**18.06 conversion/Intentional Interference with chattels — Measure of Damages — Introduction**

If you decide the defendant damaged the (insert item of property) or interfered with the plaintiff's right to possess the (insert item of property) [without a legal excuse] [and the defendant is unable to return the (insert item of property)], you must decide how much the defendant must pay to the plaintiff. I will now explain how you are to do this.

[Insert appropriate damage instructions.]

**Use Note**

This instruction should be used as an introduction to instructions detailing the measure of damages. Pattern instructions for each element of damages are suggested in Article 20 of these instructions.

The first bracketed clause should be inserted where the defendant has asserted a legal excuse for the damage or interference. The second bracketed clause should be inserted in replevin actions where the defendant is unable to return the property.

# **Comment**

In a conversion action, the usual measure of damages is the value of the property at the time of the conversion, plus interest. *Carver v. Quality Inspection & Testing, Inc.*, 946 P.2d 450, 456 (Alaska 1997).

In a replevin action, the usual remedy is return of the property, plus damages for the value of the use of the property during the period when the property was wrongfully detained. *Rollins v. Leibold*, 512 P.2d 937, 944 (Alaska 1973); *see also Ben Lomond, Inc. v. Campbell*, 691 P.2d 1042, 1045 (Alaska 1984). If the property cannot be returned, the remedy is the value of the property, plus interest. *Rollins*, 512 P.2d at 944.

For trespass to chattels, the remedy depends on the damage to the property. If the property is destroyed, the remedy is the market value of the property. If the property is damaged, but not destroyed, the usual remedy is: 1) the difference between the value of the property before the damage and the value after the damage, or 2) the cost of repair, plus any remaining diminution in value. *City of Seward v. Afognak Logging*, 31 P.3d 780, 787 (Alaska 2001); 1 D. Dobbs, Law of Remedies § 5.13 (2d ed. 1993). Loss of use damages may be awarded during the period when repairs are being completed, *Burgess Construction Co. v. Hancock*, 514 P.2d 236, 238 (Alaska 1973), or during the time required to replace the property, *Alaska Const. Equip. Inc. v. Star Trucking Co*., 128 P.3d 164 (Alaska 2006).

For additional information regarding these remedies, see Comments to Instructions 20.14 to 20.17.