

# TORTS REMEDIES

## HARM / TAKING OF PROPERTY

## HARM TO PERSONAL INTERESTS

### MONEY

### CHATELS

### REALTY

### PERSONAL

### DIGNITARY

### ECONOMIC

### GENERALLY

Conversion  
Unjust Enrichment

Trespass to Chattels  
Conversion

Trespass Nuisance  
Waste Encroachment  
Interference or Destruction

False Imprisonment  
Assault DED  
Battery Negligence

Defamation &  
Invasion of Privacy

Fraud Business Torts  
Misuse of Legal Process

### Money Damages

#### Compensatory

General & Special

1. Causal
2. Foreseeable
3. Certain
4. Calculable

#### Punitive

Willful, wanton, malicious  
**Nominal:** no actual injury

#### Damages

To recover for damages in a suit for conversion, it must show that **identifiable** money was taken.

#### Damages

**Interference**  
Lost value or repair cost + loss of use

**Destruction**  
Value at time, less salvage, plus interest

**Dispossession**  
Conversion damages  
Forced sale, Market price

#### Damages

**Several measures: lost value**

#### Trespass

Simple: Nominal; No injury  
Trespass + severance: lost value or conversion measure  
Trespass + damage: cost of repair or removal, or rest value  
Outlier: Home damages  
**Encroachment:** Continuing rental value; Forcible sale value

#### Damages

#### Compensatory

**General:** Non-economic: Pain & suffering, loss of enjoyment of life, anguish.

**Special:** Economic: Med expenses, lost earnings, Future loss still lump sum.

**Dead W:** Survival statutes for heirs, or wrongful death.

#### Damages

**Public figure:** Must prove malice, then presumed. (Purs OK)  
**Prior garnish/ post process:** must prove negli. Actual req'd.  
**Priv/priv:** No fault neces. Presumed damages. Forc avail.  
**Invasion:** Emotional anguish. No spec. req.

#### Damages

**Fraud:** Actual damages recoverd. Conseq. OK & point of malice. May get benefit of bargain trans.  
**Business Torts:** Inducing breach: damage proximately caused. Interference w/ advan: Probably too speculative. Trade libel: Spec. req'd  
**Misuse:** Actual req'd.

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### Replevin & Ejectment

Legal remedies for actual dispossession

#### Quasi-Contract

If lost gain & benefit  
Restitution money

#### Quasi-K

If A unjustly enriched by misappropriation of B's money

#### Self-Help

Reasonable force to recapture chattel

#### Replevin

#### Quasi-K

#### Ejectment

Legal remedy for ouster; Coupled w/ Inverse Damages

#### Quasi-Contract

Severance: value or severd, or if B willful, improved value

Not available  
No benefit to defendant

Not available  
No benefit to defendant

**Fraud:** Replevin & Restitution (less contract)  
**Inducing breach:** Restitution is rarely used.  
**Interference w/ advan:** benefit not obtained

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### Constructive Trust

It must recover title

#### Equitable Lien

Lien on D's Property

Constructive Trust  
If specific & traceable

**Equitable Lien**  
If funds commingled or if not source of title

Constructive Trust  
If thief obtains title & sells property

**Equitable Lien**  
If thief uses proceeds to improve her prop.

Generally not applicable because A does not have title

Not available  
No benefit to defendant

Not available  
No benefit to defendant

**Fraud:** Constructive trust may be imposed on property gained by fraud

### Injunctive Relief

Permanent, Temp., TRD

Legal remedy inadequate

1. Speculative damages
2. Multiple suits danger
3. Irreparable injury
4. Prospective tort
5. Replevin or Ejectment difficult to enforce

**Balance the hardships**  
Equitable defenses apply

Generally not applicable  
Equitable restitutory remedies cover it.

#### Mandatory Injunction

If chattel unique or damages & replevin are inadequate

#### Injunctive Relief

#### Trespass

Simple: To avoid multip. suits.  
Severance: OK: Land unique  
Damage: A must repair  
Outlier: NO: Ejectment rules.  
**Encroachment:** Land unique, damages inadeq., ejctment impract. Willful = no balance  
**Nuisance:** I made; May not balance hardships if intentional  
**Waste:** OK to stop voluntary.

Rarely sought,  
Injury has already occurred.

#### Defamation

Rare, as it would be prior restraint of free speech. However, declaratory relief may be the best protection of the interest involved.

**Invasion of Privacy**  
Effective for continuing wrong. Damages made; speculative & repetition.

Rare

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# All About Torts

**Anthony S. Fauci**



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## **Table of Contents All About Torts**

1. Understanding the eBook All About Torts
  - The Rise of Digital Reading All About Torts
  - Advantages of eBooks Over Traditional Books
2. Identifying All About Torts
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an All About Torts
  - User-Friendly Interface
4. Exploring eBook Recommendations from All About Torts
  - Personalized Recommendations
  - All About Torts User Reviews and Ratings
  - All About Torts and Bestseller Lists
5. Accessing All About Torts Free and Paid eBooks

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  - All About Torts eBook Subscription Services
  - All About Torts Budget-Friendly Options
6. Navigating All About Torts eBook Formats
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  - All About Torts Compatibility with Devices
  - All About Torts Enhanced eBook Features
7. Enhancing Your Reading Experience
- Adjustable Fonts and Text Sizes of All About Torts
  - Highlighting and Note-Taking All About Torts
  - Interactive Elements All About Torts
8. Staying Engaged with All About Torts
- Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers All About Torts
9. Balancing eBooks and Physical Books All About Torts
- Benefits of a Digital Library
  - Creating a Diverse Reading Collection All About Torts
10. Overcoming Reading Challenges
- Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine All About Torts
- Setting Reading Goals All About Torts
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of All About Torts
- Fact-Checking eBook Content of All About Torts
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
- Utilizing eBooks for Skill Development

- Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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