

QUESTION 14 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V

In August 2010, Morton Pine was attending a nightclub in his hometown of Lansing, Michigan. George Donaldson, an Ohio resident who was visiting Lansing, also was at the nightclub and accidentally injured Pine on the dance floor.

In December 2010, Donaldson permanently relocated to Lansing. In January 2011, Pine served Donaldson with a complaint filed in a Michigan circuit court, alleging that Donaldson negligently injured him and caused him serious injuries. Donaldson removed the case to the U.S. District Court in Michigan, contending that the amount in controversy exceeded \$75,000 and that, because he was an Ohio resident at the time of the incident, complete diversity existed between the parties. In March 2011, the U.S. District Court sua sponte remanded the case to the Michigan circuit court. After remand, despite numerous admonitions by the circuit court, Pine failed to comply with any of the court's discovery or pretrial orders. Donaldson moved for involuntary dismissal, which the circuit court granted based on Pine's blatant and willful disregard of its orders. Pine appealed the order of dismissal, and that appeal remains pending.

In July 2011, Pine re-filed the identical complaint against Donaldson in the Michigan circuit court. In lieu of filing an answer, Donaldson argued that the claim was barred and moved for dismissal of the complaint.

(1) Assuming the amount in controversy exceeded \$75,000, did the U.S. District Court err in remanding the case to the Michigan circuit court? Explain your answer.

(2) Should the circuit court grant Donaldson's July 2011 motion for dismissal of the complaint? Explain your answer.

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