

806.00 CONVERSION.

NOTE WELL: The defendant could be the alleged original converter of the plaintiff's goods or a subsequent purchaser of previously converted goods. If the defendant claims he or she was a bona fide purchaser of the plaintiff's goods, see N.C.P.I. —Civil. 806.04 Conversion—Defense of Good Faith Purchaser.

The (*state number*) issue reads:

"Did the defendant convert the (*name personal property*) of the plaintiff?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, two things:

First, that until the time the defendant came into possession of the (*name personal property*), the plaintiff was its lawful owner and was entitled to its immediate possession.¹

Second, that the defendant converted the (*name personal property*) to the defendant's own use. Conversion is the unauthorized assumption and exercise of a right of ownership over personal property belonging to another, to the [alteration of its condition]² [exclusion of an owner's rights of ownership over [his] [her] [its] own personal property] [retention of an owner's personal property after the owner has made a demand for its return].³

The plaintiff need not prove that the defendant had a wrongful intent. Good faith, honest intentions and innocence are not defenses.⁴

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence, that the defendant converted the (*name personal property*) of the plaintiff, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

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1. The action for conversion applies to goods and personal property, but not to real property. *Norman v. Nash Johnson & Sons' Farms, Inc.*, 140 N.C. App. 390, 414, 537 S.E.2d 248, 264 (2000) (citing *McNeil v. Minter*, 12 N.C. App. 144, 146, 182 S.E.2d 647, 648 (1971)).

2. Conversion may also exist where the defendant takes the personal property of the lawful owner and, through his efforts and labor alters the form or type of the property, such as corn into whiskey or timber into a house. Under these circumstances, a demand for return of the converted property is not required. 89 C.J.S. Trover & Conversion § 47 (1955). North Carolina courts define "conversion" as "an unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, *to the alteration of their condition* or the exclusion of an owner's rights." *Steele v. Bowden*, 238 N.C. App. 566, 574, 768 S.E.2d 47, 55 (2014) (emphasis added).

3. However, after an act of conversion has become complete, an offer to return or restore the property by the wrongdoer will not bar the cause of action for conversion. *Wall v. Colvard, Inc.*, 268 N.C. 43, 49, 149 S.E.2d 559, 564 (1966) (citing *Stephens v. Koonce*, 103 N.C. 266, 9 S.E. 315 (1889)).

4. *State v. West*, 293 N.C. 18, 31, 235 S.E.2d 150, 158 (1977) (citing *Wall v. Colvard*, 268 N.C. 43, 149 S.E.2d 559 (1966)); *see also Variety Wholesalers, Inc. v. Salem Logistics Traffic Servs., LLC*, 365 N.C. 520, 530, 723 S.E.2d 744, 751 (2012) ("The essence of conversion is not the acquisition of property by the wrongdoer, but a wrongful deprivation of it to the owner ... and in consequence it is of no importance what subsequent application was made of the converted property, or that defendant derived no benefit from the act.").