

CASE 23

McDonald's: The Coffee Spill Heard 'Round the World*

This case is about the most famous consumer lawsuit in the world. Everyone knows about this case, and the details involved in it are presented and debated in many different venues—classrooms, Web sites, blogs, law schools, and business schools. Regardless, it serves as one of the best platforms in the world for discussing what companies owe their consumer stakeholders and what responsibilities consumers have for their own well-being.

Now almost 20 years later, lawyers are still debating the coffee spill case. On one personal injury lawyer's blog, the following commentary was posted in 2010:

By now we've all probably heard about the McDonald's hot coffee lawsuit wherein the victim [Stella Liebeck] recovered millions of dollars for a coffee spill in her lap. The word "frivolous" comes to mind. The reality is this. Americans are being duped by myths and falsehoods spread by insurance companies and corporations, who have spent millions of dollars to mislead the American public. The facts tell a different story. Unfortunately, the facts are no laughing matter.¹

STELLA LIEBECK

Stella Liebeck and her grandson, Chris Tiano, drove her son, Jim, to the airport 60 miles away in Albuquerque, New Mexico, on the morning of February 27, 1992. Because she had to leave home early, she and Chris missed having breakfast. Upon dropping Jim off at the airport, they proceeded to a McDonald's drive-through for breakfast. Stella, a spry, 79-year-old, retired department-store clerk, ordered a McBreakfast, and Chris parked the car so she could add cream and sugar to her coffee.²

What occurred next was the coffee spill that has been heard 'round the world. A coffee spill, serious burns, a lawsuit, and an eventual settlement made Stella Liebeck the "poster lady" for the bitter tort reform discussions that have dominated the news for

20 years. To this day, the case is subject to a continuing debate.

THIRD-DEGREE BURNS

According to Liebeck's testimony, she tried to get the coffee lid off. She could not find any flat surface in the car, so she put the cup between her knees and tried to get it off that way. As she tugged at the lid, scalding coffee spilled into her lap. Chris jumped from the car and tried to help her. She pulled at her sweatsuit, but the pants absorbed the coffee and held it close to her skin. She was squirming as the 170-degree coffee burned her groin, inner thigh, and buttocks. Third-degree burns were evident as she reached an emergency room. A vascular surgeon determined she had third-degree (full thickness) burns over 6 percent of her body.

HOSPITALIZATION

Following the spill, Liebeck spent eight days in the hospital and about three weeks at home recuperating under the care of her daughter, Nancy Tiano. She was then hospitalized again for skin grafts. Liebeck lost 20 pounds during the ordeal and at times was practically immobilized. Another daughter, Judy Allen, recalled that her mother was in tremendous pain both after the accident and during the skin grafts.³

According to a *Newsweek* report, Liebeck wrote to McDonald's in August 1994, asking them to turn down the coffee temperature. Though she was not planning to sue, her family thought she was due about \$2,000 for out-of-pocket expenses, plus the lost wages of her daughter who stayed at home with her. The family reported that McDonald's offered her \$800.⁴

STELLA FILES A LAWSUIT

After this, the family went looking for a lawyer and retained Reed Morgan, a Houston attorney, who had won a \$30,000 settlement against McDonald's in 1988 for a woman whose spilled coffee had caused her third-degree burns. Morgan filed a lawsuit on behalf of Liebeck, charging McDonald's with "gross negligence" for selling coffee that was "unreasonably dangerous" and "defectively manufactured." Morgan asked for no less than \$100,000 in compensatory damages, including

* This case was written and updated (in 2010) by Archie B. Carroll, University of Georgia.

pain and suffering, and triple that amount in punitive damages.

MCDONALD'S MOTION REJECTED

McDonald's moved for summary dismissal of the case, defending the coffee's heat and blaming Liebeck for spilling it. According to the company, she was the "proximate cause" of the injury. With McDonald's motion rejected, a trial date was set for August 1994.

As the trial date approached, no out-of-court settlement occurred. Morgan, the attorney, said that at one point he offered to drop the case for \$300,000 and was willing to settle for half that amount, but McDonald's would not budge. Days before the trial, the judge ordered the two parties to attend a mediation session. The mediator, a retired judge, recommended McDonald's settle for \$225,000, using the argument that a jury would likely award that amount. Again, McDonald's resisted settlement.⁵

THE TRIAL

The trial lasted seven days, with expert witnesses dueling over technical issues, such as the temperature at which coffee causes burns. Initially, the jury was annoyed at having to hear what at first was thought to be a frivolous case about spilled coffee, but the evidence presented by the prosecution grabbed its attention. Photos of Liebeck's charred skin were introduced. A renowned burn expert testified that coffee at 170 degrees would cause second-degree burns within 3.5 seconds of hitting the skin.

