

**QUESTION 7 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III
OR IN SOFTEST ANSWER SCREEN 7**

After a divorce trial, the court entered judgment dissolving the parties' 25-year marriage, dividing the marital estate evenly and awarding alimony to wife Kelli to be paid by husband Clarence. The salient provision in the judgment contained the following language:

The court finds Clarence makes \$100,000 per year while Kelli makes \$25,000 per year. The parties are of similar age, but Clarence has superior health, skills and earning power. Accordingly, the court awards periodic alimony to be paid by Clarence in the amount of \$1,500 per month for a period of six years.

Three years later, Kelli petitions the court for an increase in alimony. She contends an increase is warranted because her health has slipped but, more importantly, the grocery store where she works as a cashier has been using more self-checkout lanes, resulting in her working fewer hours and reducing her income to \$20,000 per year. Since her hours were cut from 40 per week to 32, Kelli lost her fully covered health care benefits and is required to pay \$350 per month to maintain her insurance. Clarence, on the other hand, has had an increase in his income as the company he works for is doing better than ever because, ironically, the company makes self-checkout machinery. He now makes \$115,000 per year.

Clarence's defense is two-pronged. First, he maintains that the court's alimony award is not modifiable--that his obligation is forever limited to the stated amount and for the stated period of time. Second, he contends that, even if possible, a modification is not warranted on the facts presented.

Applying Michigan law, evaluate both of Clarence's defenses and indicate, if necessary, what factors the court will consider and what decision is likely.