

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

In Anytown, Michigan, Paul purchased a home in a beautiful subdivision, aptly named "Woodsville Courtyard" because of all the trees within it. Paul's new home, like most homes in the neighborhood, had a large backyard with an approximately 30-yard wide buffer of woods between his backyard and his neighbor's. The backyard and buffer were key components of Paul's choosing this house, as he was moving from the city to the countryside for the peace and quiet.

The first week Paul moved in, he heard loud noises from machinery being operated on the backyard neighbor's property. Curious, he went into the woods and saw something astonishing: his neighbor, Bill Smith, was knocking down trees and stacking them into a pile with a large tractor. Smith operated the tractor day and night. The tractor was loud, and could easily be heard inside Paul's house. He could not sleep, nor could he sit out and enjoy his new deck. In fact, the noise was worse than what he experienced in the city; a constant grinding of the engine, metal scraping on cement, and the crushing of wood. Even worse, Smith started to burn the tree pile, and he burned it 24 hours a day. The smoke almost constantly billowed over Paul's property; causing him to avoid being outside at all. Paul asked Smith why he was doing this, and informed him that the smoke and noise destroyed his peaceful enjoyment of his new house. Smith stated that he was eliminating all his trees to provide more yard for his dogs, and that he could do as he pleased on his own property. "Anyway," Smith said, "the last tree is coming down tomorrow."

After a few more weeks, Smith had knocked down all the trees to the property's border. Though some trees still remained on Paul's property, the 30-yard buffer was now about 10 yards. Paul had enough, and brought suit against Smith in circuit court alleging two forms of a private nuisance and a public nuisance.

Applying Michigan law, explain in detail what the claims are and whether given the facts presented, Paul can establish them.

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