THE DEFENSE HELPED LIEBECK

Defense witnesses inadvertently helped the prosecution. A quality-assurance supervisor at McDonald's testified that the company did not lower its coffee heat despite 700 burn complaints over ten years. A safety consultant argued that 700 complaints—about one in every 24 million cups sold—were basically trivial. This comment was apparently interpreted to imply that McDonald's cared more about statistics than about people. An executive for McDonald's testified that the company knew its coffee sometimes caused serious burns, but it was not planning to go beyond the tiny print warning on the cup that said, "Caution: Contents Hot!" The executive went on to say that McDonald's did not intend to change any of its coffee policies or procedures, saying, "There are more serious dangers in restaurants."

In the closing arguments, one of the defense attorneys acknowledged that the coffee was hot and that that is how customers wanted it. She went on to insist that Liebeck had only herself to blame as she was unwise to put the cup between her knees. She also noted that Liebeck failed to leap out of the bucket seat in the car after the spill, thus preventing the hot coffee from falling off her. The attorney concluded by saying that the real question in the case is how far society should go to restrict what most of us enjoy and accept.⁶

THE JURY DECIDES

The jury deliberated about four hours and reached a verdict for Liebeck. It decided on compensatory damages of \$200,000, which it reduced to \$160,000 after judging that 20 percent of the fault belonged to Liebeck for spilling the coffee. The jury concluded that McDonald's had engaged in willful, reckless, malicious, or wanton conduct, which is the basis for punitive damages. The jury decided upon a figure of \$2.7 million in punitive damages.

COMPANY NEGLECTED CUSTOMERS

One juror later said that the facts were overwhelmingly against the company and that the company just was not taking care of its customers. Another juror felt the huge punitive damages were intended to be a stern warning for McDonald's to wake up and realize its customers were getting burned. Another juror said he began to realize that the case was really about the callous disregard for the safety of customers.

Public opinion polls after the jury verdict were squarely on the side of McDonald's. Polls showed that a large majority of Americans—including many who usually support the little guy—were outraged at the verdict.⁷ But, of course, the public did not hear all the details presented in the trial.

JUDGE REDUCES AWARD

The judge later slashed the jury award by more than 75 percent to \$640,000. Liebeck appealed the reduction, and McDonald's continued fighting the award as excessive. In December 1994, it was announced that McDonald's had reached an out-of-court settlement with Liebeck, but the terms of the settlement were not disclosed due to a confidentiality provision. The settlement was reached to end appeals in the case. We will never know the final ending to this case because the parties entered into a secret settlement

that has never been revealed to the public. Since this was a public case, litigated in public and subjected to extensive media reporting, some lawyers think that such secret settlements, after public trials, should not be condoned.⁸

DEBATE OVER TEMPERATURE

Coffee suddenly became a hot topic in the industry. The Specialty Coffee Association of America put coffee safety on its agenda for discussion. A spokesperson for the National Coffee Association said that McDonald's coffee conforms to industry temperature standards. A spokesperson for Mr. Coffee, the coffee-machine maker, said that if customer complaints are any indication, industry settings may be too low. Some customers like it hotter. A coffee connoisseur who imported and wholesaled coffee said that 175 degrees is probably the optimum temperature for coffee because that's when aromatics are being released. Coffee served at home is generally 135–140 degrees. McDonald's continued to say that it is serving its coffee the way customers like it. As one writer noted, the temperature of McDonald's coffee helps to explain why it sells a billion cups a year.⁹

LATER INCIDENTS

In August 2000, a Vallejo, California, woman sued McDonald's, saying she suffered second-degree burns when a handicapped employee at a drive-through window dropped a large cup of coffee in her lap. The suit charged that the handicapped employee could not grip the cardboard tray and was instead trying to balance it on top of her hands and forearms when the accident occurred in August 1999. The victim, Karen Muth, said she wanted at least \$10,000 for her medical bills, pain and suffering, and "humiliation." But her lawyer, Dan Ryan, told the local newspaper that she was entitled to between \$400,000 and \$500,000. Attorney Ryan went on to say, "We recognize that there's an Americans with Disabilities Act, but that doesn't give them (McDonald's) the right to sacrifice the safety of their customers." It is not known how this lawsuit was settled.

SUITS GO GLOBAL

It was also announced in August 2000 that British solicitors have organized 26 spill complainants into a group suit against McDonald's over the piping hot nature of its beverages. One London lawyer said, "Hot coffee, hot tea, and hot water are at the center

of this case. We are alleging they are too hot." Since that time other lawsuits have been filed around the world.

BURNED BY A HOT PICKLE

In a related turn of events, a Knoxville, Tennessee, woman, Veronica Martin, filed a lawsuit in 2000 claiming that she was permanently scarred when a hot pickle from a McDonald's hamburger fell on her chin. She claimed the burn caused her physical and mental harm. Martin sued for \$110,000. Martin's husband, Darrin, also sought \$15,000 because he "has been deprived of the services and consortium of his wife." According to Veronica Martin's lawsuit, the hamburger "was in a defective condition or unreasonably dangerous to the general consumer and, in particular, to her." The lawsuit went on to say, "while attempting to eat the hamburger, the pickle dropped from the hamburger onto her chin. The pickle was extremely hot and burned the chin of Veronica Martin." Martin had second-degree burns and was permanently scarred, according to the lawsuit. One report was that the McDonald's owner settled this case out of court.¹⁰

