

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

Dan Defendant was walking down a crowded sidewalk in Anytown, USA and saw Polly Plaintiff walking towards him. Dan had seriously disliked Polly since they were both in middle school, and in the many years since then he had always wanted to get back at her for the mean and embarrassing comments she made to others about him. Now was his chance. As she approached, he screamed out "Polly, you are a prostitute, is your husband still your pimp?" After that, he yelled a few more innocuous things at her as they walked further away from each other.

Polly was neither fazed nor traumatized by the event. Instead, she laughed it off as a prank by a still immature Dan. However, a few days later Polly ran into two friends, who had witnessed the event and heard Dan's comments. The friends said they were embarrassed for her, and thought his words made her look bad. Though she did not believe anyone would think she was actually a prostitute, Polly also did not want to appear weak. Polly therefore brought a slander claim against Dan, arguing that his statement caused her emotional distress and humiliation. She asked for an award of \$1,000,000, \$950,000 of which was for punitive damages.

Dan argues that: (1) Polly cannot succeed on the slander claim because she cannot establish a prima facie case, and (2) Polly is not entitled to punitive damages. Explain whether Dan's arguments are correct.

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