

**QUESTION 5 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II
OR IN SOFTEST ANSWER SCREEN 5**

Charles, a music critic, contracted with two magazines to provide music reviews. Under the first contract, which states that it "constitutes the entire agreement between the parties," Charles agreed to review several jazz releases for Jazzamatazz magazine. Jazzamatazz agreed to pay Charles \$1,000 plus two tickets (worth \$100 each) to an upcoming concert by The Roots.

Under the second contract, Charles agreed to write a review of The Roots concert for Yo magazine for \$1,000. The contract stated that Charles would be responsible for obtaining concert tickets and that if he failed to provide the review, he would pay Yo \$6,000 "as liquidated damages." At the time of contracting, and based on experience, Yo calculated that Charles' review would increase the magazine's profits by \$2,000.

Charles provided his review to Jazzamatazz, which paid him \$1,000. However, Jazzamatazz was unable to procure the concert tickets for Charles, who could not obtain them from any other source, and thus could not write his review for Yo. Having to breach the contract with Yo caused Charles significant mental distress.

Yo sued Charles for breach of contract, seeking \$6,000 in liquidated damages as specified in the contract.

Charles sued Jazzamatazz for breach of contract, seeking the following damages:

- \$200 as the value of the tickets to The Roots concert;
- \$1,000 for lost income from Yo, plus \$6,000 for the amount he owed Yo due to Jazzamatazz's breach;
- mental distress damages; and
- exemplary/punitive damages.

Jazzamatazz argues that just before the parties signed the contract, they verbally agreed that, if Jazzamatazz were unable to procure tickets for The Roots concert, Charles would accept instead two tickets (worth \$50 each) to an upcoming Justin Bieber concert.

Should a court award the damages Yo is requesting in its suit against Charles? What damages should Charles recover in his suit against Jazzamatazz? Explain your answers.

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