ISSUE WON'T GO AWAY

THE STELLA AWARDS

For over 15 years now, the coffee spill heard 'round the world continues to be a subject of heated debate. The coffee spill and subsequent trial, publicity, and resolution "prompted a tort reform storm that has barely abated."¹¹ One school of thought held that it represents the most frivolous lawsuit of all time. In fact, a program called the "Stella Awards" was begun to recognize each year's most outrageous lawsuit. The awards were the creation of humorist Randy Cassingham, and his summaries of award-winning cases may be found at <http://www.stellaawards.com>.¹² In actuality, most of the lawsuits he chronicles are far more outrageous than the coffee spill in which an elderly lady did get seriously injured. On the other hand, consumer groups are still concerned about victims of what they see as dangerous products, and they continue to assail McDonald's callous unconcern for Stella Liebeck.

In the ensuing decade and a half, lawsuits over spilt beverages have continued to come and go, but most of them have been resolved with less fanfare than Stella's case. As for S. Reed Morgan, the lawyer who successfully represented Stella Liebeck, he has handled only three cases involving beverages since Liebeck's suit.

Morgan has turned down many plaintiffs, but said he is interested in such cases only if they involve third-degree burns.

ANOTHER SCALDED-GRANNY CASE

It was reported in summer of 2004 that Morgan has a new McDonald's coffee case that resembles the Liebeck case. This case involves Maxine Villegas, a grandmother in her 70s, who was a passenger in a car stopped at a drive-through, where coffee splashed on her legs and resulted in third-degree burns. In a deposition, Villegas testified coffee spilled on her legs when her sister was passing her the cup of coffee.¹³

Whether the Villegas case will turn out to be another Liebeck case or not remains to be seen. Matt Fleischer-Black, writing in *The American Lawyer*, perhaps summarized its potential well:

*Villegas' complaint against McDonald's may generate nothing more than jokes for Jay Leno and David Letterman. Yet in light of the influence of the earlier suit, this scalded-granny case may keep a 90 million-cup-a-day industry on alert for another decade to come.*¹⁴

The outcome of the Villegas case has not been made public. Lawsuits of this type are often stretched out over years or get dropped with no public announcement.

A LAWSUIT IN MOSCOW

These types of lawsuits may never end. They have even gone global. In fact, a long-running case against McDonald's in Moscow was closed in 2006 by a Moscow court after the claimant withdrew her \$34,000 lawsuit. Olga Kuznetsova filed a lawsuit against the company after hot coffee was spilled on her in a Russian McDonald's. Kuznetsova claimed that a swinging door hit her while she was walking out onto the restaurant's terrace with a full tray. She demanded 900,000 rubles (about \$34,000) in damages. McDonald's lawyers said she had nobody to blame but herself because the paper cup carried a warning that the coffee was hot, which prompted her to go to court.¹⁵

QUESTIONS FOR DISCUSSION

1. What are the major issues in the Liebeck case and in the following incidents? Was the lawsuit "frivolous" as some people thought, or serious business?
2. What are McDonald's social (economic, legal, and ethical) responsibilities toward consumers in the

Liebeck case and the other cases? What are consumers' responsibilities when they buy a product such as hot coffee or hot hamburgers? How does a company give consumers what they want and yet protect them at the same time?

3. What are the arguments supporting McDonald's position in the Liebeck case? What are the arguments supporting Liebeck's position?
4. If you had been a juror in the Liebeck case, which position would you most likely have supported? Why? What if you had been a juror in the pickle burn case?
5. What are the similarities and differences between the coffee burn cases and the pickle burn case? Does one represent a more serious threat to consumer harm? What should McDonald's, and other fast food restaurants, do about hot food, such as hamburgers, when consumers are injured?
6. What is your assessment of the "Stella Awards"? Is this making light of a serious problem?
7. What are the implications of these cases for future product-related lawsuits? Do we now live in a society where businesses are responsible for customers' accidents or carelessness in using products? We live in a society that is growing older. Does this fact place a special responsibility on merchants who sell products to senior citizens?

ENDNOTES

1. Kerckhoff Law, "McDonald's Burning Hot Coffee Lawsuit Revisited," San Diego Personal Injury Lawyers Blog, <http://www.sandiegopersonalinjury-lawyersblog.com/2010/03/mcdonalds>, March 30, 2010. Accessed July 22, 2010.
2. Andrea Gerlin, "A Matter of Degree: How a Jury Decided That a Coffee Spill Is Worth \$2.9 Million," *The Wall Street Journal* (September 1, 1994), A1, A4.
3. Theresa Howard, "McDonald's Settles Coffee Suit in Out-of-Court Agreement," *Nation's Restaurant News* (December 12, 1994), 1.
4. Aric Press and Ginny Carroll, "Are Lawyers Burning America?" *Newsweek* (March 20, 1995), 30–35.
5. Howard, 1.
6. "Coffee-Spill Suits Meet ADA," *Overlawyered.com*, <http://www.overlawyered.com/archives/00aug1.html>.
7. Gerlin, A4.