

**JULY 2019 MICHIGAN BAR EXAMINATION
ESSAY PORTION
MORNING SESSION**

**QUESTION 1 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I
OR IN EXAMPLIFY ANSWER SCREEN 1**

In 2016, Darren surprised Samantha by giving her a \$3,000 gemstone necklace to commemorate their 20 years of special friendship. Over the years, the pair had confidentially shared with each other private details of their lives. Samantha wore the necklace almost daily for three years. Subsequently, Darren and Samantha parted ways and Darren demanded the necklace back when he discovered that Samantha had shared a private detail of his life with a mutual friend. Samantha refuses to return the necklace, claiming that it is a gift that she gets to keep.

Tyson gave Debra a \$15,000 engagement ring. Debra wore it faithfully and the couple married a year later. After 6 months of marriage, the pair separated. Tyson claims that the marriage was a farce from the beginning and demands the ring back. Debra refuses to return it.

Jeremy's grandfather, Papa Earl, offered Jeremy an operable vintage car that Papa Earl kept well maintained and stored in his garage. Eager to make space for more storage, Papa Earl told Jeremy that if he wanted the car, he would have to retrieve the keys and title from Papa Earl and move the car from the garage soon. When Jeremy failed to do so after several months, Papa Earl gave the car to Jeremy's cousin Liza, who promptly retrieved the keys and title from her grandfather and took the car to her home and ensured that title was transferred to her name. Jeremy now claims that the car is his because Papa Earl first said that Jeremy could have it. Liza is ignoring Jeremy's assertion that the car belongs to him.

Applying Michigan law, fully discuss:

Whether Samantha, Debra and Liza are obligated to return the necklace, engagement ring, and car, respectively.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I*****
OR IN EXAMPLIFY ANSWER SCREEN 1**

**QUESTION 2 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I
OR IN EXAMPLIFY ANSWER SCREEN 2**

Cassie rented residential property to Sarah in Hometown, Michigan pursuant to a written one-year fixed term lease which was due to expire April 30, 2019. Cassie properly instituted an action in district court on May 3, 2019 to recover possession of the property as Sarah continued her occupancy. At the May 13, 2019 court hearing, Sarah contended that Cassie could not obtain a possession judgment to evict her from the property because Cassie was retaliating against Sarah for having made a written complaint against Cassie to the Hometown buildings and safety department about safety code violations on the property six months prior. Following Sarah's complaint to the department, Cassie promptly addressed any code violations satisfactorily.

Applying Michigan law, fully discuss:

1. The likelihood of success of Sarah's retaliation defense to Cassie's complaint to recover possession of the property, and
2. Assuming Cassie obtains a possession judgment from the court, the next legal steps to secure actual possession.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I*****
OR IN EXAMPLIFY ANSWER SCREEN 2**

**QUESTION 3 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I
OR IN EXAMPLIFY ANSWER SCREEN 3**

Angel Watts had lived life to the fullest for 95 years when she passed away on December 2, 2018. Her only living heir at that time was her daughter, Hope Lester. Three days later, however, Hope also passed away. At the time of Angel's death, Angel had an estate worth \$100,000, and Hope's estate was worth \$50,000. Angel had no will. In 2014, Hope, who was 60 years of age at that time and in good physical and mental health, had written the following on notebook paper in her own handwriting:

MY WILL

Everything I have is yours Joan, because you have been such a dear friend and helped me with everything.

March 1, 2014: SIGNED *Hope Lester*

Applying Michigan law, fully discuss how each of the estates would be distributed, including whether the timing of the two deaths has an effect on the distribution.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I*****
OR IN EXAMPLIFY ANSWER SCREEN 3**

GO TO BLUEBOOK II

**QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
II OR IN EXAMPLIFY ANSWER SCREEN 4**

Abby Agent executed the following written contract with Owen Owner, who owned a large apartment complex:

Abby will conduct showings of Owen's empty apartments to prospective tenants every Monday, Wednesday and Friday. Owen will pay Abby \$1,000 per month for the nine-month term of this contract. This contract constitutes the entire agreement between the parties and may not be modified except in a writing signed by both parties.

