

## **EXAMINERS' ANALYSIS OF QUESTION NO. 11**

### **1. Pharmacy Glasses Proceeds - Annmarie v. Beth:**

Beth is likely able to keep the proceeds of the pharmacy sunglasses because it appears that Annmarie abandoned the sunglasses. "Two requirements must be met to establish abandonment. First, it must be shown that there is an intent to relinquish the property and, second, there must be external acts that put that intention into effect." *Sparling Plastic Indus, Inc v Sparling*, 229 Mich App 704, 717-718 (1998); see also *Emmons v Easter*, 62 Mich App 226, 237 (1975).

As indicated in the facts, Annmarie's intent to relinquish control over the sunglasses is inferred by the fact that she was frustrated by the bent sunglasses and attempted to throw the sunglasses in the trash. Additionally, the act reflected her desire to permanently part with the sunglasses and an indifference as to what would happen to the sunglasses next. It does not matter that Annmarie missed the trash can and instead threw the sunglasses next to the trash can, her intent was clear.

There are no statutory or other legal requirements on the part of a private party who finds abandoned property of that nature. Therefore, as a private party finder of the sunglasses, Beth acquired full ownership interest of the sunglasses once retrieved. The abandonment of the sunglasses by Annmarie forecloses any arguments of her subsequent entitlement to the glasses.

### **2. Return of Designer Sunglasses - Kate v. Mary:**

In Michigan, there is no legal distinction between lost and mislaid property with respect to a finder's legal status as it relates to the owner. In either case, the Lost and Unclaimed Property Act, MCL 434.21 et al, (the "UPA") requires the finder to follow certain requirements if seeking to gain full ownership rights in an item when the legal owner is either not determined, or does not claim, the property. The UPA provides in relevant part that:

A person who finds lost property shall report the finding or deliver the property to a law enforcement agency in

the jurisdiction where the property is found. . . . If the person wishes to receive the property if it is not claimed by the legal owner as provided in this act, the person shall provide his or her name and current address to the law enforcement agency and shall inform the agency of any change in his or her address.

MCL 434.22(1). Law enforcement is responsible for taking certain steps pursuant to the UPA to establish the legal owner. Law enforcement would be required to mail notice to any known legal owner of major value property identifying, among other things, its location, the date found, type of property, etc. MCL 434.25(1).

Property categorized as having major value may be returned to the finder if the owner fails to claim it within six months from the date of the notice. MCL 434.25(2) and 434.26(1). Similarly, if a legal owner cannot be established or located, the finder is entitled to return of the property from law enforcement. MCL 434.26(1)(a). Property of major value is statutorily defined as "any property that is not collectible currency, contraband, currency, evidence, hazardous material, junk, perishable property, or property of minor value." MCL 434.21(j).

Here, Kate purposely placed her sunglasses on the table next to where they were sitting, intending to later retrieve them but forgetting to do so, so Kate mislaid the sunglasses. Therefore, Mary had no automatic legal right to the sunglasses as the finder. Moreover, the sunglasses were designer sunglasses that were probably in excellent condition considering they were brand new, so the sunglasses would not likely have been deliberately discarded.

Under such circumstances, Mary would be required to follow the requirements of the UPA and report her find or deliver the sunglasses to the local law enforcement agency, which she did not. Delivering the sunglasses to the HOA office does not meet the requirements of the UPA. Additionally, it is likely that the sunglasses would be classified as a major value item under the UPA since the facts state that the sunglasses were valued at \$3,000. As such, Mary would only be entitled to the sunglasses if the law enforcement agency is unable to determine ownership, unable to locate Kate or Kate does not claim the sunglasses within six months after the notice date. Here, not only did Mary deprive the local law enforcement agency of its ability to either locate Kate or

otherwise determine ownership, but Mary also did not wait the required six month timeframe before retrieving the sunglasses - she only waited four months. Mary will be required to return the sunglasses to Kate.