

STATE OF INDIANA)
)
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. **53C01-1806-CT-001262**

DANIEL H. FROHMAN,
Plaintiff

vs.

JEANNE WALTERS REAL ESTATE, LLC, and
SPEEDY WRECKER SERVICE, LLC
Defendants

COMPLAINT FOR CONVERSION

The Plaintiff, Daniel H. Frohman, brings this action for Conversion against the Defendants, Jeanne Walters Real Estate, LLC, and Speedy Wrecker Service, LLC, and in support thereof states as follows:

Parties

1. The Plaintiff, Daniel H. Frohman, is an individual residing in Monroe County, Indiana at 701 South Eastside Drive, Bloomington, IN, 47401.
2. The Defendant, Jeanne Walters Real Estate, LLC (hereinafter referred to as “Jeanne Walters Real Estate”), is a limited liability company created April 1, 2011, whose principal office address is 107 E. 6th Street, Bloomington, IN, 47408.
3. The Defendant, Speedy Wrecker Service, LLC (hereinafter referred to as “SWS”), is a limited liability company created September 7, 2011, whose principal office address is 116 W. 6th Street, Suite 200, Bloomington, IN, 47404.

Complaint for Conversion

4. In the mid to late afternoon on Saturday, April 14, 2018, the Plaintiff parked his 1999 Honda Accord in an empty parking lot which used to be the location of a Chase Bank drive-through banking facility and is located on the southeast corner of 6th Street and Madison Street in Bloomington, IN. He parked on the northwest end of that parking lot while he spent an hour at the Bloomington Salt Cave, 115 N. Madison Street, Bloomington, IN, across the street from the lot. There were individual signs showing certain spaces on the far north side of that area as “permit only” but no such signs on the side where the Plaintiff parked.
5. When the Plaintiff returned to his car after his time at the Bloomington Salt Cave, his car was gone.
6. The Plaintiff called the phone number posted on the “permit only” signs and spoke to an employee of the Defendant, SWS.
7. The employee of the Defendant, SWS, told the Plaintiff that his car had been towed to the SWS lot at 3170 S. Walnut Street, Bloomington, IN, 47401, and that, if he wanted to get his car that day, it would cost him \$240.00 cash.
8. The Plaintiff took \$240.00 to the SWS lot, gave the money to the SWS employee and thereafter left with his car.
9. The lot from which the Plaintiff's car was towed is property managed by the Defendant, Jeanne Walters Real Estate.
10. The Defendant, SWS, tows cars from the lot from which the Plaintiff's car was towed at the direction and under the authority given to it by the Defendant, Jeanne Walters Real Estate.

11. I.C. § 35-43-4-3 provides that “[a] person who knowingly or intentionally exerts unauthorized control over property of another person commits criminal conversion.”
12. I.C. § 34-24-3-1 provides for treble damages, costs, and reasonable attorney’s fees for a plaintiff in a civil action who “suffers a pecuniary loss as a result of a violation of IC 35-43.”
13. The Defendants knowingly or intentionally exerted unauthorized control over the Plaintiff’s car when SWS unlawfully took that car from where the Plaintiff had parked it and prevented him from regaining its use without paying \$240.00.
14. The Defendants contend that I.C. § 9-22-1-16 gives them the authority to tow vehicles as it did in the Plaintiff’s case. However, section (a) of that statute authorizes a property owner or manager to tow a vehicle from private property only upon giving twenty-four (24) hours advance notice. Section (b) of that statute provides an exception which would allow for immediate towing but only if there is “an emergency situation.” An emergency situation can only exist if the vehicle “interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.” The lot was empty when the Plaintiff parked there and after he exited the Bloomington Salt Cave. There was no apparent business operation on Saturday, April 14, 2018.

Motion for Punitive Damages

15. It is the Defendants’ practice to tow cars parked in the lot from which the Plaintiff’s car was towed without giving the legally required 24-hour notice. Among those towed pursuant to the Defendants’ pattern and practice was the car

of a woman from French Lick who had been in town for a funeral and parked her car for a few minutes on the afternoon of April 14, 2018 while she was in the Bloomingfoods Co-op getting some groceries before heading home. From what the Plaintiff has heard, many cars are routinely towed on weekends and after work hours despite the fact that the cars do not interfere physically with the conduct of normal business operations of the property.

16. The Defendants are unlawfully profiting from their attempt to elevate a statutory exception to be the rule itself.
17. The only way to deter the Defendants from their unlawful behavior is to enter an award of punitive damages under I.C. § 34-51-3.

The Plaintiff, Daniel H. Frohman, therefore asks the Court to find that the Defendants, Jeanne Walters Real Estate, LLC (hereinafter referred to as “Jeanne Walters Real Estate”), and Speedy Wrecker Service, LLC, converted the Plaintiff’s vehicle and caused him to suffer a pecuniary loss as a result, to find that the Plaintiff is entitled to have a judgment entered against the Defendants pursuant to I.C. § 34-24-3-1, including treble damages and attorney fees, to assess punitive damages against the Defendants and to grant Plaintiff all other necessary and proper relief.

6/27/2018
Date

/s/ Daniel H. Frohman
Daniel H. Frohman, Plaintiff
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Prepared by:

/s/ Thomas M Frohman

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