

QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II

Alex and Barbara were married in 2004, and their daughter Claire was born in September 2007. They lived near Alex's mother, Marge, in Kalkaska, Michigan. Barbara did not like Northern Michigan and spent extended periods of time with her family in Detroit. Alex and Barbara divorced in early 2009, at which time Alex and Claire moved in with Marge, and Barbara moved to Detroit. Barbara quickly found work, but Alex remained unemployed. The trial court's final December 2009 parenting time order granted the couple joint legal custody, with Alex receiving primary physical custody. Barbara did not object to the arrangement because Alex did not have a job and could stay at home with Claire. Because of the distance between Detroit and Kalkaska, Barbara's parenting time was limited to two weekends per month. Barbara regularly paid child support to Alex and always saw Claire during her scheduled parenting time.

By the fall of 2010, Barbara noticed that Alex was never at Marge's home when she picked up or dropped off Claire. She initially assumed that Alex did not want to see her, but after questioning Marge, she learned that Alex had moved to Grand Rapids and was only occasionally in Kalkaska. She also learned that the reason Alex was not spending time with Claire was that his new girlfriend from Grand Rapids had been convicted of physically abusing her own children, and as a consequence of her convictions, she was prohibited from being alone with any minor children.

When Barbara learned that Alex was not living in Kalkaska, she filed a motion to change primary custody to herself. She also requested that the court retroactively modify her child support to end her support obligation as of the date that Alex moved to Grand Rapids, or as soon thereafter as possible. In his answer to Barbara's motion, Alex admitted that he had changed his mailing address and the address on his driver's license to Grand Rapids. He stated that he had not abandoned Claire, however, and that he spent weekends in Kalkaska with Claire and Marge when Claire was not with Barbara. He did not agree that Barbara should receive primary physical custody, and indicated that he was considering moving back to Kalkaska.

(1) Should Barbara's motion to change custody be granted? In your answer, discuss the parties' best arguments, and the applicable burden(s) of proof.

(2) Should the court grant Barbara's motion to modify child support? If so, when should Barbara's support obligation terminate?

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