

An avid baseball fan purchased a ticket to an afternoon game at great expense. The fan hoped to not only see his favorite team's powerhouse player break the all-time single-season home run record, but also catch the record-breaking baseball. The fan brought his baseball glove and positioned himself in a section of the ballpark where the greatest number of the player's home runs had landed.

In the ninth inning, with the bases loaded and a full count, the player swung, and the baseball sailed over the right-field fence and descended toward the large crowd gathered in the fan's section. The fan shouted, "It's mine!" just as the baseball made contact with the palm of his glove, but a burly man reached for the ball at that same instant. In so doing, he propelled the baseball back onto the field, where it was retrieved by the opposing team's outfielder. The fan was unable to recover the baseball.

The fan has sued the man for trespass to chattels.

Is the fan likely to prevail?

- A. No, because the man did not dispossess the fan of the baseball.
- B. No, because the man did not intend to propel the baseball back onto the field.
- C. Yes, because the man deprived the fan of his immediate right to possession of the baseball.
- D. Yes, because the man intentionally intermeddled with the fan's personal property.

Explanation:

Trespass to chattels is an intentional interference with another's right of possession in tangible personal property (ie, chattel) through dispossession, use, or intermeddling. As a result, an action for trespass to chattels may be **brought by anyone who had possession** or the **right to immediate possession** of the chattel in question at the time of the interference.

Here, the fan sued the man for trespass to chattels after the man reached for the baseball and propelled it back onto the field. But the fan had not yet caught the baseball (no possession) and had no more right to possess it than any other person in the crowd **(Choice C)**. Therefore, the man could not dispossess the fan of the baseball, and the fan is unlikely to prevail.

(Choice B) The intent required for trespass to chattels is the intent to do the interfering act—eg, to reach out for the baseball. The defendant need not have intended to interfere with another's possession of tangible property—eg, to propel the baseball back onto the field.

(Choice D) The man intermeddled (ie, caused physical contact) with the baseball and deprived the fan of possessing and using it by propelling it back onto the field. But since the baseball was not the fan's personal property, his trespass-to-chattels claim will fail.

Educational objective:

Anyone who had possession or the right to immediate possession of a chattel (ie, tangible personal property) at the time of the interference may bring an action for trespass to chattels.

References

Restatement (Second) of Torts §§ 216–17 (Am. Law Inst. 1981) (possession of and trespass to chattel).

Trespass to chattels

