1)

======== Start of Answer #1 (1520 words) ========

Pupkin (P) v. Doug (D)

Was D liable for negligent misrepresentation for telling D that a beer pub would be opening on Blaine Street resulting in P's loss of $45,000.00

One can be liable for negligent misrepresentation which results in pure economic loss if the Defendant knew the information was for a serious purpose, the plaintiff intended to rely on that information, if the information was false the plaintiff could be injured and if the relationship between the parties was such that the plaintiff should reasonably rely on the defendant, which created a duty of care to the defendant that the information be accurate.

Here D knew that the information was for a serious purpose, going into business is always risky. He also knew that P would likely rely on the information (and he did). P was injured because he lost a lot of money ($45,000.00) going in a business based on false information. However, P will argue that it was not reasonable for D to rely on his information alone. Even though D was a franchise owner and business man, Pupkin ran a popular food blog and should reasonably have known that he should double check information as to a location of a restaurant before going into business. Furthermore, P will argue that you cannot be liable for negligent misrepresentation for the communication of a future fact. The beer pub had not yet opened when P relayed the information, it was not a sure thing, and D should not have reasonably relied on that information. There was no way that D could know with absolute certainty the beer pub would open on Blaine street, or that it would make P rich if it did. P's reliance on D was not reasonable. P mistakenly relayed the information he thought was true to P. P did not confirm. This could qualify as an innocent misrepresentation, however, there is generally no liability for innocent misrepresentation.

D is not liable for negligent misrepresentation resulting in pure economic loss.

Is D liable for interference with contractual relations for convincing Catty (C) to not contract with P.

For interference with contractual relations, the defendant must interfere with an existing contract by convincing a third party to breach the contract, resulting in damages to the plaintiff. Here it is unclear from the facts whether a contract was actually in existence at this point or if it was merely on the horizon. The facts state that Cathy "withdrew her offer" which sounds like they had not yet actually entered the contract.

If there was not exisitng contract, D is not liable for interference with a contractual relation as C was free to exit their talks at any time she pleased prior to being bound to teh contract.

Is D liable for interference with prospective economic advantage?

Interference with prospective economic relations is when the Defendant wrongfully interferes with a prospective economic relationship with the Plaintiff. The economic loss must be certain.
Here, C had offered to enter into the contract, and P had decided to enter into the contract. But for D's interference, P would have gone into business with C. There is not information as to whether C's restaurant was successful, and whether or not P would have made money, but he was never able to find out.

If D can show that the contract would have been formed, but for D's wrongful interference, D will be liable for interference with a prospective economic advantage.

D v. P

Is P liable for intrusion for climbing a tree and looking into the back yard of D and spying on his pool party?

Intrusion is the intrusion into a private place, conversation, or matter in a highly offensive manner to a reasonable person.

Here P climbed a tree and used binoculars to spy on D. While D might have been having a party, D was not invited and it was reasonable for him to expect privacy in his home from outsiders. The fact that D, motivated by revenge, and climbing a tree with binoculars would be offensive to any reasonable person as it clearly indicates a wrongful motivation (otherwise he would have jsut walked in and enjoyed the party).

P is liable for intrusion.

Is P liable for defamation for writing on his blog that D is a "womanizer"?

Defamation is the uttering or publishing to a third party of an untrue statement, of and concerning the plaintiff, which subjects the plaintiff to ridicule or damage to reputation.

Here, D is a private citizen, as is P. When a private citizen sues for defamation, the burden is on the defendant that the information is true. P will argue that being a womanizer is not a bad thing and will not subject D to ridicule. However, D is a monogamous gay man, and being a womanizer could certainly affect his husband's opinion of him and possibly hurt his reputation in the gay community. Defamation in written form is classified Libel, and damages are presumed. Furthermore, P's statement imputes that D is unfaithful to his husband, and accusations of sexual misconduct is classified under slander per se, meaning that damages are presumed.

D may argue that "womanizer" is a statement of opinion and is a fact that can neither be proved or disproved, however, as D is a gay man, he will likely fail in that opinion or no, someone who sleeps with or has romantic relations with *only* men, can never be a

womanizer. D may argue that no one in the gay community reads his blog, but being on the internet there is no guarantee that that is true as the internet is an open forum and anyone can look at any blog.

If D can show that his peers saw teh blog, P will be liable for defamation.

Is P liable for false light?

False light is the publication to a third party of untrue facts, or true facts painted in a false light, regarding the plaintiff. Unlike defamation, False light only requires that the plaintiff be offended and it is not required that the plaintiff be subjected to ridicule or his reputation be damaged. D called P a "womanizer" which, whether it subjects him to ridicule or not, is likely offensive to D, especially considering that he is a married man.

P will be liable for false light.

Is P liable for injurious falsehood for writing in his blog that "Doug Dog hot dogs contain actual dog meat."

