

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

Mike Smith had a small collection of uncut diamonds. Mike was seriously ill, his death was imminent and, believing this, on March 12, 2020, he visited his regular jeweler. Mike asked the jeweler to carefully tag and package his diamonds with a note that the package was for Mary Smith, his sister, who was serving in the military in Afghanistan. The jeweler tagged and packaged the diamonds as requested. Mike asked the jeweler to hold the package for his sister and ensure its delivery upon his death. The jeweler agreed and did so pursuant to the following written direction from Mike:

"In the event of my death, please give the uncut diamonds packaged and tagged as item no. 123456 to my sister, Mary Smith, who is currently serving in the military in Afghanistan.

Yours truly, Mike Smith."

That same day, Mary called Mike to check in on him, as she knew he was very ill. Mike informed her that he was not getting better and that he wanted her to have his collection of uncut diamonds if something happened to him. Mary tearfully said "thank you, but do whatever you want" and promised to try to get home to see him soon.

Mike never recalled the diamonds or gave the jeweler any other or further direction and the jeweler maintained possession of the diamonds. On March 13, 2020, Mike was admitted to a hospital in Hampton, Michigan and remained under hospitalization until his death on March 30, 2020. At the hospital, on March 27, 2020, Mike executed a valid will in which he devised and bequeathed his entire estate to his best friend, Dan Davis.

Mary was unable to return home before Mike's death and has not yet attempted to collect the diamonds. Dan learned of the diamonds in possession of the jeweler and demanded that the jeweler give him the diamonds pursuant to Mike's will.

Confused on what to do, the jeweler has visited the law firm where you are clerking for legal advice on whether to give the diamonds to Mary or Dan. The firm's partner requests a memorandum on the matter.

Applying Michigan law, who is entitled to the diamonds? Explain your answer.

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