

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

Plaintiff sued defendant in circuit court for injuries from a car accident. Plaintiff contended defendant ran a red light. Defendant did not answer plaintiff's complaint; however, within the time for answering, defendant instead filed a motion for summary disposition under MCR 2.116(C) (10). In his motion, defendant claimed plaintiff had run the red light and that, pursuant to the court rule, "except as to the amount of damages, there is no genuine issue as to any material fact" and, consequently, defendant was entitled to judgment as a matter of law. Attached to defendant's motion were (1) his own affidavit, (2) affidavits of two bystander witnesses, and (3) the deposition testimony of a shopkeeper standing outside at the corner in question. All indicated they had seen plaintiff run the red light, leading defendant to his conclusion that no factual issue existed as to who had run the light.

After service of defendant's motion, plaintiff responded with a motion to enter a default against defendant for failing to answer plaintiff's complaint. Plaintiff also filed a response to defendant's summary disposition motion. Plaintiff contended in his response that there was a genuine issue of material fact, i.e., who had run the red light. Attached to plaintiff's response were (1) a reference to the paragraph in his complaint repeating that defendant had run the red light, (2) a letter from a witness stating he had heard from someone the next day that defendant had run the red light, and (3) an unsworn "opinion letter" from a body shop owner opining that the damage was indicative of defendant running the red light.

**What motions should be granted or denied and why?**

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