

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

George Jones owned Jones Inc., a small Michigan paper supply company. He had purchased office supply material from Office Supplies Inc. (OSI), but had missed some recent payments on that contract. OSI eventually filed a breach of contract lawsuit against Jones Inc. in a Michigan circuit court, asked for a jury trial, and properly served Jones Inc. OSI claimed that Jones Inc. owed \$30,000 on the contract. Jones, a non-lawyer, decided to save a few dollars and filed an answer on behalf of Jones Inc., admitting that some money was owed, but not as much as OSI claimed. Jones Inc. also asked for a jury trial. After the time for filing an answer passed, the judge entered a default against Jones Inc. for failure to respond.

OSI then filed a motion for entry of a default judgment, asking the court for a judgment in the amount of \$30,000. Jones appeared at the motion hearing, and found out that Jones Inc. was defaulted because Jones' answer could not be accepted for filing on behalf of the corporation. Thus, despite his protests about the fairness of the ruling and the amount he actually owed, the court entered the \$30,000 judgment.

After the hearing Jones decided to hire Larry Lawyer, who promptly filed a motion to set aside the default judgment. Attached to the motion was an affidavit signed by Jones wherein he asserted that Jones Inc. "did not owe \$30,000, but only \$20,000" and that he was told by an attorney friend that Jones could file the answer for his own company. In the motion, Lawyer argues that the default judgment should be set aside because (1) Jones' answer and appearance showed that Jones Inc. was defending the case, (2) if Jones was not permitted to file on behalf of Jones Inc., Jones was unaware of that, and (3) the court could not enter the money judgment without a jury trial.

As a law clerk to the presiding circuit judge, fully analyze Jones Inc.'s arguments under both prongs of the Michigan standard governing motions to set aside default judgments, and decide whether Jones Inc.'s motion to set aside the default judgment should succeed.

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