

Question 1 – One Hour

Paula started a business called "Paula's Soap." She made specialty soaps in her garage at home and sold them on the internet. Oprah selected "Paula's Soap" as one of her "favorite things" and even put Paula's picture in her "O" magazine. "Paula's Soap" sales soared. Don lived across the street from Paula. Even though it was legal for Paula to work out of her garage, Don didn't like it and started a blog about home businesses. In his blog he wrote: "'Paula's Soap' is full of pesticides. She likes babies to bathe in pesticides." There were no pesticides in Paula's soap. But her soap sales started to fall.

Paula decided to collect some "intel" on her mean neighbor Don. One day she went through the mail in his mailbox and found what looked like a bill. She took it. Paula read the bill and discovered that Don was in debt to a company which had referred him to a collection agency. She started a blog of her own about "deadbeats." Paula blogged that Don was a "deadbeat" who owed money to a company and had been referred to a collection agency. Don was embarrassed.

What are Paula's possible causes of action against Don and what are his defenses, if any? Analyze.

What are Don's possible causes of action against Paula, and what are her defenses, if any? Analyze.

Question 2 – One Hour

Doobie, Inc. manufactured what the company called "electronic joints," or "e joints." The product was based upon the electronic cigarette. It allowed the user to inhale vapor instead of smoke. "Don't beat up your lungs anymore! Eat your marijuana instead. And enjoy a toke on the 'e joint,'" the advertising on the package said. The "e joint" was a battery-operated device designed to look like a marijuana cigarette. The device contained a cartridge filled with a plant material that tasted faintly like marijuana (but without its active ingredient, THC); mint flavoring; and two chemicals: nitrosamines and diethylene glycol. These same chemicals were used in the cartridges found in electronic cigarettes'. They were known by Doobie, Inc. to be a potential cause of cancer if a human was exposed to them in very large quantities. The packaging on the "e joint" listed the chemicals as ingredients but did not say they could cause cancer. The packaging did say that the user should "use the 'e joint' no more than five times per day."

Puka was in the process of transitioning from smoking marijuana to eating it. She wanted to give her lungs a break. But she missed the marijuana puffing ritual, so she bought the "e joint" from Doobie, Inc., happy she was inhaling safe vapor instead of "raspy" smoke. Puka didn't think she was inhaling any chemicals at all. She used the "e joint" 40-65 times per day, often while eating marijuana brownies. Puka developed lung cancer from use of the "e joint" and, after lingering in pain for several months, died.

What causes of action does a representative of Puka have against Doobie, Inc., what are the possible theories of liability, and what are Doobie, Inc.'s defenses, if any? Analyze