

Think you know about the McDonald's Case?

Here's what the judge said:

*Several years ago I presided over a jury trial where a -plaintiff was burned by hot coffee purchased at McDonald's. The case received wide publicity and has become the poster child for tort reform in Washington. . . I have thought long and hard about this case [about] what it represents relative to our system of justice. Perhaps an argument could be made that **this case, when viewed in detail rather than headlines, represents some of the things that are good about the courts and lawyers.***

Robert Hayes Scott
District Court Judge,
Second Judicial District,
State of New Mexico

Here are the details about what *really* happened. . .

“The McDonald’s Lawsuit”

— *Everyone knows about it, or they think they know about it. Insurance companies and the business community sure don’t want us to forget it! And worse, they use it to try to poison the opinions of people called to serve on juries.*

What really happened? Why did jury members who were first angry about having to decide this case later turn their anger on McDonald’s? Why did the Wall Street Journal say McDonald’s callousness was the issue?

Who was Stella Liebeck?

On the morning of February 27, 1992, Stella Liebeck was a spry 79 year old, recently-retired department store clerk. She had gone with her grandson Chris to take her son Jim from Santa Fe to the airport in Albuquerque. On the way home, Chris pulled into a McDonald’s drive-through for breakfast. He parked the car so she could add cream and sugar to her coffee. Because the car had no cupholders and a slanted dash, Stella put the cup between her knees, trying to get the lid off. The cup flipped backward, dumping the scalding liquid into her lap. The sweatpants she was wearing held the heat from the coffee. The 180 degree coffee had quickly seared her skin.

By the time Stella reached the emergency room, third degree burns had spread across her inner thighs, perineum, buttocks, genitals and groin. Third degree burns are full thickness burns that char and blacken the skin and permanently destroy

the skin and nerves. Stella Liebeck was badly injured. She says all she remembers is the pain.

Stella spent 7 days in the hospital, 3 weeks at home with her daughter (who stayed home from work to care for her,) and required another hospital stay for skin grafts. “The grafts were almost as painful as the burns,” her daughter said. “She was in tremendous pain.” She went from 113 to 83 pounds and for a time her family doubted whether she’d survive. She was disabled for two years and was left with scars over 16 per cent of her body.

What did Stella do then?

About six months after her injury, Stella’s family approached McDonald’s and asked for reimbursement of her daughter’s lost wages and Stella’s medical expenses, about \$20,000. They also asked McDonald’s to lower the temperature of their coffee to prevent others from being injured. In response McDonald’s offered Stella \$800.

Stella met a family from Texas while she was recuperating at her daughter’s house. They knew a lawyer from Houston, Reed Morgan, who had brought a coffee burn lawsuit against McDonald’s six years earlier on behalf of a woman who had also suffered third degree burns.

Stella learned that at McDonald’s, coffee was much hotter than at other restaurants.

Preparing for that case, he discovered that various McDonald’s locations were holding coffee at temperatures much higher than the industry standard found at most other restaurants like Wendy’s, Dunkin’ Donuts

and Dairy Queen. When he questioned Christopher Appleton, McDonald's headquarters quality assurance manager, Appleton said that the company was aware of the risk and had no plans to turn down the heat. McDonald's settled the Texas case for \$27,000.

Stella decided to have Reed Morgan represent her. She learned that in addition to the evidence he had collected to secure the Texas settlement, he now had the McDonald's training manual which actually directed that coffee be brewed at 195 to 205 degrees and held at 180 to 190 degrees.

Before the trial, Morgan offered to settle for \$300,000. McDonald's refused. A former judge, acting as the pre-trial mediator advised the company to settle for \$225,000. McDonald's lawyer never showed up at the mediation and rejected the mediator's recommendation. The case went to trial.

What happened at the trial?

Juror Betty Farnham started the case thinking it was frivolous. She and the other jurors initially thought the same things that the public thought after the verdict became public. At the beginning, they didn't understand why the case was being brought, and couldn't see why they were there.

During the trial, jurors were surprised to learn that **during the prior 10 years there were 700**

reports of coffee burns at McDonald's from first to third degree and that the company had settled claims for amounts up to and over \$500,000. Christopher Appleton testified that though the company knew of the previous cases and the ongoing danger, they had no plans to consult burn experts nor lower the coffee temperature.

The jury saw Stella's charred skin in the photos. They heard a renowned burn expert Charles Baxter say the

McDonald's knew of the many burn cases, and the dangerous temperature, yet had no plans to change it.

170 degree coffee would cause second degree burns in 3.5 seconds. They heard that McDonald's coffee was 40 to 50 degrees hotter than that made at home, and that even lowering the temperature slightly to 160 degrees would make a difference, increasing the time it would take to cause a third degree burn to 20 seconds.

Then they heard McDonald's Safety Consultant say that given all the coffee McDonald's serves, 700 complaints was "statistically no different from zero."

What did the jury decide?

When Stella's Lawyer filed suit he asked for \$100,000 in compensatory damages, including her pain



and suffering, and triple punitive damages to send a message to McDonald's that their coffee was a "defectively manufactured and unreasonably dangerous" product. That would have been a total award of \$400,000.

But the jury had a different idea. When the jury of six men and six women heard the facts, they found for Stella. No longer questioning her reasons for being there, juror Betty Farnham pushed for a total award of 9.6 million. She said "Each statistic is somebody badly burned. That [dismissing them as statistically insignificant] made me really angry. There was a person behind every number."

In four hours, the jury found for Stella.

The jury found for Stella

The jury finally set the compensatory damages, out of pocket expenses plus pain and suffering, at \$200,000.00. Because Stella contributed to the accident, they knocked off 20%. **The jury then felt compelled to impose a stern penalty "for willfull, reckless, wanton or malicious conduct for selling a dangerous product."** They awarded \$2.7 million — the equivalent of 2 days nationwide coffee sales.

Did Stella get all that money?

A month later, Judