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IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
ADAMS COUNTY, OHIO

SHAWN D. COOLEY, et al.

PLAINTIFFS,

VS.

JOSEPH EDGAR FOREMAN, et al.

DEFENDANTS,

* CASE NO. CVH 2023-0069

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**DEFENDANT JOSEPH EDGAR FOREMAN'S REQUESTED RESPONSE TO
JUDGMENT ENTRY FILE STAMPED JANUARY 20, 2026**

Comes now the Defendant, Joseph Foreman, by and through his Counsel and presents the following as requested by Judge Jonathan P. Hein in his Judgment Entry file stamped Jan. 20, 2026 at 4:01 PM. A memorandum in support has been attached and is incorporated hereto by reference.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC


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MEMORANDUM IN SUPPORT

On January 20th, 2026, Judge Jonathan P. Hein filed a Judgement Entry requesting that the Defendant clarify and articulate the legal basis upon which the Defendant's claims are recognized under Ohio law. The Defendant was to clarify the Claims of Trespass to Chattels and Conversion. The Answer and Counterclaim filed by Attorney Bruce Rivers, for the Defendants, referenced the Restatement (Second) of Torts (1965) for the claims of Conversion and Trespass to Chattels. The Judge noted that in his research he could not find where the Restatement (Second) of Torts (1965) was the basis for a recovery under Ohio. The Judge also indicted that there could be other claims for relief and noted a claim for deprivation of rights (42 U.S.C. Section 1983).

RESTATEMENT (SECOND) OF TORTS (1965)

In the Judgment Entry dated Jan. 20, 2026, Judge Jonathan P. Hein noted that in his research he could not find a case that relied on the Restatement (Second) of Torts (1965) to establish a cause of action for relief. The Defense would agree with the research completed by the Judge. The Restatement (Second) of Torts (1965) has been used to support claims under Ohio law. MCI Worldcom Network Servs. v. W. M. Brode Co., 411 F. Supp. 2d 804. It has also been used in cases where Ohio law would be lacking in case law. Id. Thus, the Defendant has done case law research in the Fourth District and Federal District Courts for the Northern and Southern Districts of Ohio to clarify the claims of trespass and trespass to chattels/personal property.

TRESPASS TO CHATTELS OR TRESPASS TO PERSONAL PROPERTY

Federal District Court for the Southern District of Ohio, in the case of Compuserve, Inc. v. Cyberpromotions, Inc., stated that Trespass to chattels has evolved from its original common law application, concerning primarily the asportation of another's tangible property, to include the unauthorized use of personal property:

Its chief importance now, is that there may be recovery . . . for interferences with the possession of chattels which are not sufficiently important to be classed as conversion, and so to compel the defendant to pay the full value of the thing with which he has interfered. Trespass to chattels survives today, in other words, largely as a little brother of conversion. Prosser & Keeton, Prosser and Keeton on Torts, § 14, 85-86 (1984).

In the case of MCI Worldcom Network Servs. v. W.M. Brode Co. the United States District Court for the Northern District of Ohio articulated its understanding of Ohio law in relation to Trespass to chattels or personal property. MCI Worldcom Network Servs the court noted that while the "law respecting an action for trespass to chattels is extremely meager, it appears to be an actionable tort." Compuserve, Inc. v. Cyberpromotions, Inc., 962 F. Supp. 1015 (S.D. Ohio 1997).

In Compuserve, the Court, noted a dearth of Ohio case law on trespass to chattel, and thus relied on the Restatements. The Restatement (Second) of Torts § 217(b) states that a trespass to chattel may be committed by intentionally using or intermeddling with the chattel in possession of another. Restatement § 217, Comment e, defines physical "intermeddling" as follows:

"intentionally bringing about a physical contact with the chattel. The actor may commit a trespass by an act which brings him into an intended physical contact with a chattel in the possession of another[.]" Restatement (Second) of Torts § 218 determines when a claim for trespass to chattel may be actionable:

"One who commits a trespass to a chattel is subject to liability to the possessor of the chattel if, but only if,

- (a) he dispossesses the other of the chattel, or
- (b) the chattel is impaired as to its condition, quality, or value, or
- (c) the possessor is deprived of the use of the chattel for a substantial time, or
- (d) bodily harm is caused to the possessor, or harm is caused to some person or thing in which the possessor has a legally protected interest." MCI Worldcom Network Servs. v. W. M. Brode Co., 411 F. Supp. 2d 804.

