

The McDonald's Coffee Case

ARE YOU THIRSTY FOR THE REAL STORY?

by: David Lefkowitz

Remember that greedy, gold-digging woman who was driving down the street with her McDonald's coffee propped between her legs? Her coffee spilled, she suffered a little burn on her leg and then she hired a lawyer. You also probably recall that she and her clever and greedy lawyer took the case to trial, and she won millions of dollars. This case gave everyone a darn good reason to hate plaintiffs, hate their lawyers and distrust juries. If you ask a stranger how they feel about the civil justice system, you can expect to hear about that darn McDonald's case. How could a clumsy woman spill her coffee and become a millionaire? She won the litigation lottery, for sure. At least that's what is said by those who know nothing about the case. Most of what you have heard or read on this topic is untrue.

In February 1992, a grandmother named Stella Liebeck was a passenger in a car. She had just purchased a cup of coffee and pulled into a parking space so she could add cream and sugar to the coffee. While the car was parked, she tried to hold the coffee cup between her knees while she removed the plastic lid. As the lid was coming off, the cup tipped, and the entire cup of coffee fell on her lap.

Ms. Liebeck's injuries were gruesome by any measure. The coffee was scalding hot and caused third-degree burns on her thighs, buttocks and genital area. She underwent extensive skin grafts, had permanent scarring and continued medical treatment for two years. During this time, she lost 20 percent of

her body mass, reducing her weight to a slight 83 pounds. Ms. Liebeck's doctor described her injuries as one of the worst cases of scalding he had ever seen.

How did the coffee cause such serious injuries, and why did a jury find that McDonald's was at fault? At the time of the injury, McDonald's required its restaurants to serve their coffee between 180 and 190 degrees. McDonald's representatives testified that their consultants advised them that this was the optimum temperature for the coffee to maintain its taste. Interestingly, and importantly, other restaurants served their coffee at much lower temperatures. At temperatures in the range of 180 to 190 degrees, liquids will cause a third degree burn in two to seven seconds, according to a thermodynamics expert who testified in the case. He also testified that if the temperature were reduced to 155 degrees, the chance of injury is significantly reduced.

The jury also heard testimony that McDonald's had internal reports of at least 700 other coffee burns ranging from mild to third degree. Some of the burns, and the circumstances, were similar to what happened to Ms. Liebeck, but McDonald's continued to require their restaurants (corporate owned and franchises) to serve coffee at 180 to 190 degrees. The jury found that McDonald's was liable for the injuries, because the coffee was too hot and customers would not reasonably expect they could be burned so badly if it spilled.

It was one thing for the jury to find that McDonald's should have lowered the temperature of their coffee or warned cus-

tomers that the coffee was unusually hot, but why did the jury award more than \$2 million in punitive damages? The jury was not allowed to award punitive damages unless it found that McDonald's had engaged in wilful, reckless, malicious or wanton conduct. Punitive damages are awarded not to compensate the injured party, but to deter the wrongdoer from committing the same act again. After the trial, one of the jurors pointed to evidence that persuaded the jury that McDonald's needed to be deterred. One McDonald's executive had testified that McDonald's knew its coffee sometimes caused serious burns, but had not consulted burn experts about it. He also testified that McDonald's had decided not to warn customers about the possibility of severe burns, even though most people wouldn't think it possible (because the coffee is insulated by the Styrofoam cup so your hands cannot feel the heat.) Finally, he testified that McDonald's did not intend to change any of its coffee policies or procedures, saying, "There are more serious dangers in restaurants," and adding, "I have better things to do than worry about people spilling coffee on themselves." According to the juror, that testimony helped convince them that McDonald's was not concerned with injuries of this kind.

Another McDonald's executive explained and defended the temperature of their coffee by contending that most customers buy their coffee and bring it elsewhere to drink, thus allowing the coffee to cool during the ride. However, McDonald's own research demonstrated

that their customers intend to consume the coffee immediately while driving.

How the case ended in court is also interesting. Following the burn and the medical treatment, Ms. Liebeck sent a letter to McDonald's. In the letter, she described the incident and explained that she had been injured by the hot coffee. She asked McDonald's to reduce the temperature of their coffee. She also asked McDonald's to pay her \$20,000, which would cover her medical expenses (approximately \$13,000) and her lost income (approximately \$5,000) and leave \$2,000 extra for her as compensation for her injuries. McDonald's responded with an offer of \$800.00. When McDonald's refused to increase their offer, she hired an attorney. Once the attorney filed suit, he was able to obtain the reports regarding prior incidents and prove that McDonald's was aware of the injuries their coffee was causing. In the face of all the evidence against McDonald's, Ms. Liebeck was still willing to settle, prior to trial, for well less than what she ultimately recovered. Alas, she is now immortalized as the greedy plaintiff.

The jury found that McDonald's was 80 percent liable for the injuries; the company failed to warn its customers that the coffee was served at an unsafe temperature, but Ms. Liebeck was 20 percent at fault for the method in which she opened the lid. The jury awarded \$200,000 to Ms. Liebeck for her injuries, and the judge reduced that by 20 percent, leaving Ms. Liebeck \$160,000. The jury of 12 citizens, who heard the evidence and saw the photos of the melted skin on her lap and groin, felt that was a reasonable recovery for her compensatory damages.

The punitive damage awarded was \$2.6 million, which was approximately the value of two days of coffee sales by

McDonald's. The jury felt this was an amount which would convince McDonald's to consider their customers' safety and lower the temperature of their coffee. Later, the judge ruled that the punitive damages awarded should be reduced to \$480,000, and therefore, Ms. Liebeck never received the amount of money that we all hear about.

Follow-up investigations after the trial revealed that the McDonald's location where the incident occurred had reduced the temperature of their coffee to 158 degrees. The entire corporation subsequently changed its policy as well. It began to forbid its restaurants from serving coffee at scalding temperatures. Thanks to Stella Liebeck, future customers were spared the risk of injury. The trial and the verdict of 12 citizens, who heard the evidence over a week-long trial, actually caused some good.



David Lefkowitz is the founder of The Lefkowitz Firm, LLC, which has offices in Atlanta and Athens. The Lefkowitz Firm, LLC, represents individuals and corporations in their claims for legal malpractice (legal negligence) and similar claims such as breach of fiduciary duty, trustee misconduct and executor misconduct. The firm also represents attorneys with regard to law firm management issues, including conflicts and bar discipline matters. Mr. Lefkowitz frequently is an invited speaker at continuing legal education seminars on the topics of legal malpractice, ethics and professionalism. For more information, visit the firm's website at: LefkowitzFirm.com.

Forever
ONE

Stella Liebeck v. McDonald's
A gift to last a lifetime and beyond

JWR Jewelers

Beechwood Promenade
196 Alps Road • Athens, Georgia