

## EMPIRE COLLEGE SCHOOL OF LAW

*Professor Edwin C. Shiver  
Remedies Fall 2012 Semester  
Final Examination*

### **Question Number One** (One Hour)

Pete responded to a newspaper advertisement placed by Della, a local dentist, seeking to hire a dental hygienist for her practice. After an interview, Della offered Pete the job. As to his compensation, Della said that she would either: (1) pay him \$50,000 per year; or (2) pay him \$40,000 per year, and agree to convey to him fee title to Greenacre, an undeveloped parcel of land that she owned, the value of which had recently been appraised at \$50,000, if he would agree to work for her for three consecutive years, and in fact did so.

Pete told Della that he accepted her offer of employment, and said "I'd like to go with the second option for my compensation, but I would like a commitment for an additional three years of employment, after the first three." Della replied, "Good, I'd like you to start work next week", which Pete did.

After Pete had worked for Della for two years and nine months, he was approached by another local dentist who offered Pete employment as a dental hygienist at a compensation of \$55,000 per year, if he would come to work at once. Looking forward to his future ownership of Greenacre, Pete turned down the employment offer from the other dentist.

At about the same time, Della received an offer from Ted, the owner of an adjoining parcel, to buy Greenacre for \$60,000, which offer Della accepted, without knowledge of the offer to Pete of employment by the other dentist. Even though Della had always been satisfied with Pete's work, she fired him. When the dentist who offered Pete a job telephoned Della to ask about Pete's performance, Della denigrated Pete's work. When Pete then called Della to complain, she told Pete that she intended to warn any other local dentist who called to inquire about Pete's abilities, of her opinion of his alleged incompetence. In making his offer to Della to buy Greenacre, Ted was unaware of Pete's employment compensation agreement with Della.

Della and Ted have opened an escrow for the sale of Greenacre. Pete seeks your advice about his remedies concerning his employment with Della and his rights, if any, in ownership of Greenacre. Discuss.

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### **Question Number Two** (One Hour)

Carr made a written agreement with Liz to do a complete remodeling of the family room in Liz's residence, for a price of \$40,000, including a renovation of the family room and utility connections to the living room and kitchen. The plans for the remodeling were prepared by Arch, an architect hired by Liz. The plan specifications called for installation of 30 "Best" 3-inch bolts in the family room. However, Carr mistakenly used "Next" 2-1/2 bolts of slightly lower quality, for the job. Arch advised Liz that as a result, the structure of the renovated family room will be slightly less sound.

During the construction, Carr's only son was badly injured in an automobile accident, and as a result, Carr was distracted. As a result, Carr did faulty re-wiring of the family room, causing the radio, television, tape recorder and CD to make sudden and blaring screeches when being operated, frightening Liz. The screeching noises sometimes occur in the middle of the night without the equipment being turned on, causing Liz a terrible fright. As a result, she made several visits to her family physician who prescribed medications for her; and, she also moved out of her residence into a nearby motel "so that I can enjoy some peace and quiet." Liz withheld the final \$5,000 payment to Carr, and told him to stay off the job. She obtained a bid from Bud, another home renovation contractor, for rewiring the family room and installing the correct bolts. Bud's estimate for the wiring repair is \$3,000; to correct the bolt installation, Bud says that he has to remove most of the family room renovation and re-do it, at an additional cost of \$28,000.

Carr offers to repair the wiring himself, but Liz will not permit him to enter the property. She refuses to do anything until Carr pays her the amount of money needed for Bud to do both the re-wiring and family room reconstruction work. Carr refuses, stating that Liz's position is unreasonable. In reaction, Liz has a large sign prepared saying "Carr is a crooked contractor - don't use him", and installs the sign next to an adjacent busy freeway. In addition, Liz has leaflets prepared which enumerate and explain her view of Carr's "defective construction" and how the same "made my life a nightmare", passing out the leaflets at a local shopping mall. Carr's construction business has begun to suffer noticeably.

What are the respective rights and remedies of Liz and Carr? Discuss.