

**QUESTION 13 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V
OR IN EXAMPLIFY ANSWER SCREEN 13**

Declan Innovations, a Michigan corporation, manufactures and sells automotive mufflers. One of its largest customers is Pym Industries, also a Michigan corporation. Pym incorporates Declan's mufflers into complete automotive exhaust systems that it supplies to Kaxton Automotive's main assembly plant in Ohio.

The parties' 2015 supply agreement provides that Declan will supply mufflers to Pym at a price of \$49.94 per muffler, but "subject to all applicable steel surcharges." From 2015 to 2017, Declan supplied more than 600,000 mufflers, at a cost of approximately \$30 million. In 2018, however, steel tariffs increased the cost of the raw materials that Declan uses in its mufflers. As a result, Declan sought a price increase from Pym that would raise the cost of each muffler to \$58.57. Pym refused, asserting that the parties had modified their agreement in 2017 to remove steel surcharges.

Disputing that it had ever agreed to waive steel surcharges, Declan threatened to stop supplying mufflers within 30 days unless Pym agrees to pay the increased price. Declan informed Pym that it cannot afford to continue supplying mufflers at the original price, and would be forced to declare bankruptcy if Pym does not agree to the price increase.

In response, Pym filed a lawsuit in a Michigan circuit court for breach of contract and seeking a preliminary injunction requiring Declan to continue supplying its mufflers at the original price. Pym claims that if Declan were to stop supplying mufflers, it would be unable to supply its exhaust systems to Kaxton, which in turn would result in an assembly line shutdown at Kaxton's Ohio plant, subject Pym to monetary penalties from Kaxton, and harm Pym's relationship and goodwill with Kaxton.

In opposing Pym's request for injunctive relief, Declan argues that Pym has other options, such as paying the price increase or finding an alternate muffler supplier. Declan also presented evidence of the harm it would suffer if it were required to continue supplying mufflers without its requested price increase. Pym acknowledges that it has other potential suppliers, but is concerned about production delays.

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Discuss the requirements for obtaining preliminary injunctive relief under Michigan law and how the court should rule on Pym's motion in light of those requirements.

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