

# Module 1/Exercise 1

## *Essential Elements*

### Conversion/\$ Owed

Π is lawful owner of property, entitled to possession  
 Δ either wrongfully took or wrongfully retained property  
 FMV of property when taken/retained

### Recovery of PP

[same]  
 [same]  
 Δ presently has property  
 Amount of \$ damages for:  
 --loss of use  
 -- injury to property

### CASE #1

#### Plaintiff’s Testimony

*“I came home from work and found my lawnmower was gone. When I asked the defendant – my neighbor -- if she'd seen anyone around my house, she told me she'd borrowed the mower. I told her I wanted it back, and she said okay, except that it was broken and she'd planned on fixing it. I lost my temper and just walked off.*

*That was a good lawnmower – worth at least \$500.”*

Has plaintiff introduced at least some evidence of each essential element for \$ damages?

Has plaintiff introduced at least some evidence of each essential element for recovery of personal property?

If you answered no for either question above, what element is missing?

Assume defendant is not present, but you’re not yet convinced --by the greater weight of the evidence. List two questions you might ask to help you decide what to do:

Question 1: \_\_\_\_\_

Question 2: \_\_\_\_\_

### CASE #2

#### Plaintiff’s Testimony

*“I came home from work and found my lawnmower was gone. When I asked the defendant – my neighbor -- if she'd seen anyone around my house, she told me she'd borrowed the mower for her brother to use. I told her I wanted it back, and she said her brother lives over in Hillsborough, but that she'd try to get it back from him by next week. That was three weeks ago. And that was a good lawnmower, too – worth at least \$500.”*

Has plaintiff introduced at least some evidence of each essential element for \$ damages?

Has plaintiff introduced at least some evidence of each essential element for recovery of personal property?

Defendant's Testimony

*Well, first of all, he told me to feel free to borrow that mower any time I needed to. Anyway, I don't even have that darned mower – like I already told him, it's still at my brother's house. And it sure isn't worth \$500 – I'd say \$75, max!"*

Do any of these statements raise a legal defense you must consider?

If so, which one(s)?

If so, is it a defense that challenges an essential element (and if it is, which element?), OR does it present an affirmative defense?

After you've heard this testimony from the parties, list two questions you might ask to help you decide what to do:

Question 1: \_\_\_\_\_

Question 2: \_\_\_\_\_