

**Question One**

One Hour

Bob Builder is a building contractor and contracted in writing with Picky Purchaser to build her a house and a four-car detached garage on Bob's lot for \$1M. The lot is one of the few undeveloped pieces of land in prime vineyard area. Before construction, Bob hired Sue Survey to survey his lot to make sure it was correct. Sue mistakenly drew the line 60 feet off. Bob built the house and the detached garage. Unfortunately, because of the incorrect survey, Bob constructed half of the detached garage on the land of Ned Neighbor. Both Bob and Picky mistakenly believed that the garage was built entirely on Bob's lot.

The parties were unaware of the mistake until Ned noticed the problem shortly after construction was finished, but before the sale was complete. Bob offered to buy a small portion of Ned's lot to house the garage, but Ned refused, saying he specifically bought that parcel to plant Pinot Noir where the garage was because that area has the best sun exposure.

The garage required sophisticated underground electrical wiring to accommodate a supercharger for Picky's Tesla, so it would be very costly to move. Bob cannot afford to re-build the garage on the existing lot, because, due to local ordinances, costs to get permits and to re-figure the driveway, it would cost \$100,000 to re-build. Picky wants the original house with the detached garage where it was planned, and she is unhappy. Picky does not want the garage in a different location, or a smaller garage, or no garage. Bob offered to sell her the lot as is, for the contract price less \$60,000, which was his cost to build the existing garage. Picky refused because she won't have a place to store and charge her Tesla.

When Sue learned of the problem, she got so upset she suffered a heart attack and died broke.

What are the equitable rights and liabilities of the parties?

## Question Two

One Hour

Devon Developer owns land next to Geyser Orchard Golf and Country Club in Wine City, USA. Devon decided to build Vino Village, a retirement community, on that space. Over a period of ten years Devon and Golf Club negotiated the number of units, their distance from the property line, and their height. Based on these discussions Devon changed the plans from 65 three-story apartment-building style condo units to 20 single-story family home buildings. They did not have any agreement in writing. The Golf Club did not object to the project at the hearing in front of the Planning Commission, and the project was approved in January 2013.

The only access to the new development is a service road on the Golf Club's property, which Devon acquired an easement for from the previous owner when he bought the property. The previous owner was going to build a mansion on the lot. The easement was limited to access to build the home and reasonable trips by a single family and their guests. Devon and the Golf Club never discussed the easement.

The Golf Club gave him the keys to the gate on the service road. Devon started construction in April 2013. One of the units was fully built to serve as a model home and sales office. This phase of construction was completed in Sept. 2013. A big earth quake struck in October, which caused significant damage to various communities in Wine City, but the Golf Club and Vino Village were unharmed. However, numerous news reports warned of additional quakes in the future and people were frightened away from living in the area. The housing market hit a big slump and the construction project was stalled. Finally, in May 2015 the housing market revived and Devon managed to sell all of his units. Construction resumed in June.

Devon graded the land for all of the units. The bulldozers were extremely noisy and disturbed the golfers on the adjacent fairways and Club members using the pool and tennis courts. In addition, dust and debris invaded these areas, coating everything and ruining the pool filter. Club members protested and threatened to leave if the construction continued, and many did leave. The Golf Club suffered a loss in revenue that, if continued, would bankrupt the Club.

In September 2015, the Golf Club sued Devon for nuisance and trespass. The Club sought an injunction to prevent any future construction and damages to pay for the pool clean-up and to pay for the lost membership dues. The statute of limitations for trespass and nuisance is one year.

What are Devon's defenses? When can they be raised?

**Question Three**

One Hour

Dirk was a police officer serving the City of Mudville. While on foot-patrol in full uniform, he came across Vito, an Italian, walking in the neighborhood. Dirk confronted him, saying: “What are you Italians doing here? You don’t belong here. You people eat too much garlic and stink up the town. Get out!” They got into an argument, and Vito slapped Dirk with a wet noodle. In response Dirk pulled out his gun and shot Vito three times. Vito died en route to the hospital. This caused community uproar. An “Italian Lives Matter” protest sparked up with marches and vigils. Numerous media reports recounted other acts of abuse by Dirk and other Mudville police officers against Italians. The District Attorney’s Office reviewed the case and found the shooting unjustified. The investigation revealed that Dirk lacked sufficient training in use of deadly force. Dirk was arrested and charged with voluntary manslaughter.

Vito, 35, was employed as a sous chef at an upscale, well regarded restaurant. He was hoping for a promotion to executive chef soon, as he had a good record there. He spent most of his earnings on fancy vacations and fine wines. There are witnesses to these events.

Vito is survived by his wife of ten years, Viola, and their two elementary school aged children. Vito was a devoted father: he drove the children to and from school at least twice a week, made their lunches, and spent his day-off teaching them how to cook. However, the marital relationship was strained because Vito spent two to three nights a week with his mistress, Lovey, in an apartment that he rented near the restaurant downtown for the past two years. Lovey was so distressed by Vito’s death that she had to be hospitalized in a psychiatric hospital for several weeks.

Who are the parties and what are their rights and remedies?