

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

You are an associate at a plaintiffs' personal injury law firm that has a new website allowing prospective clients to send to the firm the details of what they claim happened to them. Smith, who was seriously injured in an automobile accident, accesses the website and sends your firm information about the accident from his perspective. After reviewing Smith's email, your firm's managing partner accepts Smith's case and assigns the file to you. You file suit against the other driver, Jones. Jones' attorney moves to disqualify your law firm because Jones, too, had initially accessed your firm's website and shared some information about the accident before deciding to hire a different lawyer. You never saw Jones' submission, but you agree that it was received by the firm and reviewed by one of your colleagues.

1. Was Jones' communication with the law firm a confidential communication? Why or why not?
2. If Jones' communication was a confidential communication, is your colleague who reviewed the information disqualified from representing Smith? What additional information, if any, do you need in order to answer this question fully?
3. Even if your colleague is presumptively disqualified from representing Smith, are there circumstances in which you could ethically continue to represent Smith in the matter? If so, what are those circumstances?
4. What measures can a law firm take to protect itself against disqualifying conflicts arising from its website's invitation to prospective clients to share information?

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