Vacant apartments did not fill as quickly as Owen wanted, so he asked Abby if she would show them more frequently. Abby said she would, but only for a much higher fee. Consequently, the two orally agreed that for the remaining six months of the contract term, Abby would show vacant apartments four days per week for \$2,000 per month.

The increased number of showings did not help. In addition, Owen learned that the typical market rate for the service Abby was providing was \$1,000 per month, so that is what he paid Abby.

Abby sued Owen for breach of contract, claiming Owen owed an additional \$1,000 per month for six months under the oral modification of their contract. Abby argued that the modification was valid as demonstrated by extrinsic evidence, including e-mails in which the parties discussed their agreement to modify the written contract as well as its written-modification clause.

Owen argued that the oral modification was unenforceable for the following reasons:

1. The contract's written-modification clause rendered the oral modification invalid;
2. The contract's integration clause prevented admission of the extrinsic evidence to prove the oral modification;

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II*****
OR IN EXAMPLIFY ANSWER SCREEN 4**

3. The increased price was excessive in light of the service he received and did not accurately reflect the market price, rendering consideration for the oral modification invalid.

Applying only Michigan contract law, evaluate Owen's arguments.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II*****
OR IN EXAMPLIFY ANSWER SCREEN 4

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

Approximately seven years ago, Solar Universe Co. (Solar) was a relatively new wellness corporation, when it obtained three separate \$10,000 money judgments against Tanya, Larry and Clarence arising out of breach of contract actions. None of these judgment debtors made any payments on the judgments. Solar now wants, for the first time, to attempt to collect from each.

Tanya's only current source of income is social security benefits which are directly deposited into her bank account monthly. Larry is the owner of commercial property that he leases to a business tenant for \$3,500 per month. Clarence has a savings account balance of \$40,000 due primarily to his recent receipt of an inheritance from his uncle's estate. Clarence also earns an annual salary of \$75,000 from his employer, Dividend Co. Each of the judgment debtors also owns a motor vehicle.

Applying Michigan law, fully discuss with respect to each judgment debtor:

1. Whether Solar can now garnish money to pay the judgment, and

2. Whether there are other collection options for securing satisfaction of the judgments based upon the above facts.

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

**QUESTION 6 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
II OR IN EXAMPLIFY ANSWER SCREEN 6**

Plaintiff Patty is suing her employer, Equity International, for sexual harassment. The alleged harasser, Dennis, was Patty's coworker three years earlier, at which time Patty and Dennis had a consensual sexual relationship. The couple mutually ended the relationship on good terms when Equity promoted Dennis and transferred him out of state. Two years later, Equity transferred Dennis back to Patty's work location.

Shortly after Dennis's return, Patty claims he approached her after work in a bar. She claims she told him that she wanted nothing to do with him, but that he refused to give up, eventually following her to her car, where he attempted to sexually assault her. Dennis tells a very different story, claiming that Patty invited him to join her for a drink - her treat. She then tried to come onto him, and when he refused to reciprocate, she followed him to his car where she tried to force herself on him.

The critical issue for trial is whether Dennis engaged in unwelcomed sexual conduct toward Patty. On this issue, Patty intends to offer two witnesses. The first witness, Wendy, had arrived in the bar just before the events in question and had not yet consumed any alcohol. She was, however, seated on the opposite side of the large room, where her view was partially obstructed and she could not hear anything said between Patty and Dennis. Wendy nevertheless plans to testify that, in her opinion, Patty appeared frightened of Dennis based on the body language and facial expressions Wendy could see. The second witness, Dr. Wilma, is a psychologist who plans to opine that, based on psychological testing, Dennis fits the profile of a sexual harasser.

Equity is objecting to both witnesses, arguing that given her distance from and impaired view of the events in question, Wendy could not realistically have witnessed anything that would enable her to form a legitimate opinion pursuant to MRE 701. Equity bases its argument largely on the testimony of the three women sitting at the table next to Patty and Dennis, who testified to their own observations that, in their opinions, Patty was clearly the aggressor.

