

**QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II  
OR IN SOFTEST ANSWER SCREEN 4**

Debbie and Phil were great friends who shared an apartment in Quiet Town, Michigan as roommates for five years, agreeing among themselves to each be responsible for half of the \$1,000 monthly rent. On four different occasions during that time, Phil asked Debbie to cover his 50% portion of the rent because of a temporary financial challenge. Debbie did so without complaint or hesitation by paying the landlord the entire rental amount each of those times. Each time Phil attempted to repay Debbie his portion of the rent shortly after the rental period Debbie covered, Debbie always declined to accept saying "No bother. I'll just get it from you later when I need it and I'll let you know." She never requested the money from Phil throughout the duration of their shared living arrangement.

Approximately one year after Phil's last offer to repay the covered rent money, Debbie and Phil's relationship soured and he moved out of the apartment. Phil took all of his personal belongings when he vacated, except for a three-piece vintage luggage set that he never used. After Phil moved, Debbie contacted him three times regarding removing the luggage from the apartment. When he was completely nonresponsive to her requests, and made no attempt to retrieve the luggage after six months, Debbie sold the set for \$1,000.

Debbie then demanded that Phil pay back the \$2,000 she loaned him for rent, and filed a lawsuit against Phil for the money when he refused to comply. Phil filed an affirmative defense to the lawsuit contending that the \$2,000 was a gift from Debbie that he is not obligated to reimburse. Phil also filed a counterclaim against Debbie for the \$1,000 that she received from her sale of the luggage. Debbie filed an affirmative defense that Phil abandoned the set and that she was, therefore, at liberty to dispose of it as she pleased without liability to him.

**Applying Michigan law, fully discuss:**

- 1. Phil's gift defense to Debbie's lawsuit and the likelihood of success.**
- 2. Debbie's abandonment defense to Phil's counterclaim and the likelihood of success.**

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