Injurious falsehood is the publication to a third party of a misstatement about a business or product designed to cause pecuniary loss. Actual damages must be proved.

Here D owned a franchise, and P was bitter that he lost money on his franchise option. He likely published the information of his blog with the purpose of hurting D's business. If D can be shown that he lost customers due to this publication (it is unclear how many people actually read this random blog on the internet) than P will be liable for injurious falsehood.

Is P liable for defamation for saying that D puts dog meat in his hot dogs?

See defamation, supra.

Here, while P does not say specifically that D, himself, puts the dog meat into the hot dogs, it is his business and there is an implication that he has control over what goes into the hot dog. There can be no doubt that it would hurt his reputation as a serious hot dog franchise owner if it was thought that he put actual dog meat in his hot dogs. Furthermore, accusations against D as a business or trade professional can qualify under slander per se and damages are presumed.

P will argue that he thought it was true that D put dog meat in his hot dogs based on the anonymous tip. He will further argue that whether or not there is dog meat in a hot dog served to the public, is a matter of public concern. When a private individual sues for defamation in a matter of public concern, the burden of falsity is on the plaintiff and D must show some fault of the part of P. P will argue that someone told him it was true and so he thought it was true. However, P owned a franchise of Doug's Dogs and likely knew that there was no dog meat in the food served there. Furthermore, the information was from an anonymous caller and it would be reckless to take the (doubtful) information of an anonymous caller as true without some independent confirmation.

P will be liable for defamation.

Is P liable for Prima face tort for his comments regarding Doug's Dogs?

A prima facie tort is a catch all tort which is a intentional act by the plaintiff, made with malice, which results in damages to the palintiff or his business. Here P will again he didn't know the statement was untrue, but his reckless disregard for the truth and his wish to get revenge on D will likely indicate otherwise.

P will be liable fora prima facie tort.

Injurious falsehood

======== End of Answer #1 ========

2)

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======== Start of Answer #2 (1791 words) ========

Polly (P) v. Deadbolt, Inc.(D)

Will D be liable for battery for the weasel bite caused by the failed lock?

Battery is the intentional harmful or offensive touching of another without consent or legal privilege. The facts here do not support battery as there was no intentional act on the part of D.

D is not liable for battery

Is D liable for negligence for the weasel bit to P?

Negligence is the causation of an unreasonable risk of harm to a foreseeable plaintiff. To find negligence you must examine whether the Defendant owed a duty of care to the plaintiff, whether they breached that duty, whether there was actual and proximate cause, and whether there were damages.

Here, D has a duty to protect all users and bystander's of the products they produce. The lock did not work, however, and this caused the damage to Polly in that she was bit by a weasel. But for the lock failing, P would not have been injured. However, proximate cause is a reasonable relationship between the act which caused the injury and breach of a duty. Here, it is unforeseeable that a weasel would be trapped in a cage and that it's fur would rub up against the cage causing a static electricity spark which would unlock the lock and release the excited animal to bite someone. D will argue that the chain of proximate cause is broken due to the unforeseeable type of damages, in a wagon mound jurisdiction this would be a complete defense. Furthermore, the unforeseeability of the static shock indicates that there was is no indication they acted without due care, in fact the lock was failry sophisticated and held the weasal for weeks prior to failing

While there were damages to P, D will not be liable for simple negligence for the above reasons.

Will D be liable for the weasel bite under products liability?

When a seller or manufacturer allows a product to leave their facility in a defective condition which results in harm to a user or consumer, the manufacturer or seller will be strictly liable. Most jurisdictions also allow for damages to bystanders who experience harm.

When looking as to whether strict liability for products liability exists, one must look at whether there was a design defect, a manufacturing defect, a failure to warn, or a breach of express or implied warranties.

Design Defect

When a product is designed in a safe matter, but is defective in its manufacturing, and leaves the facility in that defective condition causing injury to a consumer strict liability (liability without fault) will apply.

Here, there is no indication that there was a defect in the product itself or that it was not acting as designed. A plaintiff must show that the product was defective when it left the manufacturer and there is no evidence this was the case. Here teh lock was being used beyond its capacity and lasted for weeks. There does not appear to have been a defect in the manufacturing.

Unless P can show that the lock was manufactured contrary to design, It is not likely that D will be liable under a design defect.

Manufacturing Defect

When a product is made as designed but the design in and of itself is unreasonably dangerous, there may be strict liability. In order to show a manufacturing defect, P

must bring in experts to show how the lock could be made more safely. Typically a Risk v. Utility analysis is applied wherein the likelihood and degree of risk is weighed with the cost of repair and the utility of the object. It is unlikely that a manufacturing defect worth improving will be found. Most people will not be locking up wild animals with the lock as it will primarily be on lockers, bicycle, and restraining sweet domesticated animals. The likelihood of injury should the lock fail on one of these items is minimal.

It is not likely D will be liable under a manufacturing defect.

