WRONGFUL DETENTION OF PERSONAL PROPERTY

Defendant borrows the plaintiff's 1992 Corvette for Homecoming, and promised to return it on October 3rd, but has not done so.

What are the remedies of the owner?

I. Replevin. § 14-4

A. What are the elements of replevin? See § 18-60-809,810.

B. Summarize the three available procedures:

(1) (a) § 18-60-804

(b) § 18-60-805

(c) § 18-60-806

(d) § 18-60-811

(e) § 18-60-812

(f) § 18-60-813, 815

(g) § 18-60-816

(2) § 18-60-808

(3) § 18-60-807

Are the procedures constitutional under Fuentes et al?

C. If the owner wins after a trial on the merits, what are the elements of recovery?

See § 18-60-820(a),822. Be creative. List possibilities.

(1)

(2)

(3)

(4)

(5)

(6)

D. Suppose the defendant wins? See § 18-60-820(b).

E. When would a plaintiff go to equity for "replevin"'?

II. Conversion. See pages 478-486. § 33-7

A. What are the elements of the cause of action for trespass to a chattel? Give an example. What is the measure of damages?

B. What are the elements of the cause of action of conversion? Give an example.

C. What are the elements of recovery for conversion? Be creative.

(1)

(2)

(3)

(4)

(5)

(6)

D. Suppose the defendant tries to return the Corvette.

E. Suppose the chattel has been sold to an innocent third party? What are the elements of recovery?

III. Restitution - Read pages 817-831, but wait until November.

A. What is meant by "waiving the tort and suing in assumpsit"?

B. How does the court determine the nature or amount of "remedial restitution"?

(1) In general

(2) Olwell, p. 829

(3) Felder, p. 823

(4) model case, page 781 and 818

(5) Problem, p. 828

IV. Summary

A. Opal Owner has furs with a fair market value of $10,000. Tom Thief steals them, and sells them to Fred Fence for $4,000. Fred sells them to Betty BFP (who buys innocently) for $12,000.

B. What are the owner's remedies against the three defendants?

C. To ask the same question from another approach, what can the owner obtain using replevin, conversion or unjust enrichment?

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