

2200.2 CONVERSION: DESTRUCTION OR ABUSE OF PROPERTY

A conversion is committed by a person who without consent of the owner seriously interferes with the right of the owner of property to control his or her property permanently or for an indefinite period of time. Before you may find that (defendant) committed a conversion of property belonging to (owner), you must find the following:

1. that (defendant) intentionally (destroyed property belonging to (owner)) (abused or materially altered property belonging to (owner)) to such an extent as to change its identity or character;
2. that (defendant) (destroyed) (abused or materially altered) the property without the consent of (owner); and
3. that the (destruction) (abuse or material alteration) of the property seriously interfered with the right of (owner) to control and use the property.

Wrongful or unlawful intent is not an element of conversion. Thus, it is not necessary that (defendant) knew that (owner) was entitled to possession of the property or that (defendant) intended to interfere with (owner)'s possession of the property. It is simply enough that (defendant) intended to deal with the property in a way that would seriously interfere with (owner)'s possession of the property. Thus, a person may be liable for conversion by exercising control over property even though the person may be unaware of the rights with which the person interferes.

An act which is not intended to exercise any control over property but is merely negligent with respect to it is not a conversion, even though it may result in the loss of the property.

COMMENT

This instruction was approved in 1986 and revised in 1991. Editorial changes were made in 1993 to address gender references in the instruction. No substantive changes were made to the instruction.

Donovan v. Barkhausen Oil Co., 200 Wis. 194, 198, 227 N.W. 940 (1929); Restatement, Second, Torts § 226 (1965); Prosser, Torts, 4th Ed., p. 91. See also Comment, Wis JI-Civil 2200.

This instruction does not apply to situations in which the claim is based on negligence.