Failure to Warn

When a manufacture fails to adequately warn of a known danger it can cause a product to become unreasonably dangerous and strict liability will apply.

Here it does not appear there was any warning about locking up wild animals. or that an electic shock could affect the mechanism. However, it is not likely that the manufacturer knew that if you place a wild weasel in a cage with a lock with a consecutive combination in an apartment for months and months, bringing the animal to a level of agitation and vibration that it will ignite a spark which would cause the lock to come undone resulting in a girl being bit with a weasel. As this was not a known risk, and it is not likely they should have known of the risk, D will not be liable for a failure to warn for an unforeseeable danger.

Is D liable under breach of warranty?

An express warranty is a statement of fact made by a manufacturer or seller, which is made to induce reliance. In most jurisdictions it is required that the Defendant relied on the warranty for there to be a breach.

D included the wording, "this fail proof lock is perfect for school lockers, bicycle locks, and even cages for domesticated animals". P will argue that in calling the lock "fail

proof" D was guaranteeing that the lock would never fail. D will argue that this is mere "puffery" in advertising and not an express promise. It is likely they will be successful as it is unreasonable to think that a lock could be completely fail proof no matter what. While the statement did say that it was safe for domesticated animals, there is a huge difference between Fluffy the cat, and a wild weasel. D made no guarantee the lock was safe to lock up wild animals which will by nature be far more... Furthermore, there is no evidence that T even read the brochure or relied on the statement prior to using the lock (he does not sound too bright after all).

D will not be liable for a breach of express warranty.

Is D liable for a breach of implied warranty.

Every product produced comes with an implied warranty of merchantability if that the product will be of fair to average quality and suitable for ordinary use. Here there is no indication that the lock was not suitable for ordinary use as containing a weasel is hardly ordinary. D will argue that T's misuse of the lock on a cage for a wild animal was what led to P's injury. Generally, foreseeable misuse is no defense to strict liability. However, D will argue that locking up a wild animal is not foreseeable. They may fail in this argument as they did indicate in their brochure that it was suitable to lock up animals, just not wild ones.

D may be liable under a breach of warranty of merchantability if it can be shown that T's use of the product was foreseeable.

There is also an implied warranty of fitness for a particular purpose, when there is a guarantee made that a product will be fit to do a certain thing. Here the brochure stated the product was fit to lock up domesticated animals, not wild animals. So while T may say he relied on the statement that the lock was fit to lock up animals (if he read the brochure), he will likely not succeed as wild and domesticated animals are completely different.

P v. T.

Is T liable for negligence for allowing P to get bit by the weasel. See negligence, supra. Here, T owes a duty to those around him to ensure he is not putting them at an unreasonable risk of harm. He breached that duty by bringing a wild animal into his home where it could escape and cause injury. But for T keeping the weasel, P would not have been bitten. The bite of P was foreseeable in that the causal chain was not broken by remoteness, a weasel bit is not an unforeseen type of damage for keeping a weasel, and she was injured. While T might argue that the lock breaking due to a static charge was a superseding intervening act which broke the chain, the injury flowed directly from his negligently keep the animal in an inadequate cage in the first place.

T will be liable for simple negligence for P's weasel bite.

Is T strictly liable for the weasel bite.

Under strict liability, and injury caused by a wild animal under the control of the defendant will result in strict liability. Here the weasel was trapped in the forrest and was born in the wild. There is no evidence it was in anyway domesticated, especially considering the level of agitation it reached by being locked up. T was keeping a wild animal in his apartment and P was bit as a result.

T is strictly liable for P's weasel bite.

Is T liable for private nuisance?

Private nuisance is the unreasonable interference of the and enjoyment of another's property.

Here T kept a weasel that incessantly squealed for months (piercingly loudly). He lived in an apartment complex in which he likely shared walls with his neighbor. It was so loud that P had to come over and address the issue. Any reasonable ordinary person would be affected by nonstop squealing.

Private

T was liable for public nuisance.

Is T liable for assault for his reaching towards P to help her up?

Assault is the intentional act which causes in another a reasonable apprehension of an imminent harmful or offensive touching. The Defendant must have the present apparent ability to carry out the act.

Here T reached towards P, but there is no evidence she was apprehensive about it, she just didn't want his help because he was angry. Since there was no apprehension, T will not be liable for assault.

Will T be liable for battery for lifting up P when she did not want him to?

Battery is the intentional harmful or offensive touching of another without consent or legal cause. Whether a touching is harmful or offense is judged by a reasonable man standard. It is unlikely that a reasonable person would consider helping someone up offensive. While P might argue that she was hurt and that she did not want to be lifted up because it would cause her further pain or injury, her "yelling" a T indicated it was because she was angry at him and didn't want him near her out of anger.

May be so when explicitly told not to touch

As the touching was not harmful or offensive to reasonable person, T will not be liable for battery.

======== End of Answer #2 ========
END OF EXAM