

EXAMINERS' ANALYSIS OF QUESTION 8

The dispute over the dog and reward money. Under Michigan law, dogs "are the property of the owner, as much as any other animal which one may have or keep." *Ten Hopen v Walker*, 96 Mich 236, 239 (1893); *Koester v VCA Animal Hosp*, 244 Mich App 173, 176 (2000). An owner of property does not lose title in that property simply because he loses it, *Cummings v Stone*, 13 Mich 70, 72 (1864); see *Doe v Oceola Twp*, 84 Mich 514, 516 (1978), only if it is abandoned. *Log Owners' Booming Co v Hubbell*, 135 Mich 65, 69 (1903). In order to abandon property, the owner must have the intent to relinquish ownership. *Id.*; *Van Slooten v Larsen*, 410 Mich 21, 50 (1980). There is no evidence indicating that David abandoned Murphy and, as a result, Murphy remains David's property.

David has threatened that he would sue Felix to recover Murphy. At common law, a property owner who sought return of a specific item would file a replevin action. The Michigan Legislature has codified the common law replevin action. A property owner has the right to recover specific personal property that has been "unlawfully taken or unlawfully detained," if the plaintiff has a right to possess the personal property taken or detained. MCL 600.2920(c). Accordingly, David's right to recover Murphy depends on whether Felix has unlawfully taken or unlawfully detained Murphy.

Ordinarily, a finder of personal property has a right to possess that property against all but the property's owner. *Wood v Pierson*, 45 Mich 313, 317 (1881); *Willsmore v Oceola Twp*, 106 Mich App 671, 689 (1981), superseded by statute on other grounds, *People v \$27,490*, unpublished opinion per curiam of the Court of Appeals, Docket No. 173507 (Nov. 26, 1996), 1996 WL 33348190. However, if a property owner offers a reward to the finder of lost property, "a lien thereon is thereby created to the extent of the reward so offered." *Id.* The finder is entitled to detain the property from the owner "until the reward should be paid, and [is] under no legal obligation to relinquish possession to [the owner], or to give it to another, or to allow anything to be done endangering his right or security." *Wood*, 45 Mich at 318. As a result, Felix is allowed under Michigan law to detain Murphy as security until David pays him the

reward. Once David pays him the reward, however, Felix is obligated to return Murphy or be liable for conversion, *Ryan v Chown*, 160 Mich 204 (1910), as discussed in *Michigan Civil Jurisprudence, Lost, Abandoned, and Escheated Property*, § 11 (2013), even if David owes Felix "recompense for the care and expense in the keeping" of Murphy. *Wood*, 45 Mich at 317.

Examinees may also recognize that a reward for lost property is a unilateral contract and that the return of the subject property constitutes performance of that unilateral contract. See *id.*, as discussed in *Michigan Civil Jurisprudence, Lost, Abandoned, and Escheated Property*, § 10 (2013).

The ring. By its own terms, the Lost and Unclaimed Property Act, MCL 434.21 et seq., applies to "lost property." MCL 434.22(1). If the ring had been abandoned, and not lost, then Felix would have superior title even as to the previous owner. *Log Owners' Booming Co*, 135 Mich at 69. However, to receive title in abandoned property, Felix would have to show that the owner *intended* to relinquish ownership of the ring. *Id.* The fact that the ring was on a sidewalk implies that it had been *accidentally* dropped by its owner and, consequently, that the owner *did not* intend to relinquish ownership. Therefore, the Act applies to the ring. Under the Act, Felix must "report the finding and deliver the property to a law enforcement agency in the jurisdiction where the property is found." MCL 434.22. If he "wishes to receive the property if it is not claimed by the legal owner," Felix "shall provide his . . . name and current address to the law enforcement agency. . . ." *Id.* If the owner of the ring can be established, it will be returned to the owner. MCL 434.24(7). If the owner does not claim the ring within six months, it will be returned to the finder. MCL 434.26(1); MCL 434.25(2).

The Lost and Unclaimed Property Act created in the finder a responsibility to report lost and unclaimed property to law enforcement authorities and established a time limit for the true owner to step forward to claim his or her unclaimed property. Examinees may also recognize that previously, under Michigan common law, Felix would have had title to the ring over anyone except for the true owner. *Cummings*, 13 Mich at 72. Moreover, he would have been "bound to hold [the ring] for the true owner. . . ." *Wood*, 45 Mich at 320.