroyed the trailer and cages, asserting, inter alia, claims for negligent hiring and conversion. This court denied defendants' motion to dismiss and granted plaintiff's motion to amend, holding that plaintiff pleaded sufficient facts to suggest negligent hiring and conversion. The court explained that South Dakota largely followed Restatement Second of Torts § 222A to define "conversion," noting that multiple factors could be considered to determine the severity of the interference and that the focus should be on the extent of the actor's dominion and control over the property. Dakota Provisions, LLC v. Hillshire Brands Company, 226 F.Supp.3d 945, 957, 958.

D.S.D.2014. Cit. in case cit. in sup. After criminal charges for inhumane treatment of animals against dog breeder were dismissed, breeder sued executive director of nonprofit corporation that provided animal-control services to county and state's attorney for county, who were responsible for initiating the charges against him, alleging, among other things, that defendants committed conversion when they illegally searched and seized his property. This court denied defendants' motion for summary judgment on plaintiff's conversion claim, holding that genuine issues of material fact remained with respect to whether executive director exercised unauthorized control over plaintiff's dogs, and whether she conspired with state's attorney to intentionally mislead the issuing judge when requesting the search warrants that resulted in the conversion of plaintiff's property. In making its decision, the court noted that South Dakota largely followed Restatement Second of Torts § 222A in defining the scope of the tort of conversion. Christensen v. Quinn, 45 F.Supp.3d 1043, 1097.

D.S.D.1996. Subsec. (1) quot. in sup. Creditors of insurance agency that had filed for Chapter 7 relief brought an adversary proceeding against a corporate lender that had financed management's acquisition of the agency's stock, asserting, inter alia, a claim against lender for its alleged conversion of insurance premiums that should have been paid to them. Granting defendant's motion for summary judgment, the court held, in part, that defendant did not, through unauthorized dominion and control, seriously interfere with the collection and disbursement of insurance premiums collected on plaintiffs' behalf. Great West Cas. Co. v. Travelers Indem. Co., 925 F.Supp. 1455, 1468, affirmed 111 F.3d 135 (8th Cir.1997).

N.D.Tex.

N.D.Tex.1978. Quot. in disc. The federal government brought an action against a livestock commission company for the conversion of cattle in which the government held a security interest. As collateral for payment of the indebtedness incurred by a series of loans, a certain cattle owner had created a security interest in his dairy cattle in favor of the government. Moreover, it was agreed that the cattle owner would sell his cull cows on his own initiative and apply the proceeds either to his loans or toward the purchase of replacement cows. The cattle owner sold his cows through the facilities of the defendant. Eventually, the cattle owner began leasing cows with the proceeds from the sale of his cull cows; finally he defaulted on his obligations altogether. In this action, the government sought to recover from defendant the value of the cattle which the cattle owner allegedly sold improperly. In entering judgment for the defendant, the court held that the conversion had taken place at the point when the cattle owner had misapplied the proceeds of the cattle sales by renting the dairy cows. United States v. Lindsey, 455 F.Supp. 449, 454.

D.Utah Bkrtcy.Ct.

D.Utah Bkrtcy.Ct.1999. Cit. in headnote, cit. and quot. in disc. Debtor provided a pickup truck as collateral for a debt consolidation loan. Creditor sued seeking a judgment that the debt was nondischargeable. This court held that the debtor willfully and maliciously injured the creditor or its property so that the amount owed to creditor was nondischargeable. Debtor's sale

of all the parts of the truck interfered with creditor's right to control its security interest in the truck. In re Gagle, 230 B.R. 174, 181, 184.

D.Vt.Bkrtcy.Ct.

D.Vt.Bkrtcy.Ct.2009. Cit. in sup., and in ftn., subsec. (1) cit. in sup. and quot. in case quot. in sup., com. (a) quot. in ftn., coms. (b), (c), and (d) quot. in sup. Lender that had a security interest in dairy farm's livestock and in the proceeds from the sale of that livestock brought state-court action against, among others, farm owner's estranged wife, based on owner's alleged fraudulent transfer of part of the proceeds to wife. After owner filed for bankruptcy and removed the action, this court granted in part lender's motion for summary judgment on its conversion claim against wife, holding, inter alia, that lender, as lienholder, could bring a conversion cause of action against wife, that cash proceeds could be the subject of a conversion cause of action, and that wife seriously interfered with lender's right to immediate possession of the proceeds. In re Montagne, 413 B.R. 148, 153, 154, 156-159.

E.D.Va.

E.D.Va.2001. Quot. in case quot. in sup. Purchaser of substantially all of Chapter 11 debtor's assets brought adversary proceeding to determine its obligations to third party who had entered into alleged consignment agreement with debtor prior to bankruptcy petition. Finding for purchaser, this court held, inter alia, that purchaser was not liable on conversion theory where third-party consignor could not identify what portion of its inventory was in purchaser's possession and failed to provide proof of damages. In re Twin B. Auto Parts, Inc., 271 B.R. 71, 82.

E.D.Va.1991. Cit. in disc. A fastener supplier sued a competitor, a buyer, and the buyer's quality control inspector for commercial bribery under the Robinson-Patman Act and various tortious acts, alleging that the competitor caused the buyer to terminate its business relationship with the supplier by offering the inspector a job, which he accepted, in return for poor evaluations of the supplier's products. The competitor counterclaimed for a violation of the Lanham Act, misrepresentation, and tortious interference with business expectancy. Dismissing the counterclaims and granting in part and denying in part the competitor's motion for summary judgment, this court held, inter alia, that the supplier's alleged rights did not constitute the requisite "property" necessary to support a conversion claim. The court stated that potential "future contracts" would not legally support a conversion claim, and, therefore, the supplier's listing on the buyer's "acceptable suppliers list" did not create property rights to support the supplier's conversion claim. Unlimited Screw Products, Inc. v. Malm, 781 F.Supp. 1121, 1131.

E.D.Wis.

E.D.Wis.2018. Quot. in disc. After repossession company attempted to repossess their car a second time due to delinquent bi-weekly car payments, car owner and associate brought a lawsuit against company that was assigned a security interest in the vehicle, repossession company, and towing company, alleging, inter alia, that defendants attempted to convert the car during both attempts at repossession. This court denied defendants' motion for summary judgment for the conversion claim, holding that the facts were unclear as to whether plaintiffs had forfeited their right to possess the car, because there was a genuine dispute of material facts as to whether plaintiffs had a right to possess the car at the time of repossession. The court cited Restatement Second of Torts § 222A in explaining that, if defendants did not have a legal right to possess the car, then their attempt to repossess the car would constitute conversion, regardless of their good-faith belief that plaintiffs had forfeited the car by failing to pay their payments on time. Gable v. Universal Acceptance Corporation (WI), 338 F.Supp.3d 943, 953.

Alaska

Alaska, 1997. Cit. in headnote, quot. in case quot. in disc., subsecs. (2)(b), (2)(c), and (2)(f) cit. in disc. A corporate creditor of a bankrupt entity sued a bank creditor, alleging tort and contract claims. In 1988, plaintiff demanded that defendant immediately

tender all broadcasting company stock in its possession. Defendant claimed a first interest in some of that stock and offered to meet with plaintiff to sort out its claims. Trial court granted defendant summary judgment. This court reversed and remanded, holding, inter alia, that a conversion did not occur. Plaintiff did not raise a genuine issue of material fact as to whether defendant acted in bad faith or with the intent to assert a right to permanently possess plaintiff's stock holdings. By offering to meet with plaintiff to resolve the dispute, defendant offered to allow plaintiff to retrieve its shares of stock. Alaska Continental, Inc. v. Trickey, 933 P.2d 528, 530, 536.

Alaska, 1992. Quot. in case quot. in disc. A customer of a private mail-drop facility sued the facility and its manager for conversion and breach of contract after the defendant manager turned over to police the plaintiff's package, which contained money from illegal drug sales and became evidence in the customer's criminal prosecution. The trial court granted the defendants summary judgment. Affirming, this court held that the defendants, as bailees, were not liable for conversion for delivering property to a police officer. The court also held that the defendants did not breach their contract by failing to ship the plaintiff's package, since their airbill specifically stated their refusal to carry currency. The court rejected the plaintiff's contention that he should not have been bound by this exclusion because he was not physically present to read the airbill. Thompson v. Anderson, 824 P.2d 712, 714.

Alaska, 1989. Quot. in case quot. in sup. An executor sued a testator's live-in companion to recover money that had been in the testator's bedroom safe. The lower court found in favor of the plaintiff's claim for conversion. Affirming, this court held that the cash taken and spent by the defendant from the bedroom safe belonged to the testator's estate. In considering the issue of damages, the court said that, while the defendant had rendered proof of the exact amount of money in the safe impossible by spending the money, there was sufficient evidence from which the court could make a fair and reasonable approximation of the amount converted. Dressel v. Weeks, 779 P.2d 324, 328.

Alaska, 1983. Quot. in part in disc. The defendant mined the plaintiff's mining claim under a lease which provided that the mining was to be done in a workmanlike manner and that the plaintiff was to receive an interest in the mined ore. The defendant then engaged in bulk mining and recovered a low percentage of minerals. The plaintiff disputed the defendant's actions and the parties communicated on the issues before the plaintiff brought suit. The lower court dismissed, holding that the communications constituted an accord and satisfaction of all the issues. This court reversed and allowed certain claims to stand. In affirming the lower court's refusal to dismiss the conversion claim, this court noted that conversion required an intentional exercise of control and could occur when the physical condition of the chattel was materially altered. This court held that the plaintiff's future possessory interest in the ore taken by the defendant was a sufficient interest on which to base a claim for conversion of that ore. McKibben v. Mohawk Oil Co., Ltd., 667 P.2d 1223, 1228.

Ariz.App.

Ariz.App.2008. Subsec. (1) quot. in case quot. in sup. (erron. cit. as § 222(A)(1)). Water company sued owners of a pond, after discovering that owners were keeping the pond full using a pipe from company's line that had been installed by the original owner of both the water company and the pond. The trial court entered judgment on a jury verdict finding that defendants had unlawfully diverted plaintiff's water. Affirming in part, this court held, inter alia, that plaintiff had standing to bring a claim for conversion against defendants; while defendants argued that plaintiff failed to show ownership of the pipe or the water in the pipe, they did not deny that plaintiff owned the wells from which the water was pumped, and they did not allege that plaintiff had abandoned the water. Strawberry Water Co. v. Paulsen, 220 Ariz. 401, 207 P.3d 654, 659.

Ariz.App.2006. Subsec. (1) quot. in ftn. Law firm that obtained jury verdict for husband of victim in a wrongful-death action sued law firm that represented mother of victim, seeking, in part, a declaratory judgment that mother's share of the proceeds was subject to a pro rata share of the attorney's fees incurred in obtaining the proceeds; defendant counterclaimed for conversion and unjust enrichment after plaintiff withheld the disputed funds. The trial court granted summary judgment for defendant. Affirming, this court held, inter alia, that the common-fund doctrine did not apply. While not ruling on the conversion counterclaim, the court noted that conversion was defined as an act of dominion wrongfully exerted over another's personal

property, and that plaintiff had had a good-faith legal basis to assert that the common-fund theory applied. Valder Law Offices v. Keenan Law Firm, 212 Ariz. 244, 129 P.3d 966, 975.

Ariz.App.2005. Subsec. (1) quot. in disc., subsec. (2) cit. in disc. Employer franchisee sued former employee for conversion, inter alia. Trial court granted defendants summary judgment. This court affirmed, holding, inter alia, that plaintiff's conversion claim failed, because even if plaintiff's customer list constituted a chattel, defendant's actions did not rise to the level of conversion. Plaintiff did not allege that defendant took a customer list in the form of a single, unified document that had value as tangible property, and defendant did not exercise intentional dominion or control over the customer list in such a way that he interfered with plaintiff's rights to the extent that he should be required to pay the full value of the list, whatever that might be. Miller v. Hehlen, 209 Ariz. 462, 104 P.3d 193, 203.

Ariz.App.2004. Subsec. (1) cit. in case cit. in disc. Supplier of heavy construction equipment sued equipment retailer for, in part, converting the proceeds from the sale of equipment. The trial court granted defendant's motion for partial summary judgment. Reversing and remanding, this court held, inter alia, that plaintiff could assert a viable claim for conversion because it had a security interest in the proceeds of the inventory, and because the security interest allowed the proceeds to be identified even when they were commingled with other funds. Case Corp. v. Gehrke, 208 Ariz. 140, 91 P.3d 362, 365.

Ariz.App.2002. Subsec. (1) quot. in disc. Company sued creditor bank for conversion of deposit that plaintiff had made into an unrestricted account with another bank belonging to a nonparty. The funds, though not segregated in account, were intended by company as a loan to another nonparty company that plaintiff was undertaking, with account holder's assistance, to acquire. Trial court dismissed the conversion claim. This court affirmed, holding that a conversion action did not lie against creditor bank, the holder of a valid judgment against nonparty account holder, for garnishment of funds. Devices were accessible to plaintiff and account holder for protecting plaintiff's deposit, but plaintiff chose to place deposit on other bank's books as part of account debt that other bank owed account holder on his personal account. Thus unprotected, the entire account debt became fair game for any creditor of account holder. Universal Marketing and Entertainment, Inc. v. Bank One of Arizona, N.A., 203 Ariz. 266, 53 P.3d 191, 193.

Ariz.App.1986. Cit. in ftn., subsec. (1) cit. and quot. in disc. and in sup., subsec. (2) cit. in disc. and in ftn., subsec. (2)(c) cit. in ftn., com. (a) quot. in disc. (Erron. cit. as § 222(A).) The lessor of a truck removed the truck and its contents from an abandoned lot, in the mistaken belief that the truck had been abandoned. The lessee of the truck sued the lessor for conversion of and damage to the lessee's property in the truck. Affirming the trial court's grant of summary judgment for the defendant, this court held that, since the lessee had an opportunity to reclaim the property with minimal inconvenience and expense and since the lessor of the truck did not intend to hold the property against the lessee's ownership interest, the lower court did not err in holding that the defendant was not guilty of conversion. The court noted that historically, tort law has drawn a distinction between mere interference with the chattel and exercise of the defendant's hostile control over it. Focal Point v. U-Haul Co. of Arizona, 155 Ariz. 318, 746 P.2d 488, 489, 490.

Ariz.App.1984. Cit. in disc. (Erron. cit. as § 223(A).) With an outstanding balance of less than $100 due on an installment contract for the purchase of a horse trailer, a buyer entered into a new agreement for the purchase of a pickup truck. Under the new agreement, the seller obtained a security interest in both the trailer and the truck. The buyer had made payments exceeding the amount due on the trailer when she defaulted on the second contract. As a result of the default, the seller repossessed both the trailer and the truck, and the buyer brought a conversion action for the seizure of the trailer. The trial court entered judgment for the defendant. This court reversed in part, holding that because the contract for the sale of the truck violated state law, the defendant had obtained no security interest in the trailer and therefore had converted the trailer by seizing it. Huskie v. Ames Bros. Motor and Supply Co., 139 Ariz. 396, 678 P.2d 977, 983.

Ariz.App.1983. Subsec. (1) quot. in sup. The defendants contracted to buy a mobile home on a retail installment basis. The seller assigned the contract to the plaintiff, who subassigned it to a bank and agreed to act as guarantor. Defendants informed the seller that they could no longer make the payments, and were told that there was no problem. Plaintiff took possession of

the mobile home; three years later, it sought reimbursement for payments made as guarantor. Defendants counterclaimed for conversion. The trial court found for plaintiff on its claim for reimbursement and awarded defendants $5,000 on their conversion claim. Both sides appealed, and this court affirmed. The court held that plaintiff converted the mobile home by keeping it while still holding the defendants liable for payment. Since plaintiff knew that the seller's representations to the defendants caused them to turn over the mobile home, it was bound by the representations. Mobile Discount Corp. v. Schumacher, 139 Ariz. 15, 676 P.2d 649, 651.

Ark.

Ark.1990. Cit. in disc. Depositors sued a bank, alleging that the bank willfully, maliciously, and intentionally or, in the alternative, with such reckless disregard of the consequences that malice should be inferred, withdrew all the funds from their accounts and converted the funds for its own use and wrongfully dishonored seven of the plaintiffs' checks. The trial court entered judgment on a jury verdict awarding the plaintiffs punitive and compensatory damages. Reversing and remanding, this court held that the trial court should have granted the defendant a directed verdict on the issue of punitive damages. The court stated that punitive damages were not recoverable because there was no evidence that the defendant converted the plaintiffs' money for the purpose of violating their rights to the money or for the purpose of causing damages; the evidence simply showed that, as a result of a mistaken identity, the defendant intentionally exercised dominion over the wrong individual's funds. City Nat. Bank of Fort Smith v. Goodwin, 301 Ark. 182, 783 S.W.2d 335, 337.

Ark.App.

