

**QUESTION 15 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V
OR IN SOFTEST ANSWER SCREEN 15**

Power Company and Donovan, Inc. contracted for Power to deliver 300,000 widgets to Donovan, in three shipments, at a total cost of \$75,000. Donovan promptly paid Power \$25,000 following the initial shipment, but only paid Power \$20,000 after receiving the second shipment and invoice. Donovan paid nothing after Power delivered the third shipment and invoice. Power filed suit for breach of contract in Kandor County, Michigan, alleging \$30,000 in damages.

Pursuant to a scheduling order entered by the trial court, and after a brief period of discovery, the case was submitted to case evaluation. Following briefing and a hearing, the case evaluation panel issued a unanimous evaluation award of \$25,000 in favor of Power. Within a week, Power filed a written acceptance of the award. Donovan did not respond to the award.

Two months after the case evaluation panel issued its award, Power filed a motion for summary disposition, seeking judgment in the amount of \$30,000 as well as case evaluation sanctions. Power attached the contract, the invoices, and the canceled checks evidencing payment of \$45,000 as support for the motion, along with an affidavit from Power's CFO indicating that Donovan failed to pay for the widgets as bargained. Donovan opposed the motion, alleging that part of the second shipment and all of the third shipment contained defective widgets. In support of its response to the motion for summary disposition, Donovan only attached one affidavit. In that affidavit, Donovan's CEO asserted that she refused to pay Power's invoices in full because she had been told by Donovan's loading-dock employees that some of the delivered widgets were defective. The trial court granted the motion for summary disposition and entered a judgment in favor of Power and against Donovan for \$30,000. It also awarded Power case evaluation sanctions.

1. Focusing solely on Power's motion and Donovan's response, did the trial court properly grant Power summary disposition? Explain your answer.

2. Assuming the summary disposition motion was properly granted, did the trial court properly grant case evaluation sanctions? Explain your answer.

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