

A landowner hired a tree specialist to cut down four trees, which he pointed out to the specialist before the specialist began work. Although the landowner reasonably believed that all the trees were on his property, three of the trees that were cut down were in fact on a neighbor's property.

Who, if anyone, is liable to the landowner's neighbor for conversion?

- A. Both the tree specialist and the landowner. (25%)
- B. Neither the tree specialist nor the landowner. (27%)
- C. The landowner only. (45%)
- D. The tree specialist only. (1%)

Incorrect

Correct answer A

25% Answered correctly

48 secs Time Spent

2023 Version

## Explanation:

### Trespass to chattels v. Conversion

<b>Trespass to chattels</b>	<i>Minor</i> intentional interference with plaintiff's right to control chattel Liable for <i>actual damages</i> —eg, cost of repairs, loss of use
<b>Conversion</b>	<i>Substantial</i> intentional interference with plaintiff's right to control chattel Liable for <i>fair market value</i> of chattel at time of conversion

A defendant is liable for **conversion** when he/she **intentionally**:

**deprives** the plaintiff of **possession of his/her chattel** or interferes with the chattel so that the plaintiff is deprived of the chattel's use.

The defendant's **mistaken belief** (even if reasonable) that he/she **legally possessed** the chattel **does not absolve** him/her from **liability** for conversion. Additionally, a person who hires an independent contractor is vicariously liable for torts, including conversion, committed by the contractor whose work involved a nondelegable duty. One type of nondelegable duty arises when the independent contractor performs an inherently dangerous activity (eg, cutting down trees).

Here, the tree specialist intentionally cut down three of the neighbor's trees (intentional deprivation of chattels). Since the landowner hired the tree specialist (independent contractor) to perform this inherently dangerous activity, the landowner is vicariously liable for the tree specialist's conversion. And the landowner's reasonable belief that the three trees were on the landowner's property does not absolve him or the tree specialist from liability. Therefore, both the tree specialist and the landowner are liable to the neighbor for conversion **(Choices B, C & D)**.

### Educational objective:

A defendant is liable for conversion when he/she intentionally (1) deprives the plaintiff of possession of his/her chattel or (2) interferes with the chattel so that the plaintiff is deprived of its use. The defendant's mistaken belief that he/she legally possessed the chattel does not absolve him/her from liability for conversion.

### References

Restatement (Second) of Torts § 222A (Am. Law Inst. 1965) (setting forth the requirements for conversion).

Restatement (Second) of Torts § 226 (Am. Law Inst. 1965) (explaining how conversion can occur through the destruction of property).

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