

806.05 CONVERSION - DAMAGES.

The (*state number*) issue reads:

"What amount is the plaintiff entitled to recover for damages for the conversion of the property of the plaintiff?"

If you have answered the (*state number*) issue "Yes" (and the (*state number*) issue "No") in favor of the plaintiff, the plaintiff is entitled to recover nominal damages even without proof of actual damages. Nominal damages consists of some trivial amount such as one dollar in recognition of the technical damages incurred by the plaintiff.

The plaintiff may also be entitled to recover actual damages. On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, the amount of actual damages caused by the conversion of the defendant.

The plaintiff's actual damages are equal to the fair market value of the property at the time it was converted.¹ The fair market value of any property is the amount which would be agreed upon as a fair price by an owner who wishes to sell, but is not compelled to do so, and a buyer who wishes to buy, but is not compelled to do so.

Finally, as to this (*state number*) issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence, the amount of actual damages caused by the conversion of the property of the plaintiff, then it would be your duty to write that amount in the blank space provided.

If, on the other hand, you fail to so find, then it would be your duty to write a nominal sum such as "One Dollar" in the blank space provided.

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1. *Wall v. Colvard*, 268 N.C. 43, 49, 149 S.E.2d 559, 564 (1966); *Crouch v. Lowther Trucking Co.*, 262 N.C. 85, 87, 136 S.E.2d 246, 247 (1964); *Estee Co. v. Goodman*, 82 N.C. App. 692, 697, 348 S.E.2d 153, 157 (1987), *disc. review denied*, 318 N.C. 693, 351 S.E.2d 745 (1987).