

**QUESTION 1 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I
OR IN SOFTEST ANSWER SCREEN 1**

Paula Plaintiff, a 56-year-old registered nurse, lived an active life. Not only did her employment require her to walk several miles a day during her rounds (and one more mile when she frequently worked overtime), but each summer she was in a golf league with her husband and during each Michigan winter, she was in a tennis league with her daughter. In her spare time, Paula helped care for her elderly parents and occasionally would watch her grandchildren.

One day in December 2014, Paula was lawfully walking across the street when she was struck by a car driven by Dave Defendant. As a result of the accident, Paula had broken one leg, fractured her hip, and had a wide, eight-inch long cut along her forehead. After a week in the hospital, Paula was discharged with a cast and 20 stitches on her forehead. Three months later the cast was removed, and after another six months of intense physical therapy, Paula returned to work, but at a desk job with no overtime. She also resumed caring for her parents and babysitting her grandchildren. In July 2015, Paula's doctor told her not to play tennis or golf for at least another six months. After much work and follow-up care, Paula returned to playing tennis and golf in July 2016. At that time she also returned to her prior RN duties.

Paula was embarrassed by the eight-inch scar across her forehead. A plastic surgeon told her that it could not be removed. Though she tried to cover it up with makeup, it was still visible to the naked eye because of its coloration, and people frequently would stare at it.

Paula Plaintiff filed a timely lawsuit against Dave Defendant, seeking to recover non-economic damages for her injuries.

Applying Michigan law, answer in detail these questions:

- (1) Can Paula establish liability against Dave Defendant for her injuries, and**
- (2) Will a judge or jury decide these issues?**

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