Equity also challenges Dr. Wilma's conclusion that Dennis fits the profile of a sexual harasser. According to Equity, this is unreliable expert testimony under MRE 702. Equity's primary argument focuses on Dr. Wilma's concession that such profiling is

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II*****
OR IN EXAMPLIFY ANSWER SCREEN 6**

relatively novel and remains a subject of controversy among psychologists and, while testing may indicate a predisposition for sexually harassing conduct, whether it can be used with any degree of certainty to identify an actual harasser is still the subject of ongoing research and disagreement. Moreover, according to Equity, Dr. Wilma's testimony, to the extent it has any probative value at all on the issue of whether Dennis engaged in unwelcomed conduct on this occasion, should not be admitted under MRE 403.

Applying Michigan law, fully discuss:

1. How should the court rule on Equity's MRE 701 objection to Wendy's testimony? Explain your answer.

2. How should the court rule on Equity's MRE 702 and 403 objections to Dr. Wilma? Explain your answer.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II*****
OR IN EXAMPLIFY ANSWER SCREEN 6**

GO TO BLUEBOOK III

**QUESTION 7 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
III OR IN EXAMPLIFY ANSWER SCREEN 7**

Sally has financial problems. She purchased a desktop computer for her apartment for \$2,000 from XYZ Electronics (XYZ) with a store credit card. Shortly thereafter, she lost her job and knew she would be unable to afford the monthly payments for the computer. Not wanting to lose the computer, Sally sent a \$100 check to XYZ as her first credit card payment and conspicuously wrote "payment in full" on the back of the check, as well as on the memo line on the front of the check. XYZ received the check, deposited it, and the check cleared. Soon thereafter, Sally received XYZ's credit card statement reflecting a \$100 payment and a remaining balance of \$1,900 for the computer.

Sally quickly found a new job as a receptionist for a dentist, Dr. Jones. In her first week there, Sally stole three checks (totaling \$18,200) from Dr. Jones' desk drawer, each made payable to Dr. Jones for services rendered. On each check, she forged Dr. Jones' endorsement on the back, signed her own name, and deposited the checks in her own individual bank account at First State Bank. The funds were collected from the payor banks by First State Bank. Dr. Jones subsequently discovered the theft.

Applying Michigan law, fully discuss:

- 1. Does Sally still owe \$1,900 to XYZ? Explain why or why not.**
- 2. Does Dr. Jones have a valid cause of action against First State Bank?**

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
OR IN EXAMPLIFY ANSWER SCREEN 7**

**QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
III OR IN EXAMPLIFY ANSWER SCREEN 8**

On November 17, 2016, Peter, a Mississippi resident, was driving to work in his 2014 Declan Motors sedan. As Peter traveled along a rain-slicked road in Olympia, Mississippi, he lost control of the vehicle, skidded off the road, and crashed into a tree, sustaining serious injuries when the driver airbag failed to deploy.

At the time of the accident, Peter's vehicle was registered in Mississippi. Peter acquired the vehicle from his uncle, who originally purchased it from a Declan dealership in Georgia. Declan is a Delaware corporation with its headquarters and principal place of business in Michigan. The vehicle was designed at Declan's main engineering facility in Michigan, but manufactured in Kentucky. Declan has no offices or employees in Mississippi, but advertises nationally and sells vehicles in Mississippi through independent dealerships.

A few months after the accident, Peter filed a product liability action against Declan in Mississippi state court. Declan, however, was successful in having the case dismissed for lack of personal jurisdiction on the ground that Peter's claim did not arise out of Declan's activities in Mississippi.

Peter subsequently refiled his lawsuit in a Michigan circuit court. Peter alleges that his airbag did not deploy due to a defectively designed switch. According to Peter, Declan knew about the defect for several years, but decided not to declare a recall. In addition to economic damages, Peter seeks punitive damages under Mississippi law based on Declan's allegedly willful, wanton, and reckless disregard for his safety. Mississippi law permits recovery of punitive damages; Michigan law does not.

