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**IN THE COMMON PLEAS COURT OF ADAMS COUNTY, OHIO**

SHAWN COOLEY, et. al.	:	CASE NO. CVH 2023 0069
Plaintiff,	:	JONATHAN P. HEIN,
vs.	:	Judge by Assignment
JASON FOREMAN, et. al.	:	JUDGMENT ENTRY-
Defendants.	:	Ordering Additional Clarity on Claims and/or Causes of Action

This matter came before the Court *sua sponte* in preparation for considering the Plaintiffs' motion for partial summary judgment as filed January 5, 2026 pursuant to Civil Rule 56. Responsive pleadings are still outstanding.

Plaintiffs are represented on the complaint by Robert A. Klingler, Esq. Defendants are represented by David S. Osborne, Jr., Esq. Plaintiffs are represented on the counter-claim defense by David Moser, Esq. and Sarah L. McElroy, Esq. Further, amicus curiae participation was granted to various other persons by Entry filed May 19, 2023.

**Analysis**

**Counter-Claims for Conversion and Trespass**

Defendants have filed four claims for conversion and two claims for trespass based upon alleged destruction and alteration of property by Plaintiffs. The claims involve a different item

of property: (1) doors and trim; (2) closet and (3) security camera equipment. The claims are based on Restatement (Second) of Torts § 221, 223, 226, 237(1965).

Whether the Restatement establishes a claim for relief in Ohio must be considered. On this question, the following source is noted:

Introduction to Restatement (Second) of Torts:

It is, of course, a prime objective of Restatement, Second, to revise Restatement formulations in the light of changes in the course of the decisions. That there has been enormous change in torts, reflecting new conceptions of the social function of this branch of law, all students of the subject are aware; the scope of change wrought by the courts may, indeed, have transcended that in any other field.

The Court notes that in its research, no reported Ohio case has been found which relies upon the Restatement (Second) of Torts to establish a cause of action or claim for relief. Therefore, this Court declines to place reliance on the Restatement in this instance. [In this analysis, the Court does not consider whether other theories for recovery under Restatement (Second) of Torts are applicable.]

Further, the Court considered whether Defendants' counterclaims rely upon another recognized cause of action. The following were considered.

**1. Ohio Jury Instruction: Conversion CV 625.01 Definition**

This is an action brought by the plaintiff against the defendant for alleged conversion by the defendant of plaintiff's property. The action of conversion of personal property is based on the wrongful possession by one party of the property of another. It is the wrongful taking of the property that gives the right of action to the owner of the property against the wrongdoer. It is not necessary for the party taking wrongful possession of the property to assert absolute ownership of it in order to give the owner the right to an action for conversion. If you find from the greater weight of the evidence that the plaintiff was the owner of the property in question and entitled to the immediate possession thereof, and was deprived of that possession by an unauthorized act of the defendant, or by the

exercise of dominion over the property inconsistent with the right of possession of the plaintiff, it is a conversion of the property. Any distinct act of dominion wrongfully exerted over one's property in denial of his right, or inconsistent with it, is a conversion.

**3. Ohio Jury Instruction: CV 713.01 Deprivation of rights—42 U.S.C. § 1983**

Plaintiff claims that (*describe person acting under state or local law and/or local government entity*) deprived him/her of (*describe right, privilege or immunity*).

Any person in the United States has the right to recover damages when any other person who, under color of any state law or custom, deprives him/her of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States.

The plaintiff must prove by the greater weight of the evidence:

(A) the defendant is the government or a person who has acted under color of or under the authority of some state or local law;

(B) the defendant acted to deprive, interfere with, or take away from the plaintiff rights, privileges or immunities secured by the Constitution or laws of the United States, and

(C) the defendant's acts were the proximate cause of any injuries claimed by the plaintiff.

Additional insight can be found in the following paragraphs of the counter-claim,

which aver:

- 70. In this case, the Plaintiffs acted with malicious purpose, in bad faith, or in a wanton or reckless manner when they raided Mr. Foreman's home.
- 75. As a result of the Plaintiffs' tortious conduct, the Defendant's submit several counterclaims.
- 98. Plaintiffs intentionally disposed Mr. Foreman of his security cameras and DVR during the raid and caused damaged [sic] to the security camera system.

Similar language can be found throughout the various paragraphs of the counterclaim. [See paragraphs 79, 85, 91, 100, 101, 107, 113, 115 and 116.]

### Conclusion

Based upon the above references, the Court concludes that Defendants have failed to clearly articulate their theories of recovery. Therefore, the Court directs Defendants' counsel to clearly articulate the legal basis upon which Defendant's claims are recognized under Ohio law. [A summary response with statutory, OJI or other references is acceptable.] Responsive briefing shall be filed herein on or before **January 27, 2025**.

/s/ *Jonathan P. Hein* 01/20/2026  
**Jonathan P. Hein, Judge**

cc: counsel and amicus curiae of record

civil/ Schedule7 briefing Adams Co