

THE MCDONALD'S HOT COFFEE CASE

How many of you have heard of the McDonald's Hot Coffee case? You know the one; where a woman spilled hot coffee on herself and won a "gazillion dollars" from a jury? Sometimes the facts can be misconstrued. With so much negative publicity about this verdict, let's look at the case from the woman's side.

I am going to tell you "the rest of the story," some facts of the case that you may not have known, some facts that may give you pause to re-think your opinion about the verdict.

The woman was 79-year-old Stella Liebeck who lived in Albuquerque, New Mexico. She earned \$5,000 a year as a sales clerk. One February morning in 1992, Stella and her grandson drove through a McDonald's drive-in to buy food and coffee. She sat in the front passenger bucket seat of her son's Ford Probe car and she was wearing sweat pants. (That becomes important later).

After getting their coffee, grandson Chris drove the car away from the drive-in window and stopped so Stella could add cream and sugar, but she had trouble getting off the lid. So she placed the styrofoam cup between her legs, thus freeing up both hands to remove that lid. The rest is history: the coffee cup tipped over, spilling hot coffee over Stella's legs, groin and buttocks.

Her injuries were very serious. She suffered the most severe kind of burns—3rd degrees burns—over 6% of her 79-year-old body. A third degree burn is when all the layers of the skin are burned completely through, called a "full thickness burn". She went through skin grafts where skin was shaved from one part of her body to place it on top of the burned areas. She was in severe pain. Her medical bills totaled more than \$10,000.

Two weeks later Stella wrote McDonald's to tell them about the coffee spill, and her burns. One year after the accident she filed a lawsuit against McDonald's, alleging the hot coffee was not only hot but—in fact—too hot. In legal language we call that "product liability". The lawsuit said the coffee was manufactured "defectively" due to its excessive heat. Simply put: Stella claimed the high temperature of the coffee presented an unreasonable risk of injury.

How hot is too hot? McDonald's requires its restaurants to brew coffee at 195 to 205 degrees and then keep it for sale to customers at between 180 and 190 degrees. And they have been doing that since at least 1978.

McDonald's said that's the temperature recommended by the national coffee associations to get the maximum flavor from coffee. And besides, it argued, our customers want their coffee r-e-a-l hot. It said many of their coffee drinkers don't actually drink the hot coffee until they get to work each morning.

Besides, McDonalds argued: everyone knows coffee is supposed to be served hot, so that could not have been a surprise to Stella. Our cups even have the warning “hot” printed on them.

Everyone admitted hot coffee is unsafe to drink at 180 to 190 degrees, and it will cause burns to the throat if swallowed within the first few minutes. It can even cause severe burns at 130 degrees.

Hold on a minute, said the plaintiff. More than 700 people have reported burns from drinking McDonald’s coffee over the years, and despite the large of number of burn complaints, the company continues to serve it at least 180 degrees. 700 burn cases!!!

One burn specialist said it took only a fraction of a second at 180 degrees to produce a serous burn; at 130 degrees it would take 30-40 seconds. Because Stella was wearing sweat pants the hot coffee soaked through them and it took her about 30 seconds before she could pull them away from her body. Too late to avoid the serous 3rd degree burns.

McDonald’s argued that in previous coffee burning cases, the courts have focused on the person who spilled the hot coffee, and never before had found that the coffee itself was defective because of its high temperature.

For example, in a case in Pennsylvania, a woman also placed a cup of hot coffee between her legs and was burned when it spilled. The court—in dismissing the case—said in very legalistic language: “a purveyor of hot coffee cannot be held liable for burns sustained by a customer when an external force causes the beverage to spill.”

The company further argued that it has sold more than 10 BILLION cups of coffee over the years and yet received very few complaints. It admitted it has strengthened and tightened its styrofoam coffee cups and stamped a warning on them, a warning that its competitors have not done.

It further admitted—and this may be the reason for the huge punitive damage aware—that it had not reduced the temperature of its coffee, and has no intention of doing so, even though it has known since 1983 that people were getting burned from spilling coffee. McDonalds said more than 700 persons have been burned at its stores, most from hot coffee. McDonalds called that figure “statistically trivial.” A witness for the plaintiff called that remark “corporate callousness.”

McDonald’s also admitted people over 65 are at an increased risk for coffee spills. It admitted that its coffee-drinking customers are probably not aware that they can get 3rd degree burns if they spill coffee on themselves, especially if they cannot escape the hot liquid within a very few seconds of the spill.

Stella said she saw a warning on the cup: “Caution contents hot,” but said, “What you don’t expect is a cup of coffee to be so hot that it would burn you.”

A survey of restaurants in Albuquerque found coffee was served below 160 degrees; and other fast food chains sold their coffee below 180 degrees. Everyone admits that it is physically impossible to drink coffee at 185 degrees. It's just too hot!! And if it spills, disaster!!

Experts said a "safe" range for serving coffee is between 150-165 degrees. Here's why: At 185 degrees when spilled, the temperature would drop to 165 degrees by the time it hits the body and when it soaks through the sweat pants it will cause severe burns. That takes about 25 seconds—not a very long time to get out of clothes, especially if you are over 65.

But coffee served at 155 degrees would cool to 140 degrees by the time it hit the body and take a significant longer time (about 60 seconds) to cause serious burns, time enough to get out of the clothes.

Experts said coffee served at 185 degrees will cause 3rd degree burns in 3-10 seconds. Stella was exposed for 25 seconds. At 170 degrees it takes 20 seconds and at 155 degrees it takes 60 seconds.

Coffee-drinkers over age 65 are especially susceptible to coffee burns: their vision is not as good, and neither is their grip strength-- their ability to grasp the coffee cup without spilling it. They tend to drop things easier and their temperature perception isn't good: they have trouble detecting temperature differences.

McDonalds says it sells one BILLION (one thousand million) cups of coffee each year nationwide. That's nearly 2-and-a-half million cups a day.

After hearing all the evidence, the jury found that McDonalds was 80% at fault and Stella was 20% at fault. It awarded Stella \$160,000 to compensate her for her injuries, and also gave her \$2.7million in punitive damages.

The trial judge, however, later reduced the entire judgment to \$450,000. McDonalds did not appeal.

So there you have it...the infamous McDonalds hot coffee case. If you had been on the jury how would you have voted? Was it Stella's fault for trying to add sugar and cream while sitting in a car? Or was it McDonalds fault for selling coffee so much hotter than any other place?

You be the judge.

Public Speaking Tips

Know the room in which you will be speaking.

Being familiar with your surroundings will make you more comfortable when you deliver the speech to your audience.

Know the material.

Do not read the material to the audience. Most people hate listening to someone read a speech because the speaker loses inflections in their voice, the text is not spoken language, and there is little or no eye contact. You are encouraged to give the speech using the outline provided and to use the full text only to become familiar with the material.

Make eye contact.

Include the audience in your speech by making eye contact with as many people as you can.

Convey your enthusiasm for the subject.

If you sound dull and boring, your audience will think you are too.

Imagine yourself giving the speech.

Visualize yourself successful and you will be successful.

Concentrate on the message.

Focus your attention on the message of your speech not the medium of the message.

Avoid using jargon.

Assume your audience knows nothing about the law. Describe concepts using everyday language, not legal terms.

Be honest with your audience.

If you are asked a question you can't answer during the question & answer at the end of your talk, admit you don't know. The audience will respect your honesty. Instead say, "I don't know the answer, but I will find out for you." And follow up with that person after you've researched the answer.