

Property

- Module 7
- Bailments and Liens

Bailments

- Bailment: a voluntary delivery of possession without title.
- Terminology: The owner/deliverer is the bailor; the possessor/recipient is the bailee.

Bailments

- Creating a Bailment
 - Express bailments (i.e., contracts)
 - Implied bailments: *Allen v. Hyatt Regency-Nashville Hotel*

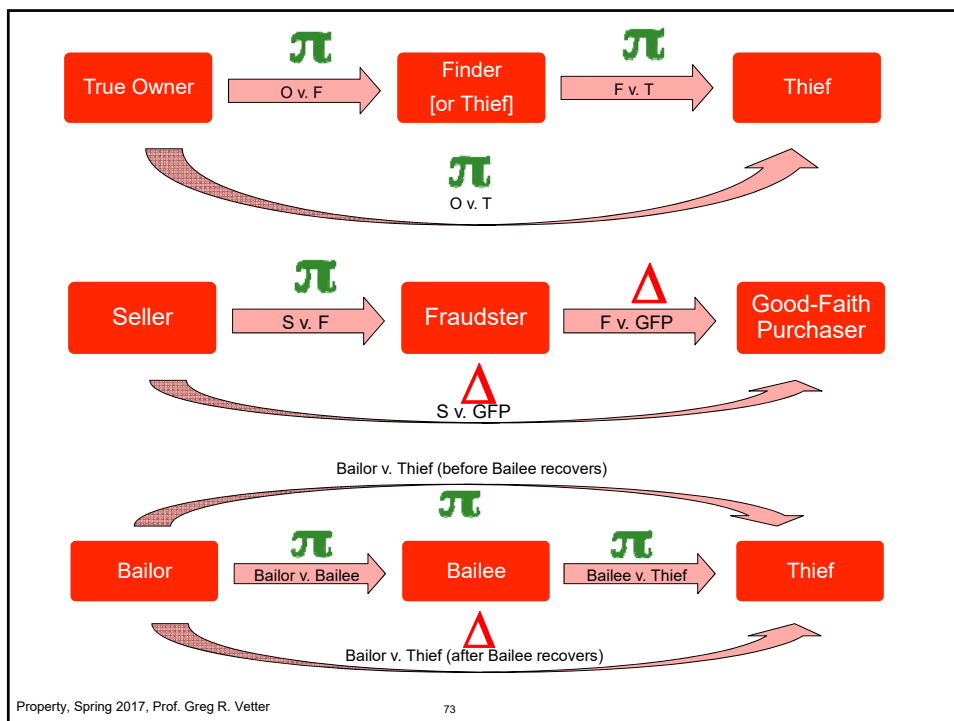
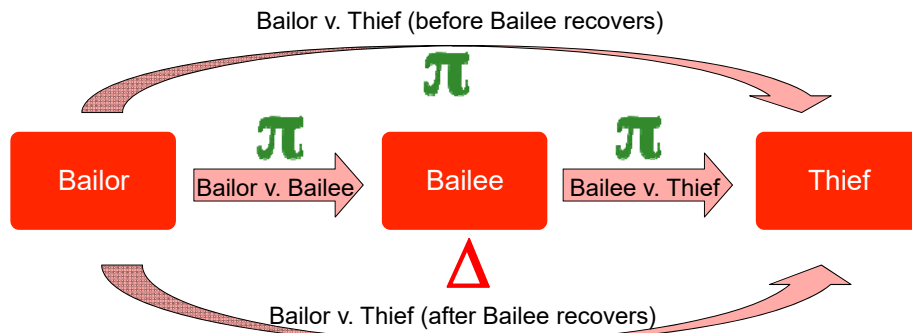
Allen v. Hyatt Regency-Nashville Hotel (Tenn. 1984)

- Theft of vehicle in commercial parking garage
- Was bailment created?
- Ticket disclaimers
- Who is “least cost avoider”
- Bailment for hire by implication
 - Statutory presumption of negligence
- Dissent?
 - Effect of ticket?
 - Traditional bailment definition <delivery, custody, control>

The ticket states that charges are made for the use of parking space only and that appellant assumes no responsibility for loss through fire, theft, collision or otherwise to the car or its contents. The ticket states that cars are parked at the risk of the owner, and parkers are instructed to lock their vehicles. The record indicates that these tickets are given solely for the purpose of measuring the time during which a vehicle is parked in order that the attendant may collect the proper charge, and that they are not given for the purpose of identifying particular vehicles.

Liability of Bailees

- Bailees owe their bailors a duty of reasonable care under the circumstances with respect to the bailed chattel(s). Failure to deliver the chattel undamaged will shift the burden to the bailee to show he acted with due care.
- Bailees may attempt to limit their liability by contract; but their right to do so may be limited by statute or by the contract law doctrine of unconscionability.
- There are sometimes statutory limits on bailee liability (e.g., inkeeper statutes).



Liens

- A lien is a security interest held by a creditor in the property of a debtor (that property is “collateral” for the loan). It entitles the lienholder to take possession of the collateral in satisfaction of an unpaid debt.
- Not assigned, to be covered briefly in class:
 - Exercising the right to possession: *Williams v. Ford Motor Credit Co.*
 - Priority and Rights of Third Parties: *M&I Western State Bank v. Wilson*