

### **QUESTION ONE**

Helen Homeowner entered into a valid contract with Carl Contractor to build her dream home for \$500K. The terms of the contract required Carl to adhere to the plans prepared by the famous architect Franny Leona Write. During construction, Carl opted to use cheaper plastic plumbing pipes than the more expensive copper ones that were called for in the plans, because they were readily available. The copper pipes would have taken months to obtain, at considerable additional expense. Carl reasoned that they were just as good and no one would know the difference. Carl subcontracted the electrical work to his cousin Stu, knowing Stu did not have a license, because Stu would do the work for half the price of a licensed electrician. The house was built on-time and looked just like the design. Helen was thrilled and moved in right away.

Immediately, Helen Homeowner realized there was something wrong with the electrical wiring: the switches didn't control the correct lights, the garbage disposal came on at weird times, and none of the appliances worked. Helen checked-in at the Hilltop Hotel for \$300 per night. Helen hired another contractor, Beta, to inspect the wiring and other work to ensure it corresponded to the plans. Beta found the wiring was completely botched. He opined Helen was lucky that it didn't short and start a fire. Beta also discovered the pipes did not correspond to the ones specified in the plans. Beta advised that the installed plastic pipes function just as well as the copper. Beta quoted \$5,000.00 to re-do the wiring, which would take a week to complete, and \$30,000.00 to replace all the plumbing, which could take months.

Helen demanded Carl pay for both the wiring and the plumbing. Carl refused to pay, but offered to fix the wiring himself. Helen rejected this offer.

Carl left expensive custom-made tools at Helen's house and needed them back. The tools were special because Carl was missing several fingers on his hand and they accommodated this disability. Carl cannot work without them. Helen refused to turn them over until Carl paid her \$35,000.00.

What remedies will Helen and Carl each seek from the court?

Please Discuss

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Flora retired three years ago after making millions of dollars in a start-up dot-com business and moved to the country where she planted a one-acre organic and biodynamic dahlia farm. Flora lives on the property. Flora is very devoted to her flowers and received awards every year for their beauty in the organic and biodynamic farming competitions. While she makes a modest income from the flowers, this is really just a hobby.

Flora's property line is marked by blackberry bushes that have been free to grow for over five years. The bushes have completely taken over both sides of the property line. Honey bees are drawn to the blackberry bushes and incidentally pollinate Flora's dahlia flowers. The bees are an important part of the biodynamic workings of Flora's farm.

The neighboring property has been vacant for several years and was purchased by Pete. Pete intends to rip out all of the blackberry bushes from both sides of the property line right away. Pete will spray Round-Down on the roots to ensure the bushes don't return.

Pete plans to plant an apple orchard on his ten-acre parcel to expand his successful apple business. Pete has several orchards around the county. None of Pete's orchards are organic. In fact, Pete has made it clear that he intends to use pesticides on this new orchard on a regular basis because Pete attributes the success of his apples to his pesticide program. Pete typically sprays the apples throughout the growing season with a big spraying machine that disperses the chemicals in large clouds.

Pete needs this ten-acre orchard to grow a special variety of apples that will provide fruit for the developing hard-cider market. This new product could provide huge economic growth for the county. Pete already invested 2 million dollars purchasing mature apple trees that need to be planted soon so that they will bear fruit this fall.

Flora is frightened and consults you. What are Flora's equitable rights and remedies and the process for seeking them?

Please discuss.