

QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III

Lisa and her husband Larry were married in 2002 and they have two children, ages 4 and 6. During the early years of their marriage they lived with Lisa's parents in Lansing, Michigan to save money. In January 2008, Larry abandoned looking for work in Michigan and, over Lisa's objection, moved by himself to Ohio and began working as a waiter there. Larry convinced Lisa to come and stay with him in Ohio for the summer of 2008, during which time the couple attempted to reconcile. Larry's explosive temper often got the best of him, however, and after a few serious outbursts, Lisa and the children moved back to Michigan and resumed living with Lisa's parents in September 2008. Lisa began working at a daycare. She earns about the same income there as Larry earns at his job, although Lisa does not need to pay rent or utilities while she lives with her parents.

In December 2009, Lisa received a telephone call from Larry, who, with Lisa's consent, has the children in Ohio to celebrate his birthday. During their conversation, Lisa asked Larry to begin paying child support. Larry became angry and threatened to file for divorce in Ohio and seek custody of the children.

Lisa visits your law office seeking advice on the following three questions:

1. Since Lisa lives with her parents and since Lisa's and Larry's incomes are roughly the same, Larry says Michigan's child support guidelines are not applicable and the parties can decide themselves how much (if any) support is paid. Assuming a divorce action has been filed, is Larry correct?

2. If Lisa files for divorce in Michigan before Larry voluntarily returns the children, does Michigan have jurisdiction over the children's custody, even though the last time the family lived together was in Ohio in the summer of 2008 and the children are not now in Michigan?

3. If a Michigan court were to determine custody, what would be the likely result?

How do you respond to Lisa's questions? Explain your answers.

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