

806.04 CONVERSION—DEFENSE OF GOOD FAITH PURCHASER.

The (*state number*) issue reads:

“Was the defendant a good faith purchaser of (*name personal property*) belonging to the plaintiff?”

On this issue the burden of proof is on the defendant. This means that the defendant must prove, by the greater weight of the evidence, that the defendant purchased (*name personal property*) belonging to the plaintiff from [(*name co-defendant*)] [a third party], in good faith.

A purchaser of personal property belonging to another purchases the property in good faith if [he] [she] purchases the property without notice, actual or constructive,¹ that the personal property belongs to another.

You must consider whether, when purchasing (*name personal property*) from [(*name co-defendant*)] [a third party], the defendant had notice, actual or constructive, that the (*name personal property*) the defendant acquired was property belonging to another.²

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

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 plaintiff.

1. “While articulations of the definition of constructive notice vary in North Carolina case law, [the North Carolina Supreme] Court has discussed the underlying concept as follows: Knowledge of facts which the party has or should have had constitutes notice of whatever an inquiry into such facts would have disclosed and is binding on the party. Whatever puts a person on inquiry amounts in law to ‘notice’ of such facts as an inquiry pursued with reasonable diligence and understanding would have disclosed.” *Variety Wholesalers, Inc. v. Salem Logistics Traffic Servs., LLC*, 365 N.C. 520, 526–27, 723 S.E.2d 744, 749 (2012) (cleaned up); *see also King v. Brooks*, 224 N.C. App. 315, 318, 736 S.E.2d 788, 791 (2012).

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2. As more fully explained in *Variety Wholesalers, Inc. v. Salem Logistics Traffic Servs., LLC*, 365 N.C. 520, 526–27, 723 S.E.2d 744, 749 (2012), a defendant who comes into possession of converted personal property will not be permitted to use the personal property when the defendant is fully aware of its nature, or there are circumstances to awaken suspicion and put the defendant on inquiry. However, under the same circumstances, a *bona fide* purchaser for value, without notice, receives good title against the world. The status of a *bona fide* purchaser for value was first recognized as a defense to the tort of conversion in *Singer Manufacturing Co. v. Summers*, 143 N.C. 102, 105–06, 55 S.E. 522, 523 (1906), as noted by the court of appeals’ decision in *King v. Brooks*, 224 N.C. App. 315, 318, 736 S.E.2d 788, 791 (2012).