Peter has filed a motion for partial summary disposition, arguing that Mississippi law should govern his claim for punitive damages.

Applying Michigan law, fully discuss:

- 1. What factors should the court consider in reaching its choice of law decision and what law should it apply?**
- 2. How should the court rule on Peter's motion for partial summary disposition?**

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
OR IN EXAMPLIFY ANSWER SCREEN 8**

**QUESTION 9 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
III OR IN EXAMPLIFY ANSWER SCREEN 9**

Gwendolyn (Gwen) and Gary fell in love and quickly married. The first year of marriage brought the couple twin baby girls, Charlotte and Samantha; the second year produced bickering; and the third year brought Gwen's divorce complaint and eventual trial in a Michigan family court. The trial focused on the custody of the girls, now approximately four years of age. Considering the children's best interest, the trial court awarded Gwen both legal and physical custody, with every other weekend parenting time to Gary.

Trial evidence indicated Gary was a good provider, working long hours as a plumber for a local company and working weekend odd jobs. When home, he was a decent father but, due to fatigue or otherwise, he only took part in the "fun stuff" - leaving the demanding tasks to Gwen.

Demanding they were. Both children had behavioral problems, and each required a special diet. Additionally, Gwen spent many hours trying to prepare the girls for school by reading to them and quizzing them regularly on math problems and reading comprehension. Despite Gwen's efforts, a specialized school may still be needed. With Gary's Sunday availability hit and miss, Gwen regularly took the children to church, given that religious involvement was important to the couple.

Two years after judgment was entered, Gary learned that, on the weekends that she did not have the children, Gwen was working as the office manager of a "dating website." Gary also learned that the dating website was really an "escort service" which he equated with prostitution. He filed a motion to change custody, claiming Gwen now "lacked the 'moral fitness' to be the girls' custodial parent" and the custody/parenting time allocation should be flip-flopped. Nowhere did Gary's motion allege the girls were aware of their mother's weekend work.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
OR IN EXAMPLIFY ANSWER SCREEN 9**

Given the foregoing and applying Michigan law:

1. Describe the procedural process the court must perform in evaluating Gary's motion.
2. With that process in mind, evaluate the chances of Gary's motion to change custody. Explain your answer.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
OR IN EXAMPLIFY ANSWER SCREEN 9

**JULY 2019 MICHIGAN BAR EXAMINATION
ESSAY PORTION
AFTERNOON SESSION**

**QUESTION 10 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
IV OR IN EXAMPLIFY ANSWER SCREEN 10**

The Acme Widget Company (AWC) is a registered Michigan corporation located in Springfield, Michigan. Barney Burns serves as a director of the corporation. Sid Simpson and Frank Flanders are the shareholders.

After several years of losses, AWC was closing its doors. AWC owed the City of Springfield \$50,000 in delinquent property taxes. Instead of paying the delinquent taxes, Barney voted to divide the last \$100,000 in corporate assets evenly between Sid and Frank (\$50,000 each). Sid favored this course of action because he wanted to make a down payment on a new condo in Florida. Frank, who was on a safari in Kenya, was unaware of the plan.

After the corporation dissolved, the City of Springfield indicated its intent to file a lawsuit against Barney, Sid and Frank, alleging that all three caused the corporation to be left without sufficient assets to meet its known outstanding debts.

Applying principles of Michigan corporation law, and without consideration of any liability set offs from any other party, discuss the extent and amount of:

1. Barney's liability to the corporation for the benefit of its creditor, and any defense he may have as a director;
2. Sid's liability to the corporation for the benefit of its creditor; and
3. Frank's liability to the corporation for the benefit of its creditor.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
OR IN EXAMPLIFY ANSWER SCREEN 10**

**QUESTION 11 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
IV OR IN EXAMPLIFY ANSWER SCREEN 11**

George Jones had a stellar reputation, and was considered one of the nicest, trustworthy residents of Anytown, Michigan. Jones loved coaching baseball and had been a coach in the Anytown recreational league for many decades. This year, one of his players was Mikey Smith, the 16 year-old son of Tom Smith. Mikey had a strong dislike for Jones, who had coached Mikey the previous two years. Mikey believed that Jones did not let him pitch enough, and was certain this year he would again rarely pitch. Because this was Mikey's last year of league eligibility, he was determined to get Jones removed as coach so he could pitch more.

