

Exam Question No. 1
60 minutes

Mario, owner of Mario's Pizza Shack, orders all of his pizza dough from Pill S. Burry, a wholesaler of restaurant food supplies. Their written agreement states that each month for the next six months Pill will deliver 500 pounds of pizza dough to Mario, and Mario will pay Pill \$1,000 for the delivery. After two month's deliveries and two days before the latest delivery is due, Pill tells Mario that Pill will not be able to deliver that month's 500 pounds of pizza dough unless Mario pays \$1250 for the pizza dough. Pill explains that the price of flour (the main ingredient in pizza dough) has unexpectedly increased over the last few weeks. As a result, Pill is unable to make Mario's dough unless he receives the higher price.

Mario calls other pizza dough suppliers, but he finds out that it will take at least four weeks for another supplier to be able to provide him with pizza dough. If he closes his restaurant for four weeks while he awaits the new dough, Mario will lose about \$5,000.

Mario reluctantly telephones Pill, agrees to Pill's proposal, and accepts the 500 pounds of pizza dough when delivered. However, when Pill sends a bill for \$1250, Mario refuses to pay any more than \$1,000.

Will Pill prevail in a lawsuit against Mario for \$1,250? Discuss fully.

Exam Question No. 2
60 minutes

One of the kids in Wally's neighborhood accidentally hit a baseball into Wally's window. Winter was coming, so Wally was anxious to get the window fixed. He called Cathy, his usual contractor, to have a replacement window installed. Cathy agreed to come to Wally's house to inspect the window.

When she arrived on Wednesday, she told Wally that it would cost \$400 to replace the window. Wally knew there was a big storm forecast for the weekend, so he told Cathy that if she could install the new window by the end of the day Friday, he would pay her a \$95 bonus. He also insisted that the window frame be painted with eggshell white paint. In fact, this wasn't the first time that she and Wally had agreed to a bonus if she finished quickly, and he would often pay Cathy more than the contract price for finishing them on his schedule. Cathy agreed to the bonus and pulled out one of her form contracts. The contract contained the following two terms:

- “1. Wally agrees to pay Cathy \$400 to install a new window. The paint on the window frame will be eggshell white. If Cathy finishes the installation by this Friday, she will receive a bonus.
2. This contract is the complete, exclusive, and final expression of all terms agreed to by the parties.”

Cathy completes the installation of the window on Thursday. She uses the white paint manufactured by a paint company called Eggshell. When Wally comes home to inspect the window, Cathy is finishing the last coat of paint on the window frame. Wally is horrified when he sees the paint can. He didn't care what brand of paint Cathy used, but he wanted it to be the color of “eggshell white.” He notices that the paint can says that the color of the paint is “white.” Although no one could possibly tell the difference between white paint made by the Eggshell paint company and paint the color of eggshell white, Wally is furious. “This is not what I wanted!” Wally refuses to pay Cathy for the installation. Cathy sues Wally for \$495. Who prevails and why?