

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

You are the law clerk for plaintiff's counsel in a products liability action against a major toy manufacturer pending in a Michigan circuit court. There are three individuals plaintiff's counsel would like to interview, but the company's attorney has declined to make them available--a janitor currently employed by the defendant, an individual who was previously employed by the company as a janitor, and a current division manager at the company who was involved in decisions critical to issues in the case. One or more of these individuals likely has knowledge as to whether certain plastic parts that are relevant to the litigation and that the defendant claims were thrown out in the normal course of business, might not have been discarded after all. The lawyer for whom you work has asked you to answer the following questions:

1. May plaintiff's counsel attempt to interview the currently employed janitor without the knowledge or consent of the defendant company's attorney? Why or why not?

2. May plaintiff's counsel attempt to interview the formerly employed janitor without the knowledge or consent of the defendant company's attorney? Why or why not?

3. May plaintiff's counsel attempt to interview the currently employed division manager without the knowledge or consent of the defendant company's attorney? Why or why not?

If you conclude that contact is appropriate with one or more of the individuals, are there any restrictions governing that contact?

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