Ark.App.2007. Com. (c) cit. in sup. Consumers who left their car at a dealership when they took a new automobile home for an overnight test-drive sued dealership, claiming that defendant converted their car because it refused to return it to them. After the jury found that defendant converted plaintiffs' car and assessed damages against defendant, the trial court awarded title of the car to defendant. Affirming, this court held that, because it was proper for a court to provide that, upon satisfaction of a judgment, title of the converted property passed to the defendant, the trial court in this case correctly awarded title and possession of plaintiffs' car to defendant; the judgment for conversion in plaintiffs' favor was satisfied by being set off against the judgment in favor of defendant for negligence on plaintiffs' part in damaging the new automobile in an accident. Huffman v. Landers Ford North, Inc., 100 Ark.App. 159, 265 S.W.3d 783, 787.

Cal.

Cal.2019. Com. (a) quot. in sup. Former employee of three related start-up ventures, who had obtained judgments for nonpayment of wages against the ventures but was unable to collect on them due to ventures' lack of funds and assets, sued principal of ventures, seeking to hold him personally responsible for the unpaid wages on a theory of conversion. On remand, the trial court granted defendant's motion for judgment on the pleadings as to plaintiff's conversion claim, and the court of appeals affirmed, ruling that neither existing caselaw nor policy considerations warranted extending the tort of conversion to the wage context. Affirming, this court held that a conversion claim was not an appropriate remedy for nonpayment of wages under California law. The court cited Restatement Second of Torts § 222A in explaining that the tort of conversion originated as a remedy against the finder of lost goods who refused to return them to the owner, and that the modern tort of conversion was understood more generally as the wrongful exercise of dominion over personal property of another. Voris v. Lampert, 446 P.3d 284, 290.

Cal.App.

Cal.App.2018. Cit. in sup. Car owner brought a conversion action against car-repair shop and shop owner after plaintiff brought his vehicle to defendants for repair estimates, alleging, inter alia, that shop owner took apart the vehicle to perform the inspection without plaintiff's knowledge or consent and demanded payment for the service. The trial court found that defendants were

liable for damages because the repair work was performed without authorization. This court reversed and remanded, holding that there was no such cause of action under relevant California law. The court rejected plaintiff's reliance on a prior California decision that affirmed damages against a dealer who repaired the plaintiff's car, and explained that, in that decision, the court did not need to decide if there was a private cause of action for violating the relevant California law, because it was able to rely on common-law causes of action, such as those set forth in Restatement Second of Torts §§ 221, 222A, and 223. Vasquez v. Solo 1 Kustoms, Inc., 237 Cal.Rptr.3d 851, 858.

Cal.App.2007. Com. (a) cit. in disc. Investment corporation, by and through its receiver, sued attorney and his law firm for, in part, conversion, alleging that attorney, who had represented an individual arrested and convicted of engaging in fraudulent activities with the corporation, improperly obtained monies belonging to the receivership. The trial court granted law firm's motion for summary adjudication. Affirming in part, this court held that the conversion claim failed because plaintiff failed to identify a definite sum of money received by law firm. The court explained that, although plaintiff alleged a conversion of 10 duffel bags, each containing $500,000 in cash, the evidence and plaintiff's separate statement of undisputed facts at the summary-judgment stage referred to as few as "8-9 bags" and up to 18 bags that were removed from arrestee's residence. PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal.App.4th 384, 395, 58 Cal.Rptr.3d 516, 525.

Cal.App.2002. Quot. in disc. Insured sued its general liability insurer for breach of the duty to defend and indemnify it against liability in underlying lawsuits for the wrongful taking of documents from claimant's attorney's trash can. The trial court sustained insurer's demurrer. Affirming, this court held, inter alia, that, because no claim for conversion or other interference with personal property rights could be based on the taking of documents placed in a trash can, the underlying lawsuits failed to give rise to the potential for a covered claim under the liability insurance policy, and thus insurer had no duty to defend insured under the property-damage provision of the policy. Ananda Church of Self-Realization v. Mass. Bay Ins. Co., 95 Cal.App.4th 1273, 1281, 116 Cal.Rptr.2d 370, 376.

Cal.App.1965. Cit. in sup. The plaintiff, wife of the decedent, sought income from a trust which would have been produced had the proceeds been invested immediately. The court ruled that the defendant trustee was not a converter since its delay in investing the proceeds of the trust was based on reasonable cause, for the trustee earlier had sought to distribute the proceeds from the sale of the trust realty. Giacomelos v. Bank of America Nat'l Trust and Savings Association, 237 Cal.App.2d 99, 46 Cal.Rptr. 612, 613, 614.

Colo.

Colo.1994. Quot. in part in conc. op. Parents sued crematorium, county, and others responsible for mistakenly cremating their son's body, asserting claims for conversion and outrageous conduct. The trial court granted summary judgment for the defendants and the court of appeals affirmed. Again affirming, this court held, inter alia, that there was no property right in a dead body that could support an action for conversion. A concurrence advanced the viewpoint that, although the plaintiffs had asserted a possessory interest in the body for the purposes of burial, they also alleged that they elected to cremate the body; thus there was no evidence of substantial interference with that particular possessory interest and the conversion claim was properly dismissed. Culpepper v. Pearl Street Bldg., Inc., 877 P.2d 877, 884.

Colo.1994. Quot. in disc., cit. in case quot. in disc. Employer's insurer sought declaratory judgment concerning payment of personal injury protection (PIP) benefits to intoxicated employee injured in a one-car accident while driving employer's truck from party. The intermediate appellate court reversed and remanded the trial court's entry of summary judgment for insurer, and this court affirmed, holding that collateral estoppel did not apply because decision in employee's workers' compensation proceeding that employee's injury did not occur while performing services arising out of and in the course of her employment was not dispositive here, where awarding PIP benefits required a determination whether employee had employer's permission at the time of the accident or whether she operated truck as a converter. Maryland Cas. Co. v. Messina, 874 P.2d 1058, 1060, 1065.

Colo.1993. Quot. in ftn., subsec. (2) cit. in ftn. Attorney for credit union as to collection matters failed to turn over delivered funds to credit union and failed to keep funds in an identifiable interest-bearing account. State supreme court grievance committee hearing board recommended a one-year suspension from practice, pursuant to its determination that attorney's failure to account for the funds for two years and his failure to deliver the funds promptly to credit union upon request violated disciplinary rules; however, board declined to find that attorney intentionally converted credit union's funds. This court accepted hearing panel's approval of board's findings and recommendations, holding, in part, that the record supported board's finding that the funds were not willfully and knowingly converted. The court stated that the absence of a credible explanation of attorney's failure to pay the funds to credit union did not establish that attorney knowingly converted the funds. People v. Wechsler, 854 P.2d 217, 220-221.

Colo.App.

Colo.App.2018. Com. (c) quot. in sup. Defendant who was charged with stealing expensive bottles of wine entered into a plea deal in which he agreed to pay restitution to the victims, who had rejected the wine recovered from his home on the ground that the storage method could not be confirmed, at which point the sheriff's office would return the stolen wine to him. After defendant failed to pay, the trial court granted the sheriff's office's motion for an order authorizing destruction of the wine. Affirming, this court rejected defendant's argument that he had an ownership interest in the wine and that he or the sheriff's office should be permitted to sell it, with any proceeds applied to his restitution obligation, holding that disposition of the wine was governed by the agreement, which expressly provided for the destruction of the wine. The court cited Restatement Second of Torts § 222A in explaining that title to the wine was not transferred to defendant when the victims sought restitution; rather, ownership would have transferred to him only if he had paid for the wine and thereby reimbursed the victims. People v. Madison, 436 P.3d 544, 549.

Colo.App.2009. Subsec. (1) quot. in sup. Former employer sued former employees and their new consulting business, alleging that defendants intentionally interfered with plaintiff's contracts and prospective business relationships with clients and other employees. The trial court entered judgment on a jury verdict for plaintiff on the intentional-interference-with-contract claim, inter alia. Affirming as to this claim, this court held that the trial court's error in instructing the jury on the loss of the business-competition privilege was not prejudicial; although the instruction was circular and included wrongful means for which there was no evidence, those types of wrongful means were merely examples, and thus were not the only wrongful means at issue—for example, the jury found that defendants were also liable for conversion. Harris Group, Inc. v. Robinson, 209 P.3d 1188, 1199.

Colo.App.2006. Subsec. (1) quot. in sup. As the result of a discovery dispute that occurred in underlying litigation concerning the dissolution of a medical practice, physician sued her former partner's attorneys and office manager for, in part, conversion, after defendants, pursuant to a discovery order, printed out a four-page document from plaintiff's office computer. The trial court granted defendants' motions to dismiss. Affirming, this court held, inter alia, that defendants' conduct in reviewing and printing the document was authorized by the discovery order, and did not support a claim for conversion. The court pointed out that the discovery order provided that all files and documents of the partnership were to be made available for inspection, and concluded that plaintiff's allegations failed to demonstrate any distinct, unauthorized act of dominion or ownership exercised by defendants over the personal property belonging to plaintiffs. Stauffer v. Stegemann, 165 P.3d 713, 717.

Conn.

Conn.1994. Cit. in disc. Plaintiff sued bank to recover money plaintiff paid to a probate estate as surety for the estate's fiduciary, after the fiduciary committed breach of trust by using trust funds to pay off his personal obligations to the bank. Reversing the trial court's entry of judgment for plaintiff and remanding, this court held, inter alia, that defendant, in obeying the fiduciary's instruction to transfer funds without notice that the funds belonged to another, did not act wrongfully and was not unjustly enriched by receiving the funds, so that liability for the tort of conversion or imposition of a constructive trust was not warranted. Aetna Life and Cas. Co. v. Union Trust Co., 230 Conn. 779, 791, 646 A.2d 799, 804.

Del.Ch.

Del.Ch.1995. Cit. in disc. Corporation sued former director and his wholly owned company for usurpation of the corporate opportunity to acquire a license to operate a cellular telecommunications system. The court held that defendant, as director, had violated his duty of loyalty to plaintiff by seizing the opportunity without formally informing plaintiff's board fully about the opportunity and the facts surrounding it and by proceeding to acquire rights for his benefit without plaintiff's consent; the court entered a resolution to equitably adjust the interests. The court noted that classic corporate opportunity cases were simply a form of misappropriation, not conceptually dissimilar from general torts of that description. Cellular Information Systems, Inc. v. Broz, 663 A.2d 1180, 1184, reversed 673 A.2d 148 (Del.1996).

D.C.App.

D.C.App.1976. Quot. in sup. in ftn. Stock investors brought suit against a brokerage firm, alleging conversion of a cash account, and the firm brought a counterclaim for loss sustained as result of a forced sale of stock. The lower court ordered the firm to pay the investors the balance remaining in their account and to return other securities owned by them, and dismissed both claims; both parties appealed. Quoting the Restatement, the court noted that "Conversion is an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel." The court found that the evidence showed that the stock, while held in a street name were listed to the plaintiffs; that the plaintiffs received all dividends; and that they were notified that the firm would honor any order for the sale of the stock and purchase of other security with the proceeds. At the trial the firm's Vice President testified, and the court found, that at no time did the brokerage firm assert ownership over the shares. These circumstances did not support the control necessary to a finding of conversion, but even if this were not the case, the court could discern no damages to the plaintiffs because of the detention of the stock. Pursuant to the order of the court plaintiffs received the stock which they originally had acquired as a long term investment. There was no evidence that plaintiffs sought to sell the stock, and they have received all dividends. Affirmed in part; reversed in part. Blanken v. Harris, Upham, & Co., Inc., 359 A.2d 281, 283.

Fla.App.

Fla.App.1988. Cit. in conc. and diss. op. A cable television provider sued a condominium association and its insurer for tortious interference with contract, conversion, and civil theft after the association disconnected parts of a cable system and moved it into storage. The trial court entered judgment on a jury verdict for the cable television provider. This court affirmed in part, concluding, inter alia, that the record supported a finding of conversion even though the cable provider did not demand the return of the system. The concurring and dissenting opinion argued that the evidence was insufficient to support a finding of conversion, as the cable provider did not properly demand return of the cables and wirings, and because the removable portions of the system were offered back to the provider who declined to accept them. Country Manors v. Master Antenna Systems, 534 So.2d 1187, 1197.

Ga.

Ga.1978. Cit. in ftn. in diss. op. A materialman sued on checks which named him as joint payee and which were cashed without his endorsement. The trial court entered summary judgment for defendants, and the court of appeals reversed, but affirmed the trial court's dismissal of summary judgment for plaintiff because issues of fact remained as to damages. This court vacated and remanded. Liability was found to exist on the part of collecting and drawee banks, even though no personal liability existed between the materialman and the drawer, but the case was remanded for consideration of the statute of limitations. A dissent argued that the majority had decided the case under common law, rather than under the Uniform Commercial Code. The dissent cited the Restatement and case law for the proposition that where a joint payee has no enforceable rights to the intangible property represented by a check, any damage he might sustain when the bank pays a check without his endorsement is too speculative to allow recovery. The dissent also found that under the Restatement definition, there had been no conversion by

the banks of the intangible assets identified with the check. Trust Co. of Columbus v. Refrigeration Suppliers, Inc., 241 Ga. 406, 246 S.E.2d 282, 286.

Idaho

Idaho, 1986. Cit. in disc. Harvesters sued the state for converting rice that they harvested on land jointly owned by the state and the federal government. The trial court entered judgment in favor of the harvesters for one-half the value of the rice. Affirming, this court held that, although the harvesters were trespassers, as prior possessors of the rice, they had a superior right against the state to possession of the value of the rice that was attributable to the federal government's land. The court further noted that the state failed to prove the existence of an agency relationship with the federal government to support its contention that it was authorized by the federal government to keep the rice on its behalf. Gissel v. State, 111 Idaho 725, 727 P.2d 1153, 1155.

Idaho, 1984. Subsec. (2) quot. in part in disc. A trucking company sued a surety for conversion of personal property pledged as collateral. The trial court awarded the trucking company compensatory and punitive damages and attorney fees. The appellate court reversed. This court set aside the appellate court's decision and affirmed the trial court's judgment. In determining the seriousness of the pledgee's interference, the court said, consideration was to be given to the extent and duration of the pledgee's exercise of dominion or control, the pledgee's intent to assert a right in fact inconsistent with the other's right of control, the pledgee's good faith, the extent of the resulting interference with the other's right of control, the harm done to the chattel, and the inconvenience and expense caused to the other. Luzar v. Western Sur. Co., 107 Idaho 693, 692 P.2d 337, 340.

Idaho App.

Idaho App.1989. Cit. in sup., cit. in case cit. in sup., com. (c) quot. in sup. The plaintiffs sued the defendant for conversion when, without their consent, he towed their vehicle to a location where it was later stolen. The intermediate appellate court affirmed the trial court's judgment for the defendant. This court reversed and remanded, stating that there was evidence to establish both elements of a conversion action. The court held that there was evidence that the defendant exercised control over the vehicle that was inconsistent with the plaintiff's ownership rights, and awareness that he was interfering with those rights was not necessary to sustain a conversion claim. The court further stated that the defendant's actions caused the loss of the vehicle, and consequently, the defendant was liable for its full value at the time of conversion, even though a third party's act of stealing the vehicle intervened. Wiseman v. Schaffer, 115 Idaho 557, 768 P.2d 800, 803, 804.

Ill.

Ill.1985. Quot. in disc. In a disciplinary proceeding, an attorney was charged with failure to remit to the IRS funds withheld from his employees' wages to pay their federal income taxes. The supreme court held that the attorney's conduct did not constitute conversion because the amount withheld was not a separate, identifiable fund capable of being converted, but was an accrued debt owed to the government. Nevertheless, the attorney's willful failure to pay the taxes and to file an employer's tax return merited censure. In re Thebus, 108 Ill.2d 255, 91 Ill.Dec. 623, 625, 483 N.E.2d 1258, 1260.

Ill.App.

Ill.App.2020. Cit. in case quot. in sup. (general cite). Defendant was charged with various crimes after he forced his ex-girlfriend at gunpoint to perform sexual acts on him before making her drive him around in her car for approximately two hours. The trial court conducted a bench trial and found defendant guilty of, among other things, the offense of armed violence based on his conversion of the car. This court affirmed. The court rejected defendant's argument that he did not significantly interfere with his ex-girlfriend's possessory right over her car under Restatement Second of Torts § 222A, which provided that a brief unauthorized use of a car left undamaged by a defendant was not a conversion, reasoning that the evidence supported the

government's argument that defendant wrongfully deprived his ex-girlfriend of the use of her property by commandeering her car at gunpoint and depriving her of the free use of her car for two hours. People v. Perkins, 179 N.E.3d 345, 364.

Ill.App.2011. Quot. in case quot. in sup. Professional liability insurer sued insured corporation, seeking a declaration that it had no obligation to defend or indemnify insured in an underlying class action lawsuit filed by a consumer to recover, under conversion and other theories, for insured's alleged practice of sending unsolicited advertisements via facsimile. The trial court denied insured's motion to dismiss or stay insurer's claim that there was no coverage to the extent that the underlying complaint alleged acts covered by the policy's intentional acts exclusion. Vacating that portion of the decision and remanding, this court held that any determination of the applicability of the intentional acts exclusion was premature while the underlying action was ongoing; among other things, whether insured's conduct was intentional was directly relevant to whether it could be held liable for the intentional tort of conversion. Landmark American Ins. Co. v. NIP Group, Inc., 962 N.E.2d 562, 580.