Mikey's plan was as simple as it was untrue: accuse Jones of cheating by failing to follow league rules. Specifically, Mikey verbally spread the word amongst players and parents that Jones had repeatedly violated league rules by not allowing all players to play the league minimum three innings. It took less than two weeks for the rumor to spread. An investigation ensued. It was Mikey's word against Jones and, out of an abundance of caution, the league sided with Mikey. As a result, Jones was terminated from the league and banned from coaching. Jones was terribly embarrassed by the allegations and resulting ban, and eventually lost his sales job because of his damaged reputation.

Jones sued Mikey for defamation, and Tom Smith for negligence, claiming Tom was responsible for his miserable child's defamatory actions. Mikey seeks dismissal of the defamation claim arguing that Jones cannot establish the elements. Tom seeks dismissal of the negligence claim on the ground that he cannot be held liable for a defamatory statement of his son.

Applying Michigan law, explain in detail:

- 1. Whether Jones can establish a defamation claim against Mikey, and**
- 2. Whether Tom can be liable for his son making the allegedly defamatory statement.**

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
OR IN EXAMPLIFY ANSWER SCREEN 11**

**QUESTION 12 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
IV OR IN EXAMPLIFY ANSWER SCREEN 12**

Michigan's State Real Estate Transfer Tax Act (SRETTA) imposes a transfer tax on contracts and other written instruments of conveyance for the sale of real estate located in Michigan. SRETTA provides that only the seller is liable for the transfer tax.

John Thompson is the Register of Deeds for Pleasant County, Michigan. Mulligan Properties Inc. purchases and sells luxury real estate across the country. The company is organized as a Delaware corporation with five shareholders. Its principal place of business is in Austin, Texas. Three of its shareholders are also domiciled in Austin, and the remaining two shareholders are domiciled in Anytown, Michigan. Wyatt Title is an unincorporated sole proprietorship owned by Ellis Wyatt, who is domiciled in Pleasant City, a city located within Pleasant County, Michigan. The title company's sole office is also located in Pleasant City.

In 2017, Mulligan Properties Inc. owned 20 luxury homes, each on 5 acres of real estate, in Pleasant County. In 2017, the real estate investment company contracted to sell all of the properties to various individual buyers. Wyatt Title was the title company hired by Mulligan Properties Inc. to perform title insurance services related to the sales. All of the sales were completed in 2017, and no transfer taxes were paid by Mulligan on any of the sales.

In his capacity as Register of Deeds, Thompson sued Mulligan Properties Inc. and Wyatt Title in Pleasant Circuit Court for failing to pay the tax under SRETTA. Thompson alleged that, as the seller of the 20 properties, Mulligan Properties Inc. was liable for the transfer taxes associated with the sales. Thompson further alleged that the county's damages exceeded \$25,000 in lost tax revenue, but further alleged that the actual losses were very likely in the six figures. Thompson did not allege failure to pay the tax against Wyatt.

Mulligan Properties Inc. has hired the firm for whom you are clerking to defend the company. The client is concerned about being in the circuit court located in the same county as the plaintiff public official, and it has asked whether removal to the federal district court, Western District of Michigan, is viable.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
OR IN EXAMPLIFY ANSWER SCREEN 12**

The firm's partner asks you to:

1. Explain what the standards are for removing a state action to federal district court,
2. Apply those standards to the facts of this case, and
3. Explain whether the case should be filed in the Western District of Michigan or remain in the Pleasant Circuit Court.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
OR IN EXAMPLIFY ANSWER SCREEN 12

GO TO BLUEBOOK V

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

Dwayne was charged with a crime in January 2019 for a car accident that happened in Michigan in December 2015. Dwayne complains that it is too old to go to trial. On the night of the accident, Dwayne, his cousin Al, and friend Tom, ate dinner and drank a lot of alcohol at a sports bar while watching a basketball game. When the game was over, Dwayne was driving Al and Tom home and hit a car stopped at a stop light. Tom broke his leg in the accident.

