

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

Derek Driver ran a red light at a Lansing intersection, smashing his fully insured truck into a car driven by Polly with Kent her passenger. Derek and Polly took the brunt of the collision. Derek suffered a broken right hand, a concussion, and spent three days in the hospital. After his release, Derek was off work for six weeks, had to have a relative come cook his meals, clean his house, and drive him to physical therapy because he lived alone and could not drive. Derek's cousin, Ted, agreed with Derek that he would be paid. Polly suffered a broken leg, wrist, and clavicle, and was off work three months, spending one of those months in the hospital. Luckily, Kent wound up with only a two inch scar on top of his right shoulder.

Feeling better shortly after his hospital release, Derek called a friend's son, Larry, who was a brand new lawyer. Derek met with Lawyer Larry and told him he had already told his insurance carrier about the accident and that he had full coverage. Derek brought Lawyer Larry a copy of his insurance policy, a copy of the police report showing Derek was at fault, a letter from Polly and Kent's lawyer demanding compensation for their noneconomic injuries, and Derek's hospital bill for \$25,000 for surgery to his hand and other treatment and medications.

Lawyer Larry reviewed the documents and said, "Bad news! Because you were at fault, you will be lucky to recover even a week of your lost wages. Worse yet, you had no health insurance so, in addition to losing out because you were at fault, you will have to pay your hospital bill. Your cousin's work is gratis; your carrier won't pay him. After all, Derek, you were at fault. And he is your cousin!"

Regarding the demand for damages made by Polly and Kent's lawyer, Lawyer Larry added, "Well, typically, being at fault negates your carrier's requirement to defend you and/or pay the injured party's claim. So both Polly and Kent can collect -against you Derek."

Has Lawyer Larry given Derek accurate legal advice under Michigan law? If so, please explain why. If not, state and explain what the advice should have been.

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