Ill.App.2006. Quot. in sup., com. (d) quot. in sup. Owners of racehorse brought negligence and conversion claims against veterinarian for allegedly performing an unauthorized risky surgery on the horse's right stifle that ruined the horse for racing. The trial court dismissed. This court reversed and remanded, holding, inter alia, that plaintiffs stated a claim for conversion. Noting that the tort could be satisfied if the chattel at issue was intentionally destroyed or its physical condition so materially altered as to change its identity or character, the court concluded that plaintiffs sufficiently alleged that the horse was permanently incapacitated from the surgery and now had only "salvage value." Loman v. Freeman, 375 Ill.App.3d 445, 314 Ill.Dec. 446, 874 N.E.2d 542, 552, affirmed 229 Ill.2d 104, 321 Ill.Dec. 724, 890 N.E.2d 446 (2008).

Ill.App.1991. Quot. in case quot. in disc. The owner of fireworks that were believed by the police to be illegal sued the city for conversion, among other claims, alleging that the seizure and destruction of his fireworks was illegal. The trial court directed a verdict for the plaintiff on the conversion claim, holding that the city's defense under the local governmental employees tort immunity act did not apply to an action for conversion. Reversing in part and remanding for a new trial, this court held, inter alia, that the immunity act applied to the plaintiff's claim and that the city might be immune from liability if the officers' conduct in destroying the fireworks was not willful or wanton, or if the officers relied on state law and city ordinance and acted in good faith without malice in destroying the fireworks. Martel Enterprises v. City of Chicago, 223 Ill.App.3d 1028, 164 Ill.Dec. 945, 584 N.E.2d 157, 159.

Ill.App.1990. Subsec. (1) quot. in case quot. in sup. A bank sued borrowers, inter alia, alleging that the borrowers converted proceeds from the sale of cattle and used the proceeds for their own benefit in violation of a settlement order. The trial court entered judgment for the plaintiff against the defendants, holding that the defendants had converted the proceeds from the sale of the cattle to their own use in violation of the settlement order. This court reversed, rejecting the plaintiff's contention that the defendants had converted money by spending it. Stating that the only conversion that may have taken place was when the cattle were sold and converted into money, the court noted that the plaintiff had authorized that conversion. While the plaintiff may have had a cause of action against the defendants for money due and owing, the court said that conversion could not be the basis for the plaintiff's cause of action. De Kalb Bank v. Purdy, 205 Ill.App.3d 62, 150 Ill.Dec. 420, 562 N.E.2d 1223, 1232.

Ill.App.1990. Com. (a) cit. in disc. An automobile manufacturer sued the president of an automobile dealer for conversion, alleging that the defendant endorsed and negotiated a check containing an overpayment from the plaintiff for more than $37,000 and refused to return the overpayment although the plaintiff duly demanded payment. The trial court granted summary judgment for the plaintiff. Reversing and remanding, this court held that the plaintiff failed to establish the essential elements of conversion. The court said that the plaintiff's immediate right of possession of the check as against the defendant was lacking, at least at the time of endorsement and negotiation; in fact, the defendant was entitled to possession of the instrument and had the right to negotiate it. Moreover, there was no conversion when the defendant refused to return the money; instead, a relation of debtor and creditor was created between the parties when the plaintiff voluntarily, though mistakenly, transferred the money to the defendant. General Motors Corp. v. Douglass, 206 Ill.App.3d 881, 151 Ill.Dec. 822, 565 N.E.2d 93, 96.

Ill.App.1985. Cit. in sup., coms. (a) and (b) cit. in sup., com. (d) and illus. 21 cit. in sup. The defendant was convicted of possessing an automobile knowing it to have been converted and of driving under the influence of alcohol, and he appealed. At trial the defendant had maintained that he believed the automobile belonged to his employer, and that his employer would not mind him borrowing the automobile for a short time. This court reversed the sentence for possessing an automobile knowing it had been converted, reasoning that because the defendant had used the automobile temporarily without causing any harm to it, his interference with the owner's possession was minimal. This court affirmed the defendant's conviction for driving under the influence of alcohol. People v. Sergey, 137 Ill.App.3d 971, 92 Ill.Dec. 695, 697, 698, 485 N.E.2d 506, 508, 509.

Ind.App.

Ind.App.1974. Cit. in disc. Plaintiff sued a bank for conversion arising out of the bank's improper negotiation of checks which needed both plaintiff's and a third party codefendant's signature, but which lacked a valid signature by plaintiff. Of the five checks involved, plaintiff won a judgment against the bank for two. Plaintiff appealed citing errors in the court's granting defendant's motion to dismiss as to the other three checks. This court held that defendant may mitigate the damages by showing that plaintiff received benefits because the proceeds were applied to debts upon which plaintiff owed and intended to apply the checks. However, the trial court did not apply this theory, but applied a more general one in which damages were mitigated when plaintiff received any benefit. This theory goes against the very heart of the tort doctrine of conversion because it allows the tortfeasor to dictate how the plaintiff's property is to be applied. Because the trial court used this too broad theory in determining damages, the case was remanded with directions to modify. Yeager & Sullivan, Inc. v. Farmers Bank, 317 N.E.2d 792, 797.

Iowa

Iowa, 2001. Subsec. (1) quot. in case quot. in sup. Defendant-employee who converted employer's funds was ordered to pay restitution to employer in connection with conviction for first-degree fraudulent practice and forgery. The trial court included the cost of an audit in the restitution order and denied defendant's request to offset the amount of restitution by bonus and benefits allegedly owed to him by his employer. Reversing in part and remanding, this court held that defendant was not entitled to offset in restitution, but evidence was insufficient to establish necessity and reasonableness of audit fee as an item of damages. State v. Bonstetter, 637 N.W.2d 161, 168.

Iowa, 1999. Subsec. (1) cit. in headnotes and cit. in case cit. in disc., subsec. (2) quot. in case cit. in disc. Car dealership sued its former sales manager for, in part, conversion, alleging that defendant, who purchased used cars at dealer auctions for resale, failed to turn over $700 that a car seller at an auction offered to buyers as incentives. Trial court entered judgment on jury verdict for plaintiff on the conversion claim. Affirming in part, this court held, inter alia, that defendant's retention of $700 was in contravention to plaintiff's possessory interest. Review of the sellers' incentive options indicated that the incentives were for the dealership that ultimately purchased the car. Condon Auto Sales & Service, Inc. v. Crick, 604 N.W.2d 587, 593.

Iowa, 1995. Cit. in sup. An attorney sued his former law firm and the firm's managing partner alleging, among other claims, that the partner wrongfully converted a settlement check in a wrongful-death case in which plaintiff was the lead attorney. The firm and partner counterclaimed alleging that the attorney failed to turn over fees for his services to the law firm during the time of his employment. Trial court granted defendant summary judgment on the conversion claim. This court affirmed in part, holding, inter alia, that plaintiff's conversion claim failed as a matter of law because the plaintiff had no right to any attorney fees from the check until the probate court authorized the estate to pay the firm its one-third contingency fee. The check was the property of the firm, not plaintiff, and only after probate court authorization could plaintiff be paid by the firm pursuant to their fee arrangement. Willey v. Riley, 541 N.W.2d 521, 531.

Iowa, 1994. Subsec. (1) cit. in disc. and headnote. Corporation's former shareholders sued financial backer bank and corporation's employee for, inter alia, conversion of plaintiffs' assets. Defendants argued that no conversion occurred because the money from a check endorsed by employee went into corporation's account and not to employee. Trial court entered judgment on jury verdict for plaintiffs. This court affirmed in part, reversed in part, and remanded, holding, inter alia, that plaintiffs

presented a jury case on the conversion claim based on their allegation that employee, over time, gradually took bits and pieces of corporate control away from plaintiffs and was setting them up to convert all of their ownership interest to his control. Ezzone v. Riccardi, 525 N.W.2d 388, 389, 396, cert. denied 514 U.S. 1108, 115 S.Ct. 1958, 131 L.Ed.2d 850 (1995).

Iowa, 1988. Subsec. (1) cit. in disc., subsec. (2) quot. in disc. A publishing company sued a former employee for conversion, inter alia, after the employee opened a competing publishing company and published books by authors who previously had used the employer's company. The trial court entered judgment for the defendant, finding that he did not convert the plaintiff's property interest in a book when he camera-copied and republished it. Affirming, this court held that the law of conversion did not apply to the design and layout of printed material. Kendall/Hunt Pub. Co. v. Rowe, 424 N.W.2d 235, 247.

Iowa, 1982. Subsec. (1) cit. in disc. The plaintiff brought suit against a city and its airport commission to collect damages for unjust enrichment when the city appropriated the plaintiff's harvest along with his land. The trial court granted the defendants' combined motion for dismissal, summary judgment, and directed verdict. The state supreme court reversed and remanded. The plaintiff's claim of unjust enrichment was outside the scope of a statute which governed the tort liability of governmental subdivisions. Restitution and unjust enrichment were modern designations for the older doctrine of quasi-contract or contracts implied in law, which were properly brought at law as actions of contract. The tort of conversion urged by the defendants did not apply, as the plaintiff claimed no control or possessory interest in the crops. Dolezal v. City of Cedar Rapids, 326 N.W.2d 355, 360.

Iowa App.

Iowa App.2000. Subsec. (1) quot. in sup. County sheriff who pled guilty to falsifying public documents in order to obtain funds for unauthorized purposes challenged trial court's order that he pay for a special audit pursuant to state's restitution statute. Affirming, this court held that sheriff's actions amounted to the tort of conversion, and that the cost of the audit should be included as part of the statutorily allowed pecuniary damages that would have been available to the victim under a civil-based theory of recovery. State v. Hollinrake, 608 N.W.2d 806, 808.

Iowa App.1992. Subsec. (2) quot. in case cit. in disc., com. (d) cit. in disc. Driver brought suit for conversion against insurer of vehicle that struck his pickup truck, alleging that a third-party claims adjuster hired by insurer had allowed a towing company to sell the damaged truck before settling plaintiff's claim. Affirming in part the trial court's entry of judgment on a jury verdict for plaintiff, this court held that there was sufficient evidence to generate a jury question on the issue of whether the transfer of the vehicle to the towing company was done with plaintiff's apparent consent and thus the trial court did not err in failing to direct a verdict for defendant. Larson v. Great West Cas. Co., 482 N.W.2d 170, 174.

Iowa App.1992. Subsec. (2) quot. in case cit. in sup., subsec. (2)(c) cit. in sup. Tenants whose landlords changed the locks on the rented premises sued for conversion of their personal property left inside. This court affirmed the trial court's entry of judgment for defendants, holding that defendants' actions did not rise to the level of conversion and that at all times defendants and new tenant were willing to release the property and had no intent to deny access to plaintiffs. The court stated that the period during which the property was in defendants' possession was due to plaintiffs' failure to retrieve it and that defendants acted in good faith in reletting premises, as it was an attempt to mitigate damages. McCray v. Carstensen, 492 N.W.2d 444, 445, 446.

Iowa App.1988. Subsec. (2) quot. in disc. After a dealership was sold, a bank and a parts manufacturer claimed security interests in the dealership's parts inventory. The bank sued the manufacturer and one of its employees, alleging that the defendants had converted the parts inventory and had done so by fraud. The trial court awarded the plaintiff actual and punitive damages and held that the defendants were liable for conversion and fraud. Affirming, this court held, inter alia, that the trial court's finding that the employee was personally liable for conversion because he had wrongfully exercised control over the parts and the parts proceeds properly applied the Restatement's factors for conversion and was supported by substantial evidence. State Sav. Bank v. Allis-Chalmers Corp., 431 N.W.2d 383, 386.

Kan.

Kan.1988. Cit. in disc. An uninsured motorist was involved in a traffic accident caused by another driver's negligence. The negligent driver's insurance company paid the uninsured motorist's claim and took possession of her wrecked vehicle and the title for the vehicle. The lienholder listed on the title refused to execute an assignment of its security interest to the insurance company; as a result, the insurance company returned the title to the lienholder. When the borrower defaulted on the loan, the lienholder sued the insurance company for conversion. The trial court granted summary judgment to the plaintiff, holding that the defendant had exercised dominion and control over a vehicle in which the plaintiff maintained a property interest, constituting a conversion. Reversing, this court held that conversion was not an appropriate theory on which to grant relief under the facts of the case. Scholfield Bros. v. State Farm M.A. Ins., 242 Kan. 848, 752 P.2d 661, 662, 663.

Ky.App.

Ky.App.2014. Quot. in case quot. in sup. Owner of belt conveyors brought, among other things, a conversion claim against renter, seeking to recover the conveyers and their rental value. After a bench trial, the trial court entered judgment for plaintiff, but found that plaintiff was not entitled to punitive damages or the value of the equipment. Affirming in part, this court cited Restatement Second of Torts § 222A for the tort of conversion and held that plaintiff did not sufficiently allege that defendant wrongfully converted his equipment because he did not show that he suffered tort damages or a loss independent from the contract damages. Jones v. Marquis Terminal, Inc., 454 S.W.3d 849, 853.

La.

La.1974. Cit. in conc. op. in disc. A farm lessee, among others, brought this suit against the grantee of a right-of-way for damages from the grantee's pipeline construction. The trial court sustained the grantee's exception of no cause of action as to the lessee because the latter's lease was unrecorded, and an appellate court affirmed. This court reversed and remanded, holding that where the grantee agreed with the lessor to pay for damages to growing crops and the agreement contained no restriction as to beneficiaries, it was “stipulation pour autrui” of which the crop growing lessee could avail himself. The concurring justice felt that, even in the absence of a contractual agreement to compensate him for his damages, the lessee's proprietary interest in his crops was sufficient ground on which to sue the grantee. Then, even if the grantee believed that the lessor owned the crops and had permitted their destruction, the grantee may have been liable (with the right to recover over from those who misled it) as an actor who destroyed, at its peril, property which truly belonged to another. Hargroder v. Columbia Gulf Transmission Co., 290 So.2d 874, 878.

La.App.

La.App.1980. Quot. in sup. Plaintiff sold a quantity of rice to a buyer, and, anticipating that his step-mother would make a claim for a portion of the proceeds, plaintiff instructed the buyer to hold the money. The step-mother filed a declaratory judgment action against the plaintiff, asserting ownership of the funds. Suit was dismissed upon a motion by the plaintiff for improper venue. Plaintiff then asked the buyer to forward the funds, which he had previously requested be held, but was turned down as a result of a written request by the step-mother's attorney. Plaintiff filed suit against the attorney and the buyer, seeking damages for conversion of the proceeds of the rice sale. The lower court dismissed the suit, and the plaintiff appealed. On appeal, the court affirmed, holding that the attorney could not be held liable for conversion for his action in writing to the rice mill, which was holding the proceeds of the sale, in an attempt to protect his client's rights. In merely writing the mill, the attorney did not wrongly detain any money or assist the mill in a tortious retention of the rice sale proceeds. Mauboules v. Broussard Rice Mills, 379 So.2d 1196, 1198, writ denied 381 So.2d 1234 (1980).

Me.

Me.2012. Cit. in sup. Trust and its trustees/beneficiaries brought various claims against bank, bank's property-preservation-services provider, and provider's subcontractor, after subcontractor mistakenly entered and secured trust's unencumbered property as part of a foreclosure action that pertained to a neighboring property. The trial court granted summary judgment in favor of defendants on plaintiffs' claim for conversion. Affirming that portion of the decision, this court held, as a matter of law, that the facts of this case did not establish an interference with plaintiffs' interest and rights that was serious enough to constitute conversion; the undisputed facts showed that subcontractor acted in good faith by intending to secure a property that it had been instructed and authorized to secure, that it provided the access code to the lockbox immediately upon notification of the error, and that plaintiffs were able to gain entry to the property within a matter of hours. Lougee Conservancy v. CitiMortgage, Inc., 2012 ME 103, 48 A.3d 774, 783.

Me.1986. Com. (b) cit. in disc., illus. 5 cit. in disc., illus. 9 and 10 quot. in disc. The plaintiff, a judgment creditor, brought a conversion action against an insurance company and the debtor's attorney, when the settlement proceeds of another action brought by the debtor against the insurance company were sent by the insurance company to the attorney and distributed elsewhere in violation of the plaintiff's lien rights. The trial court held for the plaintiff and for the insurance company on its cross-claim against the attorney for indemnity. Affirming, this court held that, even if the plaintiff were viewed as having only a right to future possession of part of the proceeds, the interference by the insurance company with that future right was an actionable tort, whether or not it was called a conversion. Further, the facts of the case were appropriate for indemnity, since otherwise the insurance company, which was less culpable than the attorney, would assume complete liability. Northeast Bank of Lewiston & Auburn v. Murphy, 512 A.2d 344, 347, 348.

Md.

