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ADAMS COUNTY
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Samuel Miller
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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.	:	
Defendants.	:	DECISION- Clarifying
	:	Defendants' Causes of Action

As suggested by Defendants' pleading filed January 23, 2026, the Court will rely solely on the following portion of the decision in *CompuServe Inc. v. Cyber Promotions, Inc.*, 962 F. Supp. 1015, 1020–21 (S.D. Ohio 1997) with regard to the nature of Defendants' claims and its proper elements in order to provide accurate jury instructions:

The scope of an action for conversion recognized in Ohio may embrace the facts in the instant case. The Supreme Court of Ohio established the definition of conversion under Ohio law in *Baltimore & O.R. Co. v. O'Donnell*, 49 Ohio St. 489, 32 N.E. 476, 478 (1892) by stating that:

[I]n order to constitute a conversion, it was not necessary that there should have been an actual appropriation of the property by the defendant to its own use and benefit. It might arise from the exercise of a dominion over it in exclusion of the rights of the owner, or withholding it from his possession under a claim inconsistent with his rights. If one takes the property of another, for a temporary purpose only, in disregard of the owner's right, it is a conversion. Either a wrongful taking, an assumption of ownership, an illegal use or misuse, or a wrongful detention of chattels will constitute a conversion.

Id. at 497–98, 32 N.E. 476; *see also Miller v. Uhl*, 37 Ohio App. 276, 174 N.E. 591 (1929); *Great American Mut. Indem. Co. v. Meyer*, 18 Ohio App. 97 (1924); 18 O. Jur.3d, Conversion § 17. While authority under Ohio law respecting an action for trespass

to chattels is extremely meager, it appears to be an actionable tort. *See State of Ohio v. Herbert*, 49 Ohio St.2d 88, 119, 358 N.E.2d 1090, 1106 (1976) (dissenting opinion) (“any workable cause of action would appear to be trespass to chattels”); *see also Greenwald v. Kearns*, 104 Ohio App. 473, 145 N.E.2d 462 (1957) (trespass on the rights of plaintiff in personal property is a precursor to an act in conversion); *Simmons v. Dimitrouleas Wallcovering, Inc.*, No. 14804, 1995 WL 19136, at *2 (Ohio App. Jan.18, 1995) (the court of appeals acknowledged that trespass to chattel claims were barred because those claims were dependent upon claimant's ownership of the subject personal property); *Klinebriel v. Smith*, No. 94CA1641, 1996 WL 57947, at *2 (Ohio App. Feb.6, 1996) (where the court of appeals let stand a jury award on a “trespass against personal property” claim); *Springfield Bank v. Caserta*, 10 B.R. 57 (Bankr.S.D. Ohio 1981) (common law principles of trespass to chattels in Am.Jur.2d applied as controlling under Ohio law).

The Restatement § 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[.]

The Court will not consider alternative theories outlined in its prior notice, such as Ohio common law conversion and 42 USC Section 1983 conversion. If sole application of *CompuServe, supra.*, is not accurate, counsel for the Defendants shall file an objection within three days hereafter.ⁱ

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

cc: counsel and amicus curiae of record
civil/ Schedule7a briefing Adams Co

ⁱ The Court would suggest to Defendants’ counsel the proper form for case citation can be found in the Writing Manual (3rd Ed.) adopted by The Supreme Court of Ohio as effective June 17, 2024.