MCI World Network Servs., as in Compuserve, the Court found that the paucity of Ohio case law on trespass to chattels necessitates reliance on the definitions set forth in Restatement (Second) of Torts. MCI Worldcom Network Servs. v. W. M. Brode Co., 411 F. Supp. 2d 804. Specifically, § 217 requires an act by Defendant that brings it into an "intended physical contact with a chattel in

the possession of another". Id.

To support this claim the Defendant will have to prove that the parties came into physical contact with his property and either dispossessed him of his chattel or impaired its condition, quality and/or value. The importance of this claim would be that this is diminution in value verses a full-on conversion of personal property/chattels.

CONVERSION

The Fourth District Court of Appeals for the State of Ohio in the case of Orebaugh v. Am. Family Ins. Stated that:

An act of conversion is any wrongful exercise of dominion over the property of another in exclusion of the rights of the owner or withholding it from his possession under a claim inconsistent with his rights. Orebaugh v. Am. Family Ins., 2007-Ohio-3891; citing Joyce v. General Motors Corp. (1990), 49 Ohio St.3d 93, 96, 551 N.E.2d 172, 175. The elements of a conversion cause of action are: (1) plaintiff's ownership or right to possession of the property at the time of conversion; (2) defendant's conversion by a wrongful act or disposition of plaintiff's property rights; and (3) damages. Id.; citing Haul Transport of Va., Inc. v. Morgan (June 2, 1995), Montgomery App. No. 14859, 1995 Ohio App. LEXIS 2240, 1995 WL 328995, at 3.

Conversion requires three elements to be met, (1) ownership of property, (2) a wrongful act by a person in relation to the property, and (3) damages to the property. Thus, to support a claim for damages due to conversion, the Defendants will need to prove the three elements.

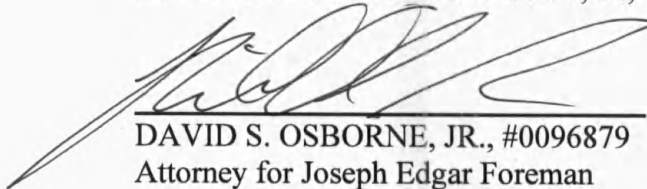
CONCLUSION

The Defendant would agree with Judge Hein that 42 U.S.C. Section 1983 (Deprivation of Rights) is also a means by which the Defendants could proceed and seek recovery. This claim is very similar and shares many of the elements that arise in this case. The Defendants would seek to proceed under the three theories of recovery (Trespass to Chattels, Conversion and Deprivation of Rights) articulated herein in addition to any other claims listed in the Counterclaim. Should Defense not have fully answered the questions of the court additional research and information

can be provided.

Respectfully submitted,

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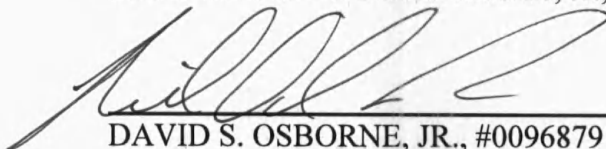
TO THE COURT

The undersigned hereby certifies that he did not use the Artificial Intelligence program ChatGPT 5 Pro.

No legal research was completed using the AI program.

Respectfully submitted,

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879
Attorney for Joseph Edgar Foreman

PROOF OF SERVICE

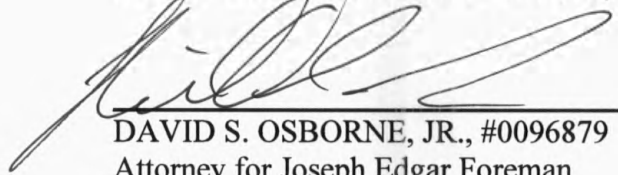
The undersigned hereby certifies that a true copy of the foregoing was served upon to following:

1. **Robert A. Klinger**, Robert A. Klinger Co., LPA, 895 Central Ave. Ste. 300, Cincinnati, Ohio 45202;
2. **Arthur West**, 120 State Ave. NE, #1497, Olympia, WA 98501;

3. **David J. Caray**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
4. **Amy R. Gilbert**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
5. **Freda J. Levenson**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
6. **Vera Eidelman**, American Civil Liberties Union Foundation, 125 Broad Street, 18th Floor, New York, NY 10004;
7. **David Moser**, Fishel Downey Albrecht and Riepenhoff, LLP, 7775 Walton Parkway, Suite 200, New Albany, Ohio 43054.

by regular U.S. mail, hand delivery, email, fax, by dropping off in the Attorney box at Adams County Court, or email this 23 day of January, 2026.

Law Offices of Dr. David Osborne, Jr., LLC



DAVID S. OSBORNE, JR., #0096879
Attorney for Joseph Edgar Foreman