Md.1999. Cit. in case quot. in disc. Buyer sued seller for conversion of a computer component over which defendant asserted a lien while attempting to repair a modem. The trial court entered judgment for plaintiff and awarded damages. Affirming, this court held that defendant had no lien for the balance of the purchase price due him, that he waived any lien he might have had for reinstallation of the component, and that the appropriate measure of damages here was the value of the entire computer system, which was worthless without the part defendant was found to have converted. Wallace v. Lechman & Johnson, Inc., 354 Md. 622, 732 A.2d 868, 875.

Md.Spec.App.

Md.Spec.App.1998. Cit. in headnote and in sup. Lender brought suit for a declaratory judgment regarding the validity and priority of guarantor's pledge in lender's favor of his partnership interest and his stock in a corporation and also sought an accounting of any distributions and dividends regarding guarantor's interest that might have been received by assignee of guarantor's partnership interest and stock. Affirming the trial court's dismissal of the complaint, this court held that plaintiff's declaratory-judgment claims were actually claims for conversion and thus were time-barred by the three-year statute of limitations for tort actions. The court stated that the partnership interest could be the subject of a suit for conversion, because guarantor's intangible interest in the partnership was identified with and merged in a document, i.e., the certificate of limited partnership. The facts alleged also supported a conversion action against assignee regarding guarantor's stock interest, since an action for conversion could lie when intangible rights were converted without an accompanying conversion of the document evidencing those rights. Allied v. Jasen, 123 Md.App. 88, 716 A.2d 1085, 1085, 1090, reversed 354 Md. 547, 731 A.2d 957 (1999).

Md.Spec.App.1991. Cit. in case quot. in disc. A former employee and shareholder of a corporation brought suit against the corporation and its directors alleging several claims, including damages for the conversion of certain computer programs created by the employee and used by the corporation. The trial court granted summary judgment for the defendants on several counts of the complaint including the conversion count. Affirming, this court held, inter alia, that conversion required the exercise of unauthorized dominion and control to the complete exclusion of the rightful possessor, and not merely temporary interference with property rights. The court stated that the plaintiff had voluntarily given his computer coding sheets to the corporation to

copy, and that the corporation's interference with his property rights was too limited to demonstrate conversion, since it had either returned the coding sheets to the plaintiff or discarded them with his consent. Yost v. Early, 87 Md.App. 364, 589 A.2d 1291, 1303.

Md.Spec.App.1989. Com. (c) cit. in disc. Landowners sued a lumber company for trespass and conversion and vendors of the property for fraud when the lumber company cut timber on the landowner's property. The lumber company then sued for injunctive relief and/or damages. The trial court entered a judgment for the lumber company, imposed sanctions in favor of the vendors against the landowners, and denied the lumber company's request for attorney's fees. Vacating in part and remanding, this court held, inter alia, that the trial court's entry of damages based on an appraisal report of the value of the timber, undertaken two years after the conversion, was erroneous absent a finding that timber to be cut was a commodity of fluctuating value. Since neither party focused on the proper date on which the fair market value of the timber should have been determined, the court vacated the damages award and remanded for such a determination. Bohle v. Thompson, 78 Md.App. 614, 554 A.2d 818, 830, cert. denied 316 Md. 364, 558 A.2d 1206 (1989).

Md.Spec.App.1986. Cit. in disc. An insurance company claimed that it overpaid the defendant during a refinancing settlement, but did not discover the error until years later, at which time it requested a refund. After several letters were exchanged, the company finally sued the defendant for conversion. The trial court held for the plaintiff. This court reversed, holding that a conversion action was only appropriate for the recovery of a specific item, and in the absence of the specific check or currency in dispute, it was not available to recover a debt. Lawson v. Commonwealth Land Title Ins. Co., 69 Md.App. 476, 518 A.2d 174, 176.

Md.Spec.App.1977. Subsec. (2) quot. in sup., com. (a) quot. in sup. and coms. (c) and (d) cit. in ftn. in sup. Plaintiff brought an action for trespass and conversion against his father, who, while plaintiff was a minor, cashed the interest checks which accrued from plaintiff's bonds and subsequently cashed the bonds. The trial court determined that a conversion had occurred at the time defendant cashed the bonds, and that he had trespassed on the interest checks until the bonds were converted. The court affirmed, holding, inter alia, that plaintiff was properly awarded the market value of the bonds at the time of the conversion plus interest to the date of judgment, and that since plaintiff failed to show any other injurious consequence which resulted in a loss greater than the damages awarded, the trial court did not err in refusing to award additional damages under that theory of recovery. Staub v. Staub, 37 Md.App. 141, 376 A.2d 1129, 1132, 1133.

Mass.

Mass.1983. Cit. in sup. A bank brought an action against an insurance company, claiming that the defendant's failure to pay the plaintiff a portion of the proceeds of an insurance policy on a lost tractor in which the bank held a perfected security interest amounted to conversion. The trial court entered judgment for the defendant, which was affirmed by an intermediate appellate court. On further appeal, this court affirmed as well, stating that the plaintiff had no property interest in the draft issued by the defendant. The court added that the statute on which the plaintiff relied to establish the payment of a claim as the exercise of dominion and control over the bank's security interest was inapposite, as it expressly excluded from its coverage payment of insurance claims. Third Nat. Bank v. Continental Ins. Co., 338 Mass. 240, 446 N.E.2d 380, 383.

Mass.1959. Tent. Dr. No. 3 cit. in dictum. In action by Specialties against Dowd for alleged conversion of its property when Dowd refused to deliver it to Specialties, fact that Dowd claimed a lien on the property for debts owing it by Specialties was insufficient reason to withhold goods, since Dowd delayed unreasonably in notifying Specialties of its lien claim. Food Specialties, Inc. v. John C. Dowd, Inc., 339 Mass. 735, 162 N.E.2d 276, 281.

Mass.App.

Mass.App.2007. Subsec. (2) cit. in ftn. Investors who each separately contracted with company for purposes of deferring tax obligations on proceeds from the sale of investment properties filed actions, later consolidated, against company and others, after

company lost investors' funds by engaging in unauthorized high-risk options trading. The trial court granted summary judgment for plaintiffs as to their claim for conversion against defendant. Affirming, this court held, inter alia, that the unauthorized use of funds in this case was sufficiently serious to amount to conversion, because defendant's failure to remain within the restrictions that defined its authorized use resulted in its inability to comply with plaintiffs' rightful demand for the return of their funds. Cahaly v. Benistar Property Exchange Trust Co., Inc., 68 Mass.App.Ct. 668, 680, 864 N.E.2d 548, 559.

Mass.App.2007. Cit. in sup. Customer brought conversion and other claims against bank in connection with bank's processing of a check, drawn in euros, that customer presented to bank. The trial court entered judgment for plaintiff on the contract claim insofar as it alleged negligent misrepresentation, and for defendant on the remaining claims; the appellate division affirmed. This court vacated and remanded to the trial court for entry of a single judgment for plaintiff on all of his claims, holding, inter alia, that, since defendant failed to disclose all material facts regarding the amounts it would retain from the check proceeds based on its retail rate-sheet differential and, upon inquiry by plaintiff, failed either to account for the funds or to restore them to his account, defendant knowingly and purposefully deprived plaintiff of the full proceeds of his check, and thereby committed the tort of conversion. Gossels v. Fleet Nat. Bank, 69 Mass.App.Ct. 797, 808, 876 N.E.2d 872, 884.

Mass.App.1992. Subsec. (1) cit. in disc. Several tenants filed a complaint against their landlords for conversion, among other claims, following their eviction. The trial court entered judgment on a jury verdict for the tenants. Reversing and ordering entry of judgment for the defendants on the conversion claim, this court held, inter alia, that the tenants did not adequately raise a claim when they presented no evidence from which the jury could find that the landlords or their agents had more likely than not taken the tenants' property. Squeri v. McCarrick, 32 Mass.App.Ct. 203, 588 N.E.2d 22, 25.

Mass.App.1987. Subsec. (1), illus. 20 cit. in disc. Owners sued the purchaser of their stolen antique silver pieces for conversion and for damages to three of the pieces caused by alterations authorized by the defendant. The trial court found for the owners and awarded damages for loss of the use of the silver, the diminution in value caused by the alterations, and attorneys' fees. Affirming with modifications, this court held that the diminution damages were properly measured by the difference in value between what the silver pieces would be worth unaltered and what they were worth altered. The court modified the award of attorneys' fees for one attorney whose fee only partly represented work done recovering the silver. Welch v. Kosasky, 24 Mass.App.Ct. 402, 509 N.E.2d 919, 922, 923.

Mass.App.1980. Cit. in disc. First trial of two consolidated actions for conversion of corporate property, based upon an improper termination of a corporation's lease in 1973, resulted in verdicts and judgments for the defendant landlords which were subsequently set aside by the judge's allowance of the plaintiffs' motions for a new trial. The defendants appealed from a denial of their motions for directed verdicts in one action and from orders granting new trials. The defendants contended that they were entitled to a directed verdict at the first trial of the plaintiffs' action because the corporate plaintiff's adjudication as a bankrupt in 1974 was res judicata on the issue of the corporation's right to claim that the property had been converted in 1973. The appellate court found nothing in the record to justify a conclusion that the corporate plaintiff's bankruptcy adjudication in 1974, or any of the events leading up to that adjudication, would operate to preclude a claim for conversion of corporate property based upon an improper termination of a lease in 1973, and that this was particularly so where the trustee in bankruptcy for the corporation's affairs was added to the case in a timely fashion as a party plaintiff. The court held that the trial judge's granting of a new trial after the jury had reached a verdict in favor of the defendant was a proper exercise of discretion, but that the trial court's refusal, in the second trial, to admit the plaintiff's testimony of the fair market value of his personal property on the question of damages was error. Accordingly, the judgment of the lower court was affirmed in part and reversed in part. Clapp v. Haynes, 11 Mass.App. 895, 414 N.E.2d 359, 361, review denied _ Mass. ___, 441 N.E.2d 1042 (1981).

Mass.App.1977. Cit. in sup. Plaintiff corporation brought suit for the conversion of sewing machines. During the non-jury trial, the parties stipulated as to the correct measure of damages. The appeals court held that both plaintiff and defendant were bound by the stipulation; and that the evidence supported the trial court's determinations (1) that the machines had been converted and (2) as to the fair rental value of the machines. Reliable Sewing Mach. v. Price Sewing Mach., 5 Mass.App. 870, 361 N.E.2d 236, 238.

Mich.

Mich.1992. Quot. in ftn. to diss. op. Mother and her underage, unlicensed son brought suit against her no-fault insurer after son took mother's car without permission and was injured, and insurer refused to pay son's medical bills pursuant to no-fault statute excluding coverage for person who had taken a car unlawfully. The trial court granted insurer summary judgment; the court of appeals reversed and remanded. Affirming, this court held that the statutory exclusion was intended to deal with conversion, and not with family members who had taken a car without permission. The dissent argued that although the son was neither charged with nor convicted of joyriding and his actions did not amount to conversion, his actions fell clearly within the no-fault statute's exclusion for unlawful conduct, since his conduct was proscribed by the joyriding statute. Priesman v. Meridian Mut. Ins. Co., 441 Mich. 60, 490 N.W.2d 314, 321, rehearing denied 441 Mich. 1202, 491 N.W.2d 830 (1992).

Minn.

Minn.1978. Subsec. (1) quot. in sup. and fol. Husband and wife brought an action against a city arising from the action of city officers in forcibly cleaning out the plaintiffs' home after receiving complaints from the plaintiffs' neighbors regarding the condition of the plaintiffs' property. The plaintiffs sought to recover damages for wrongful trespass and conversion. The lower court entered summary judgment for the city, and the plaintiffs appealed. The court held, inter alia, that the charges in the plaintiffs' complaint which alleged that city officers had intentionally removed over 250 items of personal property from the possession of the plaintiffs and had failed to advise the plaintiffs where the property was located, stated a cause of action for trespass and conversion of chattels, which are intentional torts. Accordingly, the court found that the entry of summary judgment for the city on the ground that the plaintiffs' action was barred by the statute of limitations was error, since the causes of action alleged fall within the intentional tort exception of the statute. The judgment of the lower court was reversed, and the case was remanded. Herrmann v. Fossum, 270 N.W.2d 18, 21.

Minn.1977. Cit. in disc. in sup. An insured, as defendant in an action for conversion, brought a declaratory judgment action against his insurers, seeking to compel them to defend in that action. After judgment for the insurers, the insured appealed. The court affirmed, holding that where the insured was being sued for having converted personal property and the pleadings filed against him in the action contained no allegations of "property damage" within the terms of the insurance coverage, the insurers were not obligated to defend under standard form general liability policies. The court reasoned that where the contractual duty of the insurer to defend was expressly conditioned on the happening of an accident resulting in property damage, it was not obligated to defend in an action based on the intentional tort of conversion which did not involve physical damage to property. Inland Const. Corp. v. Continental Cas. Co., 258 N.W.2d 881, 884.

Minn.App.

Minn.App.2000. Com. (c) quot. in disc. Passenger who was injured when the borrowed car in which he was riding collided with a utility pole sued owner of car, alleging that he was vicariously liable for driver's negligent use of the vehicle. The trial court entered judgment for defendant on the ground that driver's use of the car at the time of the accident was nonpermissive, and therefore plaintiff could not recover under defendant's insurance policy. Reversing, this court held that driver's permissive use of the automobile did not terminate absent conversion or theft, which plaintiff had not established here. Bates v. Armstrong, 603 N.W.2d 679, 682.

Minn.App.1995. Subsec. (1) quot. in disc. and cit. in headnote. A creditor, who held a security interest in all of debtor-food service company's property including its inventory, sued the buyer of debtor's inventory for conversion. Trial court awarded plaintiff damages. This court affirmed, holding that because the buyer violated plaintiff's security interest in debtor's property, the trial court did not abuse its discretion when it concluded that plaintiff was entitled to conversion damages for the value of the secured property. Even though debtor, the buyer, and the lender bank all had clear knowledge of plaintiff's position with

respect to the inventory, the debtor failed to get authorization from plaintiff for the sale, thereby giving plaintiff a claim against buyer. Wangen v. Swanson Meats, Inc., 541 N.W.2d 1, 1, 3.

Miss.

Miss.1993. Illus. 5 and 6 quot. in sup. Owner of a truck that was repossessed by a recovery bureau hired by the creditor sought damages based on conversion for items left in the truck. Repossessors had given owner an opportunity to remove the items, but eventually the items were taken to Kansas and left there. The trial court entered judgment on a jury verdict for truck owner. This court affirmed defendants' liability for conversion, determining that trial court did not err in denying creditor a directed verdict or peremptory instruction; however, the court reversed and remanded on the issue of damages. A jury might find that creditor's actions constituted an unlawful detention of the chattels, even though original possession was lawfully obtained, since the chattels were removed to a foreign jurisdiction far removed from the destination plaintiff was led to believe they would be taken. PACCAR Financial Corp. v. Howard, 615 So.2d 583, 588.

Mo.App.

Mo.App.1991. Cit. in sup. Cattle breeders held a security interest in cattle sold to a buyer. The security agreement prohibited the sale of any of the secured cattle without the prior consent of the breeders and provided that the breeders were entitled to immediate possession upon default. The buyer sold some of the cattle through auction houses, and the breeders sued the auction houses for conversion. The trial court found for the defendants, holding that, under the U.C.C., the cattle became inventory taken in the ordinary course of business, free of any security interest. This court reversed and remanded for a determination of the fair market value of the cattle sold at auction. The court held that the transfer of the cattle to the auction houses constituted a breach of the security agreement, putting the buyer in default and entitling the breeders to immediate possession, and so the sale by the auction houses was a serious interference with the right to possession. Since the buyers of the cattle from the auction houses had no preexisting superior right to possession, the auction houses were liable to the breeders for conversion of their cattle. Ensminger v. Burton, 805 S.W.2d 207, 212.

Mo.App.1991. Quot. in case quot. in disc. A barbecue sauce developer sued his former business partners for damages for conversion, inter alia, after the defendants obtained the plaintiff's secret spice formula and attempted without success to duplicate the sauce. The trial court denied recovery to the plaintiff. Affirming, this court held that a spice blend formula, as an idea, was not the type of property that was susceptible to conversion, since the law of conversion was concerned with the exercise of dominion or control over a chattel. Schaefer v. Spence, 813 S.W.2d 92, 96.

Mo.App.1977. Cit. in disc. An adult divorcee brought an action against her former fiance for seduction under a promise of marriage and for conversion of her property, seeking actual and punitive damages on both counts. The trial court entered judgment for the plaintiff, and the defendant appealed. As to the seduction count, the court held that an unmarried, but sexually experienced, woman could maintain an action for seduction, but reversed and remanded where the trial court, in instructing the jury, failed to submit the questions of whether the defendant's promises were knowingly false when made and made with the intent to seduce and whether the plaintiff relied on the promises in consenting to sexual intercourse. On the second count for conversion, the court held, inter alia, that an action did not lie to recover funds withdrawn by the defendant from a joint bank account and the trial court erred in failing to limit the damages for conversion of personal property to the fair market value at the time of conversion. The court remanded for damage instructions. Breece v. Jett, 556 S.W.2d 696, 709.

