

Question 1

Pupkin v. Doug

Negligent misrepresentation

--re street on which pub would open

--was reliance reasonable and justified?

Interference with prospective economic relations

--re call to Catty that Pupkin had "tried to ruin" Doug

--was Doug's statement re "tried to ruin me" wrongful?

--was the statement false?

--was Doug's statement privileged, to protect the third party interest of Catty?

Slander

--re Pupkin "tried to ruin me"

--was the statement probable as false, or was it opinion within the realm of truth in light of what Pupkin had done?

--is Pupkin (a blogger) a public figure required to prove malice?

--was there actual malice?

Doug v. Pupkin

Intrusion

--re peering into back yard with binoculars

Libel

--re Doug a womanizer

--is the "womanizer" statement defamatory?

--is Doug a public figure required to prove malice?

--re Doug Dogs contain actual dog meat

--in light of Doug's small business could this be libelous?

False light

--re Doug a womanizer

--does this cast Doug in an unflattering light?

--public figure malice required

--re Doug Dogs contain actual dog meat

--again, does this cast Doug himself in an unflattering light

Injurious falsehood

--re disparagement of the Doug Dog product itself

Question 2

Polly v. Deadbolt, Inc.

Product liability analysis

Negligence

--was manufacturer negligent in creating a lock that could so easily open via static electricity

Breach of express warranty

--was there an enforceable warranty at all in light of warranty's statement that the cage was perfect for domestic animals?

--some courts would require reliance on the warranty; some would require that the warranty be part of the basis of the bargain for the buyer (Ted)

Breach of implied warranty of merchantability

--Can it be said that the lock was not generally fit for the purpose for which it was sold? (wild animal caused malfunction)

--some courts would limit the ambit of potential plaintiffs (many courts require plaintiff to be the buyer, family member or house hold guest), thereby excluding this plaintiff (UCC Sec. 2-318)

Manufacturing defect

--re statement 402(a)

--was the lock in case this damaged or misshapen during its manufacture?

Design defect

--Was the lock designed defectively when applying the risk/utility/cost-to-improve analysis?

--was there foreseeable misuse of the product?

Empire College School of Law
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Torts – Final Exam
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Failure to warn

--“Warning: no wild animals in the locked cage;” or “Don’t create a combination using consecutive numbers”?

Polly v. Ted

Nuisance

--re squealing of weasel

Strict liability for maintain a wild animal

Battery

--re picking Polly up after she said don’t touch me

Negligence

--was there a breach of duty of due care by keeping a wild animal in a cage with a lock designed only for the cage of a domestic animal; and then using a consecutive numbers combination?