

PROPERTY PRACTICE QUESTIONS

ANSWER 6

Gerry W. Beyer

Governor Preston E. Smith Regents Professor of Law



Caveat: The outline of the answer below provides guidance regarding the main issues which you should address in your answer. The answer is *not* designed to be a model answer.

Andy v. Lou

- Andy's use of Lou's cement is deemed an **accession** because
 - Andy used Lou's cement **by mistake and not in an evil manner**
- **General rule for accessions** - the true owner can get the item back if it can be traced
 - **Exceptions** (when the improver gets to keep the improved item but must pay the price of the original item to the owner)
 - **Manufacturing exception** (the item's identity has undergone a manufacturing change)
 - Cement
 - Mixed into concrete, cannot separate
 - **Conclusion as to cement** - Andy gets to keep his driveway but must pay Lou for the cost of cement
 - **Increase in value** (the item's value greatly increased by the improvement)
 - Logs
 - Dramatic increase in value (house is more valuable than individual logs)

- Traceable (could technically remove some individual logs from the house)
- **Conclusion as to the logs** - courts are likely to order Andy to pay for the cost of the logs and keep his house intact because it would be an easier and a more equitable remedy