Neb.

Neb.1983. Cit. in sup. An employee embezzled funds from his employer and deposited the money in his own bank account. The employer discovered the scheme and successfully obtained a judgment against its employee. The employer then brought suit against the employee's bank, alleging conversion of its money. The trial court granted summary judgment for the defendant.

This court reversed, holding that the facts alleged in the employer's suit against its employee were not inconsistent with those alleged in the instant action in that two parties could convert the same property if both wrongfully exercised dominion over it and such dominion was inconsistent with the rights of the true owner. Therefore, the doctrine of election of remedies did not apply. Bryant Heating & Air Cond. v. U.S. Nat. Bank, 216 Neb. 107, 342 N.W.2d 191, 195.

Neb.1978. Subsec. (1) cit. and quot. in sup. Tenants brought an action against landlords for breach of right of quiet enjoyment and conversion of personal property after the defendants changed the locks on the doors of the premises and restricted the tenants' access to the building to daylight hours following a fire which caused the plaintiff tenants to vacate the premises for the remainder of the lease term. The lower court granted the landlords' motion for directed verdict, and the tenants appealed. The court noted that "conversion" is any distinct act of dominion wrongfully exerted over another's personal property in denial of or inconsistent with his rights therein and that, to constitute conversion, there must be intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that it justifies the forced judicial sale to the defendant, which is the distinguishing feature of the action. The court held, inter alia, that where the landlords restricted the tenants' access to the building to daylight hours during the last three weeks of the lease term but did not prohibit the tenants from removing property, where they asserted no right in property and the tenants did not request or attempt to take possession of the property, the acts of the landlords were not an intentional exercise of dominion or control over the property which so seriously interfered with the tenants' rights to control that the landlords could be justly required to pay the tenants full value of the chattel. Accordingly, the court found that there was no conversion of the tenants' property, and the judgment of the lower court was affirmed. Polley v. Shoemaker, 201 Neb. 90, 266 N.W.2d 222, 225.

Neb.App.

Neb.App.2004. Quot. in sup. Escrow holder filed interpleader action to determine ownership of common stock of corporation subject to exchange agreement between corporation and shareholders. Shareholder alleged that when corporation claimed his shares, it converted them; corporation alleged consent, accord and satisfaction, compromise and settlement, waiver, and estoppel. Trial court granted shareholder partial summary judgment. Reversing in part, this court held, inter alia, that corporation's assertion of a security claim in shareholder's stock in escrow holder's possession was not conversion for which shareholder was entitled to damages. First National Bank of Omaha v. Acceptance Ins. Co., Inc., 12 Neb.App. 353, 375, 675 N.W.2d 689, 706.

Nev.

Nev.2006. Cit. in ftn. in sup. Individual brought various claims against company that transmitted an unsolicited advertisement to his facsimile machine, alleging, among other things, theft of his paper and ink. The trial court, inter alia, dismissed plaintiff's claim for conversion. Affirming, this court held that plaintiff failed to allege facts constituting conversion, as any damage that may have occurred to plaintiff's paper and toner when his personal facsimile machine printed the one unwelcome advertisement fell short of destruction or material alteration. The court stated that conversion was generally limited to severe, major, and important interferences with the right to control personal property that justified requiring the actor to pay the full value of the converted property. Edwards v. Emperor's Garden Restaurant, 122 Nev. 317, 327, 130 P.3d 1280, 1287, certiorari denied 549 U.S. 977, 127 S.Ct. 438, 166 L.Ed.2d 311 (2006).

Nev.1980. Quot. in part in disc. The plaintiff ranch owners sued the prospective buyers of the ranch for breach of the purchase contract, damages and conversion of cattle on the ranch. The jury returned a special verdict finding that the plaintiffs had tendered performance of their obligations under the contract but such performance was excused by the defendants' repudiation of the contract, that the plaintiffs should recover the benefit of the bargain, that the defendants had converted cattle and, with regard to the defendants' counterclaim for damages, that the plaintiffs had been unjustly enriched at the expense of the defendants. This court affirmed the entry of the jury verdict. The defendants argued, inter alia, that their refusal to release their brand for a nine-month period was at most a trespass to chattels and not a conversion, and, therefore, the award of damages for conversion was improper. The defendants argued that because the measure of damages is a part of the definition of conversion, and because the plaintiffs did not seek to recover the full value of the cattle, there was no conversion and the jury should not have been instructed

on that theory. The court rejected this argument, stating that although full value is one measure of damages for conversion, it is not the sole measure. When the converter has returned the property to the injured party, as was the case here, full value is not the appropriate measure of damages, and, therefore, the jury was permitted to find conversion with the measure of damages as less than full value. Bader v. Cerri, 96 Nev. 352, 609 P.2d 314, 317.

N.H.

N.H.1980. Subsecs. (1), (2)(a)(c) cit. in sup. The plaintiff was a corporation engaged in the leasing of business products. The plaintiff had an agreement with a third party under which the plaintiff provided equipment to the third party, who then leased the equipment to its own customers. When several leases terminated, the defendant bank, which was a customer of the third party, refused to return the machines, stating that it had a security interest in the third party's inventory and was presently taking inventory due to an anticipated bankruptcy petition. The plaintiff then brought an action against the bank, alleging conversion of the copying machines. The lower court granted a motion by the bank for nonsuit and dismissed the action. On appeal the decision was affirmed with the court stating that because the machines were returned within six weeks, and because the bank refused to return the copiers until a "horrendous situation" with regard to the third party's records and leases was remedied, the refusal by the bank to turn over the copiers was merely a "qualified refusal" for a reasonable length of time and a reasonable purpose, and, therefore, there was no conversion. LFC Leasing & Financial v. Ashuelot Nat. Bank, 120 N.H. 638, 419 A.2d 1120, 1121.

N.H.1973. Subsec. (1)(2) and com. (d) cit. but dist. The plaintiff wife brought an action against defendant bank to recover for defendant's alleged conversion by its retention of the wife's stock certificate after she had transferred a draft to the bank to discharge an outstanding note, and the bank rescinded its acceptance of the draft in discharge of the note and kept the certificate as security, upon learning that the husband's endorsement upon the draft was unauthorized. The court overruled the wife's exception to the granting of defendant's motion for a nonsuit, and held that the bank acted properly in retaining the certificate as security and that the bank's decision to transfer the draft to the husband rather than to the wife was not actionable, inasmuch as the bank was equivalent to a bailee of the draft and the husband was entitled to possession thereof. Muzzy v. Rockingham County Trust Company, 113 N.H. 520, 309 A.2d 893, 894, 895.

N.H.1969. Cit. in sup. This was an action against the manager of a hardware corporation by shipper for conversion of six outboard motors which manager had obtained without presenting the required bill of lading and which had been resold in the ordinary course of business. The court held that the manager, who knew that the shipper was to release the motors only upon receipt of the original bill of lading, who obtained delivery without its presentation, and who never obtained the seller's permission to resell them and was aware that they were being sold on behalf of the corporation was properly found personally liable for conversion, notwithstanding that he acted in good faith and that he did not personally profit from the transaction. Pacific & Atlantic Shippers, Inc. v. Schier, 109 N.H. 51, 258 A.2d 351, 353.

N.J.

N.J.2020. Cit. in sup. (general cite); subsec. (1) cit. and quot. in case cit. and quot. in sup.; com. (a) cit. in sup. Investor filed, inter alia, conversion claims against law firm and attorney, alleging that defendants, in accordance with instructions from their client, wrongfully distributed funds wired to their attorney-trust account by plaintiff's intermediary. The trial court granted defendants' motion for summary judgment. The court of appeals reversed in part and remanded. This court reversed in part, holding that plaintiff's failure to demand that the funds be kept in the attorney-trust account fatally undermined his conversion claim, because the lack of identifying information and instructions on the wired funds meant that defendants were not on notice that there was a competing claim on the funds. The court explained that, under Restatement Second of Torts § 222A, defendants' distribution of the funds was not tortious, because the initial possession of the funds was lawful, and such possession did not become unlawful until defendants refused to comply with plaintiff's demand for the funds. Meisels v. Fox Rothschild LLP, 222 A.3d 649, 656, 660, 661.

N.J.Super.App.Div.

N.J.Super.App.Div.2012. Subsec. (1) quot. in case quot. in sup. Two volunteer firefighters sued borough and program administrator, alleging that defendants misinterpreted an ordinance that provided for the payment of annual contributions to a deferred income account for each active volunteer member of the department who met certain criteria, when they withdrew alleged overpayments from plaintiffs' accounts. The trial court granted summary judgment for administrator. Affirming that portion of the decision, this court held, among other things, that administrator's actions did not constitute conversion, because it did not exercise any independent dominion or control over plaintiffs' funds. The court noted that administrator's involvement was limited to withdrawing the funds and returning them to borough, and it was undisputed that administrator acted at borough's direction, as required by their contract. North Haledon Fire Co. No. 1 v. Borough of North Haledon, 425 N.J.Super. 615, 630-631, 42 A.3d 901, 909-910.

N.J.Super.App.Div.2009. Subsec. (1) quot. in sup. Title insurer, as subrogee of lender that was defrauded by a real estate investment consultant and others as part of a conspiracy involving fraudulent mortgage applications, brought action for conversion against consultant's parents, who allegedly received some of the fraudulently obtained loan proceeds from consultant. The trial court granted summary judgment for plaintiff. Affirming in part, this court held, inter alia, that plaintiff's conversion claim did not require plaintiff to prove that defendants were aware that consultant had obtained the money through a fraudulent scheme; it was enough that defendants exercised unauthorized dominion or control over money that belonged to lender. Chicago Title Ins. Co. v. Ellis, 409 N.J.Super. 444, 454, 978 A.2d 281, 287.

N.M.

N.M.1998. Cit. in ftn. to diss. op., subsecs. (1) and (2) quot. in diss. op., subsecs. (2)(a) and (2)(b) cit. in diss. op. After borrower sold tractor without senior creditor's authorization, bank, which held a junior security interest in the tractor and handled the sales transaction, endorsed the check made out to it and deposited the proceeds in borrower's account, from which the money was paid out in the normal course of business. Senior creditor sued bank for conversion. The trial court ruled that there was no conversion, and the court of appeals affirmed. This court reversed and remanded. The dissent argued that bank did not commit conversion, because it did not exercise dominion or control over the proceeds, and its intent to assert a right in the proceeds was not inconsistent with any of senior creditor's rights. Case Credit Corp. v. Portales Nat. Bank, 126 N.M. 89, 966 P.2d 1172, 1175-1177.

N.M.1994. Cit. in sup. Landowners sued the state highway department and commissioner of public lands, seeking declaratory judgment and damages in inverse condemnation, trespass, and conversion after the highway department allegedly entered the property without authorization and removed sand and gravel. Reversing in part the trial court's dismissal of the claim and remanding, this court held, inter alia, that New Mexico's tort claims act barred the landowners' trespass and conversion claims against the state, leaving plaintiffs only an inverse condemnation claim. Townsend v. State ex rel. State Hwy. Dept., 117 N.M. 302, 871 P.2d 958, 959.

N.M.App.

N.M.App.1998. Cit. in disc. After an elderly couple died, the wife's New Mexico heir sued the husband's nonresident heirs for restitution, return of distributed property, and damages. The nonresident heirs received the funds remitted to them in Texas from the New Mexico probate proceedings. Trial court dismissed for lack of personal jurisdiction. This court affirmed, holding, inter alia, that defendants' acts in passively receiving distribution of funds or property in Texas, pursuant to the action of the personal representative in New Mexico, were insufficient to establish commission of a tortious conversion in New Mexico. Harrell v. Hayes, 125 N.M. 814, 965 P.2d 933, 937.

N.Y.

N.Y.2007. Subsec. (1) quot. in disc., com. (a) cit. in disc., com. (b) cit. and quot. in disc. Insurance agent sued insurer for, in part, conversion, after insurer denied him access to electronic data stored on computer equipment that it had leased to him and then repossessed. The federal district court dismissed the conversion claim. The United States Court of Appeals for the Second Circuit certified the question of whether a claim for conversion of electronic data was cognizable under New York law. Answering in the affirmative, this court held that the electronic records at issue, which were indistinguishable from printed documents, were subject to a claim for conversion. Noting that conversion had originally evolved from an action in trover under the common law, the court reasoned that the tort of conversion had to keep pace with the contemporary realities of widespread computer use. Thyroff v. Nationwide Mut. Ins. Co., 8 N.Y.3d 283, 288, 832 N.Y.S.2d 873, 864 N.E.2d 1272, 1275.

N.Y.1980. Quot. in part in diss.op. The plaintiff, an international metals trader, delivered three separate lots of the industrial metal indrium to the defendant commercial warehouse for safekeeping. The three lots of indrium were worth $100,000. When the metal was delivered to the defendant, it gave the plaintiff warehouse receipts for each lot. The terms and conditions of the bailment were printed on the back of the receipts. One of the conditions was that the warehouse's total liability would not exceed $50,000 unless the bailor made a written request within twenty days to increase this liability. For two years, the defendant billed the plaintiff for storage of the three lots. Finally, the plaintiff requested return of one of the three lots of the metal. The defendant informed it that it was unable to locate any of the metal. The plaintiff then brought this action against the defendant warehouse for conversion, seeking to recover the full value of the indrium. The defendant rejoined that the metal had been stolen through no fault of the warehouse and that the terms printed on each warehouse receipt limited the plaintiff's potential recovery to a maximum of $50 per lot of indrium. The lower court granted summary judgment to the plaintiff for the full value of the indrium. The appellate court affirmed. It held that the plaintiff's proof of delivery of the indrium to the warehouse and its failure to return the property upon proper demand sufficed to establish a prima facie case for conversion. The liability limiting provisions in the warehouse receipts are consequently inapplicable unless the warehouse comes forward with evidence sufficient to prove that its failure to return the property is not the result of its conversion of that property for its own use. The dissent disagreed with the majority's conclusion that the plaintiff was entitled to summary judgment on the theory of conversion absent any proof whatsoever that the defendant converted the indrium metal to its own use or the use of another. The defendant should not be held liable for conversion unless the plaintiff bailor can demonstrate an intentional exercise of dominion or control over chattel that so seriously interferes with the right of another to control it that the actor may justly be required to pay full value for the chattel. Conversion implies a wrongful act. Mere refusal to deliver will not constitute conversion if the goods have been lost through negligence or stolen. The majority, however, improperly concluded that conversion can be presumed when a bailee is unable, for whatever reason, to explain the absence of stored property. In this case, the plaintiff has presented no proof whatsoever of an intentional wrongdoing by the defendant. The majority's decision flies in the face of the established principle that an action for conversion requires an evidentiary showing that the defendant bailee intentionally acted to deprive the plaintiff of his property. I.C.C. Metals, Inc. v. Municipal Warehouse Co., 50 N.Y.2d 657, 431 N.Y.S.2d 372, 380, 409 N.E.2d 849, 856, 857.

N.Y.Sup.Ct.App.Div.

N.Y.Sup.Ct.App.Div.1989. Cit. in disc. The plaintiff, a professional musician, performed in the backup group for John Lennon and Yoko Ono Lennon in two concerts in 1972, which were organized by the Lennons to benefit a charitable organization. Thirteen years later, a record album and video cassette of the concerts were released. The plaintiff sued defendant Yoko Ono Lennon, asserting, inter alia, that delivery of the film and soundtrack to Capitol Records and Sony Corporation constituted conversion of the plaintiff's property rights to his performance. The trial court dismissed the claim of conversion, and this court affirmed, stating that, although New York did not generally recognize a cause of action for conversion of intangible property, when it has been allowed, conversion has been limited to those intangible property rights customarily merged in, or identified with, some document. Ippolito v. Lennon, 150 A.D.2d 300, 542 N.Y.S.2d 3, 6.

N.Y.Dist.Ct.

N.Y.Dist.Ct.1986. Cit. in disc. A car owner sued a repair shop for conversion of his car after the owner refused to pay a $25 service charge for an estimate regarding repairs. This court entered judgment for the owner, holding that the shop waived its right to the service fee for preparing an estimate because it did not inform the owner of the fee prior to taking possession of the car, that the shop therefore had no possessory lien on the car (since the owner had not consented to services thereon), and that the shop assumed unauthorized dominion and control of the car, interfering with the owner's right to possession. Heneghan v. Cap-A-Radiator Shops, 132 Misc.2d 936, 506 N.Y.S.2d 132, 134.

N.C.App.

N.C.App.2002. Quot. in sup. After state university returned pianos loaned to it, owner of the pianos sued university for conversion and damage to property. The trial court dismissed defendant's motion to dismiss. Reversing in part and remanding, this court held, inter alia, that plaintiff's claim for conversion was barred by the doctrine of sovereign immunity, since the state had not waived sovereign immunity for intentional torts by action of the Tort Claim Act or other statute. Kawai America Corp. v. University of North Carolina at Chapel Hill, 152 N.C.App. 163, 567 S.E.2d 215, 218.