Dwayne's blood was drawn that night at the hospital, but at that time he was not charged with any offense. Dwayne immediately went back to college out of state. Dwayne stayed at college until he graduated in December 2018 and then returned to Michigan.

In January 2019, Dwayne was arrested on an outstanding warrant for the charge of OUIL causing serious incapacitating injury. The warrant was issued in July 2016. Trial is set for September 2019.

Dwayne complains the case is too old to have a trial because it has been almost four years since the accident and three years since the warrant was issued. Dwayne further states the car he was driving is sold and gone; neither Al nor Tom can remember the accident; Dwayne cannot remember much about that night; Dwayne does not know if he has any witnesses from the scene or the bar; and the people who drew Dwayne's blood are gone.

1. What are the factors for a speedy trial?
2. When does the clock start?
3. Apply the law to the facts and decide whether Dwayne's right has been violated.

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

**QUESTION 14 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
V OR IN EXAMPLIFY ANSWER SCREEN 14**

James attended a house-warming party and had one beer. As he was leaving, Donald asked him for a ride home. James and Donald did not know each other but James agreed to drive him. Donald had an iPad in a case with him. They both got in James' car. James made a turn without signaling and was stopped by a police officer. James did not have the registration to the car. The officer asked James to step out and go to the rear of the car. The officer asked James if he could search the car and who was with him. James agreed to the search, said he just met Donald and was giving him a ride home. The officer went to the passenger side of the car and ordered Donald out. As Donald got out of the car, the officer told Donald to leave the iPad on the seat. Donald complied. The officer searched the car and found nothing. The officer then opened the iPad case and found a gram of cocaine. Donald was arrested. Donald complains the search is unfair.

1. Does James' agreement to search his car extend to Donald's iPad case?
2. May Donald contest the search of his iPad case?
3. What is the law that applies to Donald's iPad case?

Discuss and apply the law to the facts presented.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V*****
OR IN EXAMPLIFY ANSWER SCREEN 14**

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

The police set up surveillance at a shopping mall. During 40 minutes of surveillance, the police saw 10 different people approach a man in a blue parka standing near the bathroom, who was recognized as "Dave". Those persons handed money to Dave and he reached in his pocket and handed them something from his cupped hand. The police stopped and searched the last person who engaged in a transaction. The police found a rock of cocaine in a one-inch by one-inch plastic baggie. That person told the police, "Dave sold it to me." The police released the purchaser, seized the cocaine and arrested Dave.

Dave and his girlfriend Diane lived alone in a single bedroom house about a mile away. The police obtained and executed a search warrant for the house. When they arrived at the house to execute the warrant, Dave was the only person present. The police found mail addressed to both Dave and Diane at that address. They went into the only bedroom and saw two dressers in the room, one white and the other brown.

On top of the white dresser the police found a make-up mirror with cocaine residue, a razor blade and 35 grams of cocaine bundled in one-inch by one-inch zip lock baggies. The police searched the white dresser, which contained only women's clothes. The police found 280 ten dollar bills rolled up inside a women's shirt in a drawer, and a bag of drug mixing agent inside a pair of women's socks in another drawer.

The brown dresser contained only men's clothes. No contraband was found in it.

The bedroom closet contained men's and women's clothes and shoes. The police found a box of one-inch by one-inch zip lock baggies inside a pair of women's shoes.

Diane returned home during the search, walked inside and was also arrested.

Applying Michigan law, what charges, if any, can be brought against Diane based on what the police found in the house? Discuss the complete legal elements and reasons in support of your answer.

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