

QUESTION 1 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I

Millionaire Dwayne Dennison, age 45, and his three childhood friends, Scott Sampson, Ed Evers and Paul Peters, take a two-week vacation every year in northern Michigan. The vacation is spent hunting wild turkeys, fishing and playing \$5 poker in a rented lakefront cabin. Dwayne looks forward to this annual trip, although he realizes that the cost sometimes imposes a financial hardship on his friends.

On April 5, 2010, while having breakfast, Dwayne stands up and makes the following statement to all of the patrons and employees at the local diner:

"I really love these three guys. I've been a very fortunate man, and I own 500 shares of stock in the Acme Anvil Company. Starting today, I'm going to hold that stock in trust, with me as the trustee, and use it to fund our annual vacation. And when I say fund the vacation, I mean the whole thing--food, lodging, hunting and fishing gear, *beer--everything*. This way, Scott, Ed, Paul and I can continue to hunt, fish, gamble and enjoy each other's company until the last of us dies. The only thing we'll have to worry about is how to get all of those fish home!!"

True to his word, Dwayne completely funded the vacation for himself and his friends in 2011, paying for all of the vacation expenses with the Acme stock dividends. Unfortunately, Dwayne had a sudden heart attack and died two months before the 2012 trip.

Scott, Ed and Paul sought to take the vacation in 2012, but Dwayne's wife Ginger refused to turn over either the stock or the dividends, claiming that she owned the stock as the sole beneficiary of Dwayne's will.

Applying Michigan law, fully discuss: (1) whether Dwayne created a valid trust in April 2010; (2) the standard of proof needed to establish whether a valid trust had been created; and, assuming that a valid trust had been created, (3) whether trust proceeds may be used to fund all costs of the annual vacation, including the lodging, hunting and fishing, poker, and food and beverages.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I*******