N.D.

N.D.2004. Cit. in disc. Owners of royalty and leasehold interests in oil wells sued oil buyer for conversion and unjust enrichment, inter alia, alleging that differences in buyer's measurements resulted in buyer's not paying for all the oil it received from plaintiffs. Trial court dismissed conversion claim. This court reversed in part and remanded, holding that disputed fact issues existed as to conversion claim. It rejected buyer's argument that plaintiffs' claims were for breach of contract and not conversion, ruling that plaintiffs sufficiently alleged that buyer wrongfully deprived plaintiffs of excess oil and proceeds that were not reported to them. Buyer's act of wrongfully depriving plaintiffs of excess unreported oil and proceeds involved more than failure to pay under contract terms, and could give rise to liability independent of contractual liability. Ritter, Laber and Associates, Inc. v. Koch Oil, Inc., 2004 ND 117, 680 N.W.2d 634, 638, 639.

Ohio

Ohio, 2015. Subsec. (1) quot. in case quot. in sup. Employer brought a conversion claim against former employee, employee's husband, and husband's company, alleging that employee stole hundreds of thousands of dollars from employer by forging checks and that husband and company conspired with employee to funnel the stolen money through company's bank account. The trial court granted summary judgment for employer against employee and company, but, after a bench trial, directed a verdict for husband. Affirming, this court held that, although husband was a signatory on company's bank account, there was no evidence that he personally converted any funds, signed any forged checks, or did anything else to support an inference that he knew about or participated in employee's conversion activities, as required to state a claim for conversion under Restatement Second of Torts § 222A. Vienna Beauty Prods. Co. v. Cook, 53 N.E.3d 808, 813.

Ohio App.

Ohio App.2015. Cit. in case quot. in sup. After printing-services broker brought a breach-of-contract action against cell-phone-service marketer, marketer filed a third-party complaint for, inter alia, conversion against broker's sole owner, alleging that, because owner misrepresented that it could get a discount for marketer, owner took possession of money that marketer would have retained if it had received a discount. The trial court dismissed marketer's conversion claim. This court affirmed in part, holding that marketer failed to show that the money it paid owner was converted from earmarked funds. Citing Restatement Second of Torts § 222A, the court explained that marketer's conversion claim was really a breach-of-contract claim based on

allegations that owner did not fulfill its obligation to provide discounted prices. RAE Assocs., Inc. v. Nexus Communications, Inc., 36 N.E.3d 757, 765.

Or.

Or.2019. Subsec. (1) adopted in case cit. in sup. Wireless-telecommunications carrier brought a trespass claim against private, nonprofit electric cooperative that it belonged to, alleging that it owned the power line connecting cooperative's power-distribution system to an area where plaintiff formerly operated a radio tower on land owned by the United States Forest Service, and that defendant improperly entered into a lease agreement with plaintiff's competitor for connection to power through that line. The trial court granted summary judgment for defendant. While vacating and remanding on other grounds, this court held that plaintiff failed to state a claim for trespass against defendant under Restatement Second of Torts § 222A, because it failed to meet its burden to produce evidence of ownership of the line that could support a claim of trespass to chattel or conversion. Western Radio Services Co v. Verizon Wireless (VAW), LLC, 442 P.3d 218, 221.

Or.2014. Subsec. (1) quot. in case quot. in ftn. Owner of historical memorabilia that had been loaned to a hall of fame brought claims for conversion and replevin against individual who allegedly removed the memorabilia. The trial court granted defendant's motion to dismiss on the ground that plaintiff's case was time-barred. The court of appeals affirmed. Reversing and remanding, this court held that Oregon's applicable six-year statute of limitations incorporated a discovery rule that provided that, for purposes of calculating the period of limitation, causes of actions accrued at the time that a plaintiff obtained knowledge, or reasonably should have obtained knowledge, of the tort committed upon her person. Here, plaintiff adequately alleged that her cause of action did not accrue until seven years after the memorabilia was allegedly removed because, as someone who was legally blind, she did not have actual or constructive knowledge of the removal until that time. Rice v. Rabb, 354 Or. 721, 724, 320 P.3d 554, 556.

Or.2010. Quot. in case quot. in disc. In a lawyer disciplinary proceeding, the state bar charged attorney with violating the state's rules of professional conduct, after he withdrew clients' funds from his lawyer trust account and applied them to his own purposes. A trial panel of the disciplinary board disbarred attorney. This court suspended attorney from the practice of law for 60 days, holding, among other things, that the bar had not proven that attorney, through his action of conversion, had violated the rule prohibiting "conduct involving dishonesty." Noting that not all conversions implicated dishonesty, because an actor who mistakenly believed that his or her conduct was legal could still commit conversion, the court found the evidence inconclusive as to whether attorney intentionally or knowingly withdrew and applied the funds in violation of his authority. In re Peterson, 348 Or. 325, 335, 232 P.3d 940, 946.

Or.2002. Cit. in disc., cit. and quot. in ftn. On railroad's conversion claim against scrap-metal merchant that had purchased semitrailers stolen from railroad yard, the trial court entered judgment on a jury verdict awarding railroad damages. The court of appeals held that merchant had not preserved its objection to the trial court's failure to give merchant's requested jury instruction containing the complete text of Restatement Second of Torts § 222A. Reversing in part and remanding, this court held, inter alia, that merchant was not required to except to trial court's refusal to give its requested jury instruction to preserve its claim of error for appeal; merchant preserved its claim merely by requesting its instruction. Beall Transport Equipment Co. v. Southern Pacific Transp. Co., 335 Or. 130, 134-136, 141, 60 P.3d 530, 531-533, 535, on remand 186 Or.App. 696, 64 P.3d 1193 (2003). See case below.

Or.1998. Cit. in headnote, cit. in ftn., subsec. (1) quot. in disc. Attorney challenged trial court's determination that he had violated Disciplinary Rule (DR) 1-102(A)(3) by converting client funds. Affirming in part and reversing in part and ordering disbarment, this court held that only intentional or knowing acts of conversion constituted "conduct involving dishonesty" in violation of DR 1-102(A)(3), that attorney did not violate the rule when he spent money from one client on the services of a law clerk and secretary, and that attorney was in violation of DR 1-102(A)(3) when he spent fees paid by another client before those fees were actually earned. In re Martin, 328 Or. 177, 970 P.2d 638, 639, 642.

Or.1989. Quot. in case quot. in disc. A quarry operator sued the landowner, with which it had an exclusive contract to remove rock, and a second contractor, who contracted with the landowner to remove rock from the land, for conversion and trespass, inter alia. The trial court granted the defendants a directed verdict and the intermediate appellate court affirmed in part and reversed in part. This court affirmed the intermediate appellate court's decision, holding that the quarry operator could recover for the alleged conversion of a large stockpile of rock that it had severed on the basis of its profit a prendre. However, it determined that the plaintiff did not have any possessory interest in the rock severed and removed by the defendant contractor. The court stated that the quarry operator's future interest in rock was defined by how much it chose to sever and remove. It also indicated that the profit a prendre was a subspecies of easements, not a possessory interest in land, which would not give rise to an action for trespass by the quarry operator. Willamette Quarries v. Wodtli, 308 Or. 406, 781 P.2d 1196, 1201.

Or.1979. Cit. and quot. in disc. and subsec. (2) and com. (d) cit. in case quot. in disc. The plaintiff fisherman caught what he considered to be a prize sturgeon and because he could not take it with him right then, he left the fish in the water, tied to the dock, so that it would not spoil. When he went back to claim the fish he was told that the defendant police officer had taken the fish. The plaintiff sued the officer for conversion of the fish. The defendant argued that he had taken the fish as evidence against two other fishermen who had been fishingillegally in the same vicinity, and that he had taken it home, cut it up, packaged it and marked it as evidence in the case. The defendant stated that he had taken the fish home in order to freeze it because the police station did not have the facilities to preserve the evidence. The trial court denied the defendant's motion for a directed verdict and entered judgment on a verdict in favor of the plaintiff and awarded compensatory and punitive damages. This court agreed with the trial court's decision to deny the defendant's motion. However, this court remanded the case for a new trial because of errors committed by the trial judge concerning certain instructions. This court found that the officer was not immune from civil suit because he was not acting within the scope of his employment when he took the fish home and allegedly ate it. The court stated that conversion is an act whereby an individual intentionally exercises control over a chattel which seriously interferes with another's right to control it, but did not determine this issue because it was a question of fact to be decided at the new trial. The court found that the trial court erred in not instructing the jury to consider, as a factor in the case, whether the police officer had acted in an emergency situation which would have given him leeway in dealing with the property. Dickens v. DeBolt, 288 Or. 3, 602 P.2d 246, 250-252.

Or.1978. Subsec. (1) quot. in disc. The managing partner of a company, which owned and operated a motel, brought an action for conversion to recover money alleged to have been taken by the motel manager. The manager contended that, because the motel owed him money, he could properly seize the funds without liability. The lower court entered judgment on a jury verdict awarding the managing partner general and punitive damages, and the manager appealed. The court noted that a conversion is an intentional exercise of dominion or control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel. The court found that the manager's contention that he could seize the funds without liability since it was owed to him was untenable. The court held, inter alia, that the manager's acts clearly constituted conversion and that there was no evidence to the contrary. Accordingly, the judgment of the lower court was affirmed. Hemstreet v. Spears, 282 Or. 439, 579 P.2d 229, 233, appeal dismissed 439 U.S. 948, 99 S.Ct. 343, 58 L.Ed.2d 340 (1978).

Or.1975. Quot. in disc. Cit. in ftn. in disc. Quot. in conc. op. in disc. Com. (d) cit. in sup. This was an action for conversion brought by a husband against relatives of his estranged wife, who had been evicted from the house after her husband learned that she intended to file for divorce. The defendants had removed furniture, furnishings, and other items from the marital home. Plaintiff appealed from a verdict for the defendants on the ground, inter alia, that the trial court erred in instructing the jury that the defendants would not be guilty of conversion if it were found that the wife had immediate right to the possession or the joint right to possession with the plaintiff of the property in question. Defendants contended that it was at least a jury question whether defendants committed conversion by their acts in recognition of the wife's right to possession, and that they could not be properly held liable for conversion if they acted in good faith. On appeal, reversed and remanded for a trial de novo. It was held that the trial court's instruction was erroneous inasmuch as defendants could not claim the wife's privilege with respect to jointly held property because the wife was not entitled to immediate possession. This was true since, under state law, husband and wife hold personal property as tenants in common, and a tenant in common is capable of converting jointly held

property. On the question of good faith, the court declined to endorse either s 222A of the Restatement 2d of Torts that good faith is one of several elements to be considered to establish the tort of conversion or the traditional view that good faith is not material in an action for conversion; rather, the court avoided the issue by holding that good faith was improperly pleaded and, therefore, not in question. In a specially concurring opinion, however, it was argued that s 222A effectively reduces the tort of conversion to trespass to chattels by removing from conversion the forced sale remedy through the requirement of subsec. (1) that consideration be given to whether a defendant "may justly be required to pay the full value of the chattel." Remington v. Landolt, 541 P.2d 472, 479, 480, 482.

Or.1972. Cit. and quot. and com. (d) cit. and quot. in sup. Plaintiff brought this action for the reasonable value of labor and materials furnished in the repair of an aircraft being purchased from plaintiff by defendant. Defendant counterclaimed for damages for conversion to the aircraft. The court held that where the aircraft was seized from its conditional buyer for failure to pay the unpaid balance of the purchase price, and where defendant was served with notice of proceedings to foreclose the lien in conformance with a statute, the fact that plaintiff requested the sheriff to delay the sale of the aircraft and the fact that there was a resultant delay of four months did not amount to conversion of the aircraft by the plaintiff. McKenzie Flying Service, Inc. v. York, 263 Or. 538, 503 P.2d 478, 480, 481.

Or.1972. Cit. and quot. in sup. The plaintiff brought this action for conversion of his automobile and demanded general and punitive damages against the defendant automobile repair service. The plaintiff's wife had taken the automobile to the defendant's place of business to get an estimate of the cost of repair. The court held that where the defendant refused to reassemble and return the plaintiff's automobile and where the defendant was not entitled to retain possession of the automobile under a mechanic's lien, the trial court did not err in instructing the jury on the issue of conversion in the language of Section 222A, and that in applying that definition, the jury could have found that the defendant did exercise such control or dominion over the plaintiff's automobile as to justify the defendant's paying the full value of the automobile, even though the defendant had possession of the automobile for only a short time and had nothing to do with a subsequent repossession and sale of the automobile by a bank. Richmond v. Fields Chevrolet Co., 261 Or. 186, 493 P.2d 154, 157.

Or.1971. Cit. and quot. in part but dist. The plaintiff furniture company sold various items of furniture to a purchaser under a conditional sales contract. The plaintiff repossessed the furniture. The purchaser brought an action for conversion against the plaintiff insured which the defendant insurer refused to defend. The trial resulted in a judgment against the plaintiff for $164.00. The plaintiff then filed this action seeking recovery for the amount of the judgment plus legal fees and expenses incurred in the unsuccessful defense of the conversion action. The court held that the defendant was not obligated to defend that action because conversion did not constitute "property damage" under the plaintiff's liability policy with the defendant. B & L Furniture Co. v. Transamerica Insurance Co., 157 Or. 548, 480 P.2d 711, 712.

Or.1969. Quot. in sup. Plaintiff, an auto owner, while intoxicated with others in his car, was halted by defendant, a state police officer. During his arrest defendant picked the soberest one in the group, apparently a hitch-hiker and told him to "take-off". He did so and plaintiff never again saw his auto and sued for conversion. The court in reversing, held that these facts did not constitute conversion and stated that the matter should not have gone to the jury. Mustola v. Toddy, 253 Or. 658, 456 P.2d 1004, 1007.

Or.App.

Or.App.2020. Quot. in sup. Trustee of trusts, which were limited partners of limited partnership, brought a derivative action on behalf of limited partnership against bank, among others, alleging that bank, as trustee of a living trust that ultimately had exclusive authority to manage a building administered by limited partnership, converted funds by exacting trustee fees from limited partnership for property management, asset administration, and legal defense of the building in litigation. The trial court granted plaintiff's motion for summary judgment. This court reversed and remanded, holding that there was a genuine issue of material fact as to whether defendant converted limited partnership's property by wrongfully receiving the property. The court

relied on Restatement Second of Torts § 222A in defining the elements of a conversion claim. Stachlowski as Trustee of Thomas P. Moyer Irrevocable Trust v. 1000 Broadway Building Limited Partnership, 470 P.3d 376, 384-385.

Or.App.2017. Quot. in case quot. in sup. State charged defendant with, inter alia, first-degree theft, after he was found in possession of a stolen tractor and admitted that he purchased it from someone claiming to have the owner's permission to sell. The trial court found defendant guilty, imposing restitution damages payable to the owner that were calculated by the rental value of the tractor. This court affirmed, holding that, because defendant had possession of the tractor for many years, damages should be calculated based on a theory of conversion, not loss of use, and that the appropriate measure of damages was the reasonable market value of the tractor when defendant gained possession less its value when the tractor was recovered by the owner. The court quoted Restatement Second of Torts § 222A to define the tort of conversion and the appropriate measure of damages for long-term deprivation. State v. Rosette, 410 P.3d 362, 368.

Or.App.2013. Subsec. (1) adopted in case quot. in sup. Four siblings sued remaining sibling, who had been appointed as personal representative of their deceased mother's estate, alleging that they were entitled to a share of mineral rights that decedent's husband had inherited from decedent and deeded to defendant. The trial court granted summary judgment for defendant. Reversing and remanding, this court held, among other things, that the trial court improperly dismissed plaintiffs' claim for conversion. The court noted that money could be a chattel for purposes of a claim, and that plaintiffs had presented sufficient evidence to raise questions of fact as to whether husband intended to convey the rights solely to defendant or for the purpose of establishing a trust so that the parties would receive equal shares of the money from those rights, and whether defendant knew about husband's intent. Cron v. Zimmer, 255 Or.App. 114, 123, 296 P.3d 567, 577.

Or.App.2013. Subsec. (1) quot. in case quot. in sup. Criminal defendant who was convicted of various crimes arising from two robberies that he committed at a pharmacy appealed the trial court's supplemental judgment for restitution in an amount based on the retail value of Oxycontin tablets that he had stolen. Affirming, this court held that the trial court did not err in finding the market value of the tablets to be their retail value, nor in awarding restitution to pharmacy on that basis. The court explained that the economic damages that a court could award as restitution to a crime victim were the economic damages that the victim could have recovered against the defendant in a civil action for the defendant's conduct. Here, the applicable civil action would have been an action for conversion, for which, under Oregon law, the measure of damages was the reasonable market value of the goods converted at the time and place of conversion. State v. Labar, 259 Or.App. 334, 337, 314 P.3d 328, 330.

