

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

Karl and Cathy Beech had been married for 35 years before Cathy filed for divorce. In their mid-sixties, the couple no longer had minor children, but had accumulated significant marital assets despite starting the marriage with little or nothing. Included are a paid-for marital home worth \$750,000, a Florida vacation home worth the same, certificates of deposit totaling one million dollars, and other investments and personal property worth another \$500,000. Karl was a successful businessman and Cathy a homemaker. Indeed, Cathy had not worked outside the home while Karl remained at the top of his work game running his own business. As a result, only Karl was fully aware of the couple's financial assets and Cathy only knew what Karl told her. During pretrial proceedings, each signed a sworn statement of assets indicating that "no other assets are held by the party, have been concealed by the party, or have not been disclosed by the party."

Shortly before trial, it came to the attention of Cathy's lawyer that, unbeknownst to Cathy, Karl had been diverting marital assets and/or removing money from a joint account and purchasing other items of personal property. Karl had purchased a \$275,000 Bentley convertible.

At trial, Cathy's counsel took a highly aggressive approach and demanded - due to Karl's non-disclosure and concealment of the Bentley - that Karl forfeit the entire marital estate as punishment for his wrongdoing. As a fallback position, counsel sought forfeiture of the Bentley to Cathy, again as punishment for Karl's wrongdoing, before the division of the remainder of the marital estate. In support of Cathy's position, counsel cited Michigan's "automatic forfeiture rule" as the basis for the award of the entire marital estate or the alternative award.

Discuss the merits of Cathy's positions under Michigan law and, if Cathy is not entitled to the property award she seeks under the arguments she makes, discuss what Michigan law would call for as the means of property distribution. Fully explain your answers, including a discussion of Cathy's arguments.

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