Or.App.2011. Subsec. (1) quot. in case quot. in sup. Cotrustee of family trust brought, inter alia, a conversion claim against her brother, pertaining to defendant's acquisition of a house and bank accounts that had belonged to the parties' deceased father. Reversing the trial court's grant of summary judgment for defendant on the conversion claim and remanding, this court held that genuine issues of material fact existed as to whether father intended defendant to become an owner of the joint accounts upon his death when he added defendant as a signatory to those accounts. The court noted that a person could commit conversion even where that person mistakenly believed that he or she was legally entitled to the property, or otherwise acted in good faith. Briggs v. Lamvik, 242 Or.App. 132, 141, 255 P.3d 518, 523-524.

Or.App.2011. Cit. and quot. in sup. Rabbit breeder who had pleaded no contest to animal abuse sued county, alleging, among other things, that county unlawfully seized her rabbits in connection with the criminal proceedings. The trial court granted summary judgment for defendant, finding that all of plaintiff's claims had been decided adversely to her in a prior federal action. Reversing and remanding plaintiff's claim for conversion, this court held, inter alia, that, while the district court in the federal action determined that county's officers acted with a “reasonable belief” in the lawfulness of their actions, such a determination was not, by itself, automatically preclusive of a conversion claim. Scott v. Jackson County, 244 Or.App. 484, 499, 500, 260 P.3d 744, 752, 753.

Or.App.2009. Quot. in sup. Commercial landlord sought to foreclose an alleged landlord's lien on certain wood materials that were stored on his property; defendant former tenant filed a counterclaim for conversion of the stored property. The trial court granted summary judgment for landlord on tenant's counterclaim. Reversing and remanding, this court held that, under

circumstances in which landlord found the materials on his property, tenant demanded their return, and landlord made a qualified refusal to return the materials—taking it upon himself to hold them for his benefit and that of their owner until the court could determine ownership—landlord had a duty to exercise reasonable care to preserve the value of the materials during the time he held them within his possession and control; further, fact issues existed as to the reasonableness of landlord's actions in allegedly leaving the wood materials unprotected and exposed to the elements. Becker v. Pacific Forest Industries, Inc., 229 Or.App. 112, 116, 211 P.3d 284, 287.

Or.App.2003. Cit. in sup. Railroad company whose leased semitrailers were stolen sued semitrailers' initial purchaser for conversion. The trial court entered judgment against initial purchaser. After this court, on remand, reversed and remanded, railroad company petitioned for clarification. Allowing the petition, this court held that the scope of remand necessarily encompassed the determination of damages, as well as liability. Beall Transport Equipment Co. v. Southern Pacific Transportation, 187 Or.App. 472, 476, 68 P.3d 259, 261.

Or.App.2003. Cit. and quot. in sup., cit. and quot. in cases cit. and quot. in sup., subsecs. (e) and (f) cit. in sup. and ftn. Used-trailer dealer that bought stolen railroad company trailers from scrap-metal dealer for resale sued railroad and metal dealer after railroad discovered employee theft had police recover trailers from dealers. Railroad cross-claimed against metal dealer for conversion, and metal dealer cross-claimed against railroad for conversion and indemnity. Trial court entered judgment on jury verdict for railroad against metal dealer after refusing to give dealer's requested instruction on liability for conversion. This court reversed and remanded, holding that trial court erred in failing to give dealer's requested instruction, which referred to "good faith" factor of Restatement Second of Torts § 222A, and that error was not harmless. Beall Transport Equip. Co. v. Southern Pacific Transp., 186 Or.App. 696, 64 P.3d 1193, 1196-1200, on reconsideration 187 Or.App. 472, 68 P.3d 259. See case below.

Or.App.2000. Cit. and quot. in disc. After the theft of 130 semi-trailers from a rail yard, the railroad sued the company that bought the trailers from the thief, alleging conversion. Trial court, among other dispositions, entered judgment on jury verdict for railroad on its conversion claim. This court affirmed, holding, inter alia, that because defendant failed to except explicitly to either the trial court's conversion instruction or to the failure to give its requested instruction, its assignment of error on this issue was not preserved. Beall Transport Equipment Co. v. Southern Pacific Transp., 170 Or.App. 336, 13 P.3d 130, 139, 142, affirmed in part, reversed in part 335 Or. 130, 60 P.3d 530 (2002). See above case.

Or.App.1998. Cit. in headnote, cit. in sup., adopted in case cit. in disc., cit. generally in ftn., cit. in conc. and diss. op., subsec. (2) quot. in case quot. in disc. Plaintiff brought suit to recover damages for defendant's alleged breach of a partnership agreement by which the parties jointly owned the house they occupied and asserted other claims. Defendant counterclaimed, alleging breach of the agreement, and brought a separate action to recover damages for plaintiff's alleged conversion of camera equipment and business records. After the cases were consolidated, the trial court found, in part, that both parties had materially breached the partnership agreement, ordered the house sold, and awarded defendant damages for breach of the agreement and for conversion. Reversing in part and remanding, this court held, inter alia, that plaintiff's interference with defendant's property did not amount to conversion, since the interference deprived defendant of the use of the equipment for only a short time and plaintiff did not intend to assert a right over the equipment that was inconsistent with defendant's right of control. A concurring and dissenting opinion argued that defendant's conversion claim was in reality a claim for trespass to chattels, and that the trial court's entry of judgment for defendant should have been affirmed under that theory. Fogh v. McRill, 153 Or.App. 159, 166, 167, 169, 956 P.2d 236, 237, 241, 242.

Or.App.1997. Quot. in case quot. in disc. (Erron. cit. as § 222a.) A billboard owner sued the state of Oregon for, in part, conversion, after the state dismantled and removed the billboard structure on the ground that it violated Oregon's billboard statute. Affirming the trial court's grant of summary judgment for defendant, this court held, inter alia, that defendant was not liable for conversion; since plaintiff's removal of the display advertising from the billboard did not bring the billboard into compliance with the statute and since plaintiff failed to remove the billboard or request a hearing within the requisite 30 days from the date of notice, defendant had authority under the statute to remove the entire billboard structure. Outdoor Media Dimensions Inc. v. State, 150 Or.App. 106, 945 P.2d 614, 618.

Or.App.1996. Cit. in headnote, adopted in case cit. in disc., subsecs. (1) and (2) quot. in sup. Owner of a portable sawmill brought an action for conversion against landowner on whose property the sawmill had been left with landowner's permission. The trial court held that plaintiff's claim was barred by the six-year statute of limitations. Affirming, this court held that the cause of action accrued in 1986, more than six years prior to plaintiff's filing of the action, when defendant refused to release the sawmill unless storage charges were paid. The court stated that defendant made no attempt to contact anyone regarding the sawmill, kept it behind a locked fence, and did not make it accessible to plaintiff; defendant's interference continued for such time and to such an extent that the trial court could conclude that defendant was not merely "storing" the sawmill, but was controlling it in a manner that seriously interfered with plaintiff's rights. Everman v. Lockwood, 144 Or.App. 28, 31, 32, 925 P.2d 128, 128-130.

Or.App.1993. Quot. in case cit. in sup. A client sued his attorney for malpractice and conversion after the attorney allegedly, in concert with a third person, fraudulently signed checks from the client's checkbook, made them payable to the attorney, and deposited them in the attorney's personal account. This court, reversing a dismissal of the complaint and remanding, held, inter alia, that these allegations and the allegation that the attorney knew the client had not authorized the third person to sign his checks sufficiently pleaded a claim for conversion. Durham v. McCann, 120 Or.App. 137, 142, 851 P.2d 1168, 1171.

Or.App.1993. Subsec. (1) cit. in case quot. in disc., subsec. (2) cit. in case quot. in ftn. When an attorney went to a bank to cash a cashier's check that was drawn payable to a court for bail and given to him by a client for payment of legal fees, bank's employees took the check, retained it for several minutes and refused to return it on attorney's demand. Attorney sued bank for, among other claims, statutory conversion, and trial court awarded plaintiff judgment on that claim. Reversing on defendant's cross-appeal, this court held, inter alia, that although defendant exercised dominion or control over the check, the interference, which lasted less than 20 minutes until plaintiff forcibly regained control, was not so significant an interference as to support a conversion claim and would not justify payment of the check's full amount. Since the statutory provisions did not set out the elements for a conversion claim, the elements were to be found in the common law. Morrow v. First Interstate Bank, 118 Or.App. 164, 847 P.2d 411, 415.

Or.App.1989. Quot. in case cit. in sup. When a lawyer failed to pay his rent, the landlord took possession of his office furniture, equipment, and law books in violation of a 20-day statutory lien waiting period, but he allowed the lawyer to remove his client and financial files. After the lawyer sued the landlord for conversion of his chattels, the trial court found for the defendant. Affirming, this court held that the defendant's action did not rise to the level of conversion, since the defendant acted in good faith and did not harm the plaintiff's chattels or law practice in any material way. Jordan v. Wilhelm, 95 Or.App. 528, 770 P.2d 74, 76, review denied 308 Or. 79, 775 P.2d 322 (1989).

Or.App.1988. Subsec. (1) quot. in disc. The purchaser of a diesel truck that was bought with a retail installment contract sued the seller for conversion, after the seller repossessed the truck from an automobile repair shop. The trial court entered judgment for the plaintiff for compensatory damages. This court affirmed the trial court's denial of the defendant's motion for a directed verdict, since an issue existed as to whether the defendant justifiably repossessed the truck based on a good faith belief that the plaintiff would not make an installment payment and would have had the truck towed instead of repaired. The court also reversed the judgment n.o.v. as to punitive damages granted to the defendants and remanded. Blades v. White Motor Credit Corp., 90 Or.App. 125, 750 P.2d 1198, 1200.

Or.App.1987. Subsec. (1) quot. in case quot. in disc. A skydiver jettisoned a parachute in an emergency. The chute fell on a landowner's property and the landowner's father prevented the skydiver from entering the land to retrieve the chute. When police went to retrieve the chute, the landowner told them someone had taken it from his shed, and the skydiver sued the landowner for conversion. The trial court issued a directed verdict for the defendant. This court reversed and remanded, holding that there was a jury issue as to whether the chute was taken from the landowner's shed. The court noted that the plaintiff was not required to offer evidence to eliminate all of the inferences inconsistent with the defendant's liability which might be drawn from the

circumstantial evidence of intent to convert which the plaintiff had offered. Leibrecht v. Hawkins, 83 Or.App. 396, 731 P.2d 1057, 1059.

Or.App.1985. Quot. in sup. Defendant purchasers appealed from a judgment of the trial court which granted the sellers strict foreclosure of a land sale contract for commercial property. The court of appeals reversed and remanded with instructions to determine the amounts defendants were entitled to as to restitution and as to damages for conversion. The court held, inter alia, that the sellers, by locking the purchasers out of the property when the purchasers were late with their monthly payment but not technically in default, repudiated the contract of sale and converted all of the purchasers' personal property within. The court reasoned that when the sellers changed the door locks on the store, they manifested their intent to exercise exclusive domain and control over the personal property, which constituted conversion as a matter of law. Legg v. Allen, 72 Or.App. 351, 696 P.2d 9, 13.

Or.App.1982. Quot. and cit. in sup., com. (d), illus. 25 and 26 quot. in sup. A car owner brought an action against the defendant parents, claiming that their unemancipated minor daughter took control of his vehicle without his consent. The daughter substantially destroyed the plaintiff's vehicle when she left the road and collided with a building. The basis asserted for the defendants' liability was a state statute which provided that parents were liable for actual damages caused by any tort intentionally committed by their unemancipated minor child. The trial court granted summary judgment in favor of the defendants on the ground that the defendants' daughter had not intentionally damaged the car. On appeal, this court observed that the essence of the tort of conversion was an intentional exercise of control. The court determined that the complaint pleaded this tort and sufficiently established grounds for the defendants' liability, since the word “intentionally” as used in the statute referred to committing a tort, rather than causing damage. Reversed and remanded. Francis v. Farnham, 58 Or.App. 469, 648 P.2d 1349, 1351, review denied 293 Or. 635, 652 P.2d 810 (1982).

Or.App.1980. Quot. and dist. Action was brought by plaintiff for conversion by wrongful execution. The execution alleged as wrongful consisted of seizure of all receipts and goods on the premises of a restaurant in satisfaction of a judgment which had been obtained against the original owner of the restaurant for breach of an agreement to sell the property to defendants. Plaintiffs were in possession of the restaurant at the time of execution and contend that possession alone is sufficient to maintain an action for conversion. The trial court granted judgment for plaintiffs and awarded nominal damages. Plaintiffs appealed, claiming the damages award was inadequate. The appellate court affirmed the judgment of the trial court; however, it stated that in the context of wrongful execution, legal title is controlling in determining who has sufficient right of control of a chattel to sue for conversion, regardless of what is controlling in other contexts. The court noted that allowing a party in possession to sue for conversion would lead to the preposterous conclusion that a bank in possession of property belonging to a judgment debtor would have a cause of action against a judgment creditor who executes on the property. Springfield International Restaurant, Inc. v. Sharley, 44 Or.App. 133, 605 P.2d 1188, 1190.

Pa.

Pa.1970. (Erron. cit. as Torts § 22a). Illus. 14 and 16 cit. in sup. The plaintiff wrecking company claimed the right to remove a coal “cleaning plant” as part of its property as assignee under a sales contract for certain structures on the premises. The defendant, asserting that the contract did not include the cleaning plant, erected an earthen barrier to impede plaintiff's attempted removal of the contested property. It was held that since the plaintiff was found not to have any right to the cleaning plant, no dispossession of the plaintiff occurred by the erection of the barrier, as it was not claimed that plaintiff was denied access to any of its rightful property. Therefore, the dismissal of the complaint was proper. A.J. Solomon Wrecking Co. v. Raymond Colliery Co. 437 Pa. 342, 263 A.2d 743, 745.

Pa.1970. Cit. in sup. This was an action by a highway construction contractor's bankruptcy trustee against a surety on six contracts and the Commonwealth. The court held that where the contractors defaulted, their sureties completed nine contracts with the Commonwealth, most laborers, materialmen and subcontractors were paid but some claims remained outstanding, and the Commonwealth paid the entire amount due on the nine contracts to the surety on six contracts, this surety had possession of

at least some money to which it was not entitled, and the trustee would be permitted to amend its complaint to state a cause of action against such surety for conversion, or to state with greater particularity a cause of action for assumpsit, or state an equity case on a trustee ex maleficio theory. Martin v. National Surety Corporation, 437 Pa. 159, 262 A.2d 672, 675.

Pa.Super.

Pa.Super.2013. Cit. and quot. in sup., coms. (c) and (d) quot. in sup. Former employer that provided sports training to athletes sued two former employees who opened their own competing sports-training institute, claiming, inter alia, that defendants converted plaintiff's client-training files. The trial court granted summary judgment for defendants. Affirming, this court held that plaintiff's conversion claim failed because plaintiff did not prove that defendants unreasonably withheld the files from plaintiff or so seriously interfered with plaintiff's right to control the files as to establish a conversion. The court noted that the evidence showed that defendants admitted to taking certain client worksheets, and, when plaintiff demanded their return, defendants retuned them two weeks later. PTSI, Inc. v. Haley, 71 A.3d 304, 313-315.

Pa.Super.1983. Cit. in disc. The inventor of an automobile differential brought an action in trespass for conversion against a company which he had engaged to construct a prototype. The plaintiff claimed that the defendant refused to deliver upon proper demand parts and plans of his invention. Judgment was entered for the plaintiff, and the defendant appealed. The appeals court reversed and remanded for a new trial, ruling that the lower court erred in allowing testimony on the cost of constructing a new prototype when the evidence showed that the only property converted was two drawings. Absent a showing that the defendant had a prototype in its possession, no action lay for its conversion. Northcraft v. Edward C. Michener Associates, 319 Pa.Super. 432, 466 A.2d 620, 624.

R.I.

R.I.2006. Subsec. (1) quot. in case quot. in sup. Power company sued homeowner for illegally diverting electricity in a manner that allowed him to receive a substantial amount of electric service for which he was not billed. The trial court, among other things, found defendant liable for conversion. Affirming, this court held, inter alia, that plaintiff sufficiently proved conversion of electricity, because plaintiff originally possessed or was entitled to possess the unbilled electricity that ended up in defendant's home, defendant, through the use of an underground bypass, diverted the electrical current from plaintiff's transformer pad into his home without plaintiff's consent, and defendant exercised dominion or control over that electricity by using it in his home to power a portion of his electrical appliances. Narragansett Elec. Co. v. Carbone, 898 A.2d 87, 97.

R.I.2001. Subsec. (1) cit. in disc. Residents of apartment complex filed class-action suit against complex owner, alleging conversion of their vehicles and unfair and deceptive trade practices. Trial court granted defendant summary judgment, and one resident appealed. Affirming, this court held that defendant did not convert resident's vehicle by having it towed, as resident had notice of owner's towing policy; owner, who did not reap profit from towing company, did not act in concert with towing company, which failed to release resident's vehicle until towing and storage fees were paid; and towing the vehicle after a snowstorm was not unfair or deceptive trade practice, as it served the legitimate purpose of providing access to plows and emergency vehicles. Ames v. Oceanside Welding and Towing Co., Inc., 767 A.2d 677, 681.

R.I.1996. Subsec. (1) cit. in headnote and cit. and quot. in disc. Real estate broker sued a builder, alleging breach of an oral partnership agreement and conversion. The builder counterclaimed for slander of title. Trial court granted defendant a directed verdict on the conversion count and then entered judgment on jury verdict for defendant. This court affirmed, holding, inter alia, that the jury's rejection of plaintiff's claim that defendant breached the alleged oral partnership agreement and thereby wrongly refused to grant her an interest in the property mooted her claim that he improperly converted this partnership property for his own benefit. The court stated that there could be no conversion of partnership property that did not belong to plaintiff, and in this case the jury specifically found that no partnership existed. Montecalvo v. Mandarelli, 682 A.2d 918, 920, 928.

S.C.

S.C.1992. Com. (c) quot. in disc. Automobile owner sued repair shop for conversion of insurance check, inter alia, after defendant made additional repairs over the initial repair estimate without informing plaintiff. The trial court directed a verdict for plaintiff in the amount of the converted check and directed a verdict for defendant in the amount of its initial estimate on its counterclaim for repair costs; the intermediate appellate court amended the judgment to order plaintiff to endorse the check so that it was payable to defendant. Affirming in part and reversing in part, this court held that once defendant satisfied the judgment to plaintiff, defendant became the lawful owner of the check that it had converted, and concluded that plaintiff's endorsement of the check was not necessary to effectuate the trial court's judgment. Young v. Century Lincoln-Mercury, Inc., 309 S.C. 263, 422 S.E.2d 103, 105.

S.C.App.

S.C.App.1989. Com. (c) quot. in disc. An automobile owner sued a repair shop for fraud, violation of the Unfair Trade Practices Act (UTPA), and conversion of a check after the repair shop contacted only the owner's insurer for authorization of additional repair costs. The repair shop counterclaimed, alleging that the owner refused to endorse the check for repair costs from her insurer. The trial court directed a verdict for the defendant on its counterclaim for the amount of the original estimate, directed a verdict for the plaintiff on her conversion claims, and entered judgment for the plaintiff on her UTPA claim. Affirming, this court held that the defendant's conduct constituted an unfair trade practice because it had the capacity and the effect of deceiving the plaintiff and had an impact upon the public interest. On rehearing, the court held that it had the inherent power to amend the judgment by ordering the plaintiff to endorse the insurer's check over to the defendant in order to effectuate the trial judge's directed verdicts. It analogized that when a defendant satisfies a judgment in an action for conversion, title to the chattel must pass to him. Young v. Century Lincoln-Mercury, Inc., 302 S.C. 320, 396 S.E.2d 105, 110-111, judgment reversed 309 S.C. 263, 422 S.E.2d 103. See above case.

S.D.

S.D.1986. Cit. in disc., subsec. (2) cit. but dist. A customer sued a jeweler, alleging the wrongful conversion of two diamond rings after the jeweler mistakenly delivered the rings to another party. The trial court held that the entrustment of the rings based upon an invitation of "free ring cleaning" was a bailment and the misdelivery a conversion. This court affirmed, defining conversion as the intentional exercise of dominion or control over a chattel so as to seriously interfere with the rights of another to control the chattel. The court noted that liability for conversion does not require wrongful intent, is not excused by good faith or lack of knowledge, and may not be mitigated by a showing of "innocent" misdelivery. Rensch v. Riddle's Diamonds of Rapid City, Inc., 393 N.W.2d 269, 271-273.

Tex.App.

Tex.App.2003. Quot. in conc. and diss. op., com. (d), illus. 9 and 10 quot. and cit. in conc. and diss. op. Mechanic sued auto-repair shop and two of its employees for conversion of his toolbox, negligence, negligent bailment, and breach of contract after shop's employees released toolbox to person claiming to be mechanic. Trial court dismissed employees and granted shop summary judgment. Affirming, this court held, inter alia, that shop did not convert toolbox where there was no evidence that shop intended to exercise dominion or control over toolbox, and fact that employees unwittingly assisted imposter in physically carrying toolbox from garage was not evidence that employees intended to assert any right over toolbox or that shop authorized employees' actions. Concurring and dissenting opinion stated that in conversion action, fact that defendants acted in complete innocence and good faith was not defense. Robinson v. National Autotech, Inc., 117 S.W.3d 37, 46.

Tex.App.1994. Subsec. (1) cit. in sup. Auto dealer that had accepted an auto as a trade-in sued a private wrecking company for conversion, conspiracy, and fraud after the auto had been apparently stolen and abandoned, then towed on behalf of the

police after being declared an abandoned vehicle, and the towing company subsequently refused to release it to the auto dealer. Affirming the trial court's entry of judgment for plaintiff on its conversion claim that awarded punitive damages, this court held, inter alia, that the wrecking company was subject to an award of punitive damages for willfully converting the auto without legal justification. Bosworth v. Gulf Coast Dodge, Inc., 879 S.W.2d 152, 159.

Tex.App.1989. Cit. in disc. After the parents of a suspect in the theft of a pick-up truck, who was killed during a police pursuit, sued the city for wrongful death, the trial court granted summary judgment to the defendant. Reversing and remanding, this court rejected the defendant's argument that it was not liable under the Texas Tort Claims Act for claims arising out of an intentional tort. The court stated that the decedent's commission of the intentional act of conversion of the pick-up truck was unrelated to the alleged negligence cause of action, the gravamen of this lawsuit. Guzman v. City of San Antonio, 766 S.W.2d 858, 861.

Tex.App.1982. Cit. in sup. A corporate shareholder brought a conversion action against another shareholder and a third party with a security interest in the corporate assets. After the corporation was founded by the shareholders, the defendant shareholder negotiated a corporate loan with the third party, giving the third party a security interest in the corporation's assets, allegedly without the knowledge or consent of the plaintiff. The corporation began to fail, and the defendant shareholder began to liquidate corporate assets, including the corporation's leasehold on the business premises. At trial, a jury verdict was rendered against both defendants. On appeal, this court reversed and remanded. The court relied on a variety of grounds, among them the Restatement (Second) of Torts § 222A, in holding that the trial court erred in allowing the jury to consider the corporate leasehold as a part of the property that was allegedly converted. Conversion was the wrongful possession of chattels and did not apply to realty. Branham v. Prewitt, 636 S.W.2d 507, 512, writ refused n.r.e. 643 S.W.2d 122 (1982).

Tex.Civ.App.

Tex.Civ.App.1977. Cit. but dist. A landowner leased unimproved property to six doctors for purposes of building a medical clinic. The lease contained a subordination agreement in which plaintiff agreed to subordinate his interest in the property in favor of the lending institution which provided construction financing for the proposed building. The landowner brought an action against the lessees after a bank foreclosed on the lessees' default on a promissory note. The court, in reversing a judgment for plaintiff, held that defendants did not breach any contractual duty with plaintiff when they defaulted on the note, as the lease contained no obligation to pay the subsequently signed note. The court held that plaintiff could not recover on a conversion theory, as conversion does not apply to realty, but applies to chattels. The court found that there was no intentional act on defendants' part to interfere with any contractual obligation of plaintiff. The court overruled plaintiff's motion for rehearing. Rodriguez v. Dipp, 546 S.W.2d 655, 658, error ref.n.r.e.

Tex.Civ.App.1976. Subsec. (1) cit. in sup. Plaintiff brought this suit for conversion of bonds in his margin account against the defendant broker. The defendant filed a counterclaim for an alleged debt accruing from the account. The lower court granted defendant a judgment n.o.v., as well as a verdict on his counterclaim. On appeal, the court reversed and remanded, holding that the judgment n.o.v. was error, since there was evidence showing that the defendant had exercised dominion over the plaintiff's bonds by attempting to stall transfer of the margin accounts, as requested by the plaintiff. However, the court stated that there was no evidence to support the jury's finding that the bonds were converted after the filing of the instant suit; nonetheless, since there was evidence of a conversion, the cause must be remanded for a new trial. Romano v. Dempsey-Tegeler & Co. Inc., 540 S.W.2d 538, 540.

Vt.

Vt.2015. Cit. in ftn. Property owners filed trespass, conversion, and other claims against neighbor who had constructed a boathouse on his property, alleging that the boathouse and its retaining wall encroached on plaintiffs' property. Following a bench trial, the trial court entered an order regarding the location of the boundary between the parties' properties and ruled that the wall did not constitute a trespass. This court reversed in part, holding that the trial court erred in finding that plaintiffs did not have a right to a jury trial. The court cited Restatement Second of Torts § 222A for the tort of conversion and pointed out

that, while plaintiffs alleged that defendant was engaged in a "continuing conversion," it was unclear from the evidence what chattels, if any, were wrongfully converted. LeBlanc v. Snelgrove, 133 A.3d 361, 372.

Vt.2013. Cit. in case cit. in sup. Developer brought a breach-of-contract action against contractor, claiming that contractor had removed sand from a construction site without permission. After a bench trial, the trial court awarded developer damages in the amount of the fair market value of the sand, but declined to award sums for transporting the sand back to the site and spreading it. This court affirmed the award. The court rejected developer's argument that it was entitled to expectation damages in an amount equal to the lost benefit of the parties' bargain—or the reduction in the value of the property when the sand was removed—as measured by the cost of remedying the damage to the property, holding that the measure of developer's damages was not for damage to its real property, but for the unlawful taking of its personal property. Although developer's claim for the removed sand was styled as one for breach of contract, it was more properly viewed as one for conversion of personal property, because contractor exercised dominion over the sand without developer's authorization, and the sand became personal property after it was separated from developer's real property. Birchwood Land Co., Inc. v. Ormond Bushey & Sons, Inc., 2013 VT 60, 82 A.3d 539, 546.

Vt.2006. Cit. in treatise cit. in sup. (general cite), cit. in disc., subsecs. (1) and (2) quot. in sup., subsec. (2)(b) quot. in sup., subsecs. (2)(a)-(2)(f) cit. in sup. (general cites), coms. (c) and (d) quot. in sup. After $80,000 in cash was burgled from his residence, homeowner filed a civil suit against the alleged thief and a number of thief's relatives, alleging that each of the defendants was liable for conversion of the stolen funds. The trial court ruled, inter alia, that neither thief's uncle nor uncle's live-in partner was liable for conversion. This court affirmed that portion of the decision, holding that an analysis of the factors set forth in Restatement Second of Torts § 222A did not support the extreme remedy of imposing liability for converting any portion of the stolen cash on these defendants, who had written two $5,000 personal checks in exchange for $10,000 in cash from alleged thief's father the day after the robbery, believing only that they were helping father shield legitimately earned money from the IRS. Montgomery v. Devoid, 2006 VT 127, 181 Vt. 154, 915 A.2d 270, 274-277.

Vt.1993. Cit. in disc. Accounting firm sued, under theory of conversion, two accountants and new firm they formed after separating from plaintiff, alleging that defendants unlawfully retained assets of plaintiff's Rutland office after date of one defendant accountant's termination. The trial court found one defendant accountant personally liable but declined to hold the other defendant accountant or defendant firm liable. This court affirmed finding of liability against the one defendant but reversed and remanded for entry of judgment against other defendants as well and for determination of damages. The court agreed with plaintiff that assets retained by one defendant were the same assets retained by all defendants; therefore, it was clearly erroneous not to find conversion as to all defendants. It noted that good faith and lack of knowledge as to the true owner of property was irrelevant to conversion. P.F. Jurgs & Co. v. O'Brien, 160 Vt. 294, 629 A.2d 325, 329.

Vt.1979. Cit. in sup. and com. (c) cit. in disc. The plaintiff brought this action concerning his tenure, claiming conversion of a property right and wrongful interference with a contract. The lower court dismissed the case and the plaintiff appealed. This court held that the “right” of presumptive tenure might in fact be a protectible interest but it was not a property interest which was capable of being converted. It was too intangible and therefore impossible to define the damages involved. However, the essential elements of a claim for wrongful interference with the plaintiff's contractual rights were alleged and not susceptible to a motion for summary judgment. Case remanded. Lyon v. Bennington College Corp., 137 Vt. 135, 400 A.2d 1010, 1012.

Wash.

Wash.2008. Com. (a) cit. in sup. Owner of vehicles that were impounded pursuant to a statute that was later declared invalid filed a class action against state patrol, alleging that it unlawfully converted his vehicles by impounding them under the statute. The trial court granted summary judgment for defendant. Reversing and remanding, this court held, inter alia, that the redemption procedures outlined in the statute were not the exclusive method by which an unlawful impoundment could be challenged, and thus did not bar plaintiff's conversion claim. The court reasoned, in part, that where the common-law remedy predated the statutory remedy, the statutory remedy was cumulative, not exclusive, and pointed out that the modern law of conversion was

first recognized in 1841, while the statutory vehicle redemption procedures, in their earliest form, were passed in 1979. Potter v. Washington State Patrol, 165 Wash.2d 67, 196 P.3d 691, 702.

Wash.1989. Cit. in disc. A bank with a security interest in a debtor's crop and its proceeds sued a sales agent for a commission merchant with which the debtor had entered into a handling and financing agreement. The bank alleged conversion by the sales agent of the proceeds from the sale of the debtor's crop, asserting a superior security interest. The trial court entered judgment for the sales agent. This court reversed and remanded for entry of judgment consistent with this opinion, holding that the bank had a superior security interest in all proceeds from the sale of the debtor's crop, including the portion that the sales agent deducted for its commission. The court said that the defendant had converted the proceeds the moment it took the funds in satisfaction of the debtor's account. Central Wash. Bank v. Mendelson-Zeller, 113 Wash.2d 346, 779 P.2d 697, 703.

Wash.App.

Wash.App.2000. Cit. in disc., subsec. (1) quot. in ftn. in sup. Shareholder sued escrow agent for, inter alia, conversion in connection with defendant's actions during a real estate/loan transaction. The trial court entered summary judgment for defendant. Reversing, this court held, in part, that material factual issues existed as to whether defendant knew of, facilitated, and benefited from plaintiff's coshareholder's intentional transfer of assets in which plaintiff had a right to any proceeds derived from assets' liquidation. Butko v. Stewart Title Co. of Washington, Inc., 99 Wash.App. 533, 991 P.2d 697, 710.

Wash.App.1988. Subsec. (1) quot. in case quot. in disc. Two shareholders sued a corporation for conversion of stock. The corporation changed its name and the plaintiffs made several futile requests to transfer their shares. The trial court entered judgment for the shareholders. This court affirmed, holding that the defendant corporation had converted the plaintiffs' stock. The court stated that the corporation was liable for conversion of the shareholders' stock when they had made repeated demands for the transfer of their stock, and the one shareholder had tendered all of his shares, including those represented by lost certificates, and the transfer agent would not transfer the shares, regardless of whether the shares were represented by lost certificates. Frisch v. Victor Industries, Inc., 51 Wash.App. 377, 753 P.2d 1000, 1002.

Wash.App.1982. Subsec. (1) quot. in disc. An equipment lessor brought an action for conversion against an auction company when the defendant sold, at the direction of the lessee, two forklift trucks which belonged to the plaintiff. The auction company appealed from an adverse judgment, challenging, inter alia, the lower court's finding that the plaintiff did not consent to the sale. This court held that the plaintiff satisfied its burden of proving nonauthorization by showing that it was not aware of the sale. The court rejected the defendant's other asserted errors, and affirmed. Top Line Equipment v. National Auction Serv., 32 Wash.App. 685, 649 P.2d 165, 167.

Wis.App.

Wis.App.2013. Com. (d) quot. in sup. Owner of helicopter company brought a conversion action, inter alia, against one of company's managerial employees, alleging that employee allowed pilot to take a helicopter without owner's permission, and significant property damage resulted when pilot crashed the helicopter. The trial court found for plaintiff and awarded damages. Affirming, this court held that the evidence supported the trial court's findings that all three elements of conversion under Wisconsin law were present. The court explained that defendant controlled the helicopter, because he managed the flight school and had authority to give pilots access to the hangar; that he did not have authority to give pilot permission to use the helicopter for a skydiving event without plaintiff's consent, because he understood the scope of owner's "no commercial events" policy and he deliberately violated it; and that there was serious interference with the rights of plaintiff based on $384,819 in damage to the helicopter. Midwestern Helicopter, LLC v. Coolbaugh, 2013 WI App 126, 839 N.W.2d 167, 172.

Wyo.

Wyo.1994. Cit. in sup. Owner of interest in oil well's net profits sued operator of oil field for nonpayment of net profits. The trial court entered judgment on a jury verdict for plaintiff. Affirming in part, this court held, inter alia, that defendant's net profits were analogous to a royalty interest and capable of conversion. The court also held that, since, conversion was a tort, an exceptions clause in the parties' contract was unavailable to defeat or mitigate plaintiff's damages arising out of the conversion committed by defendant. Ferguson v. Coronado Oil Co., 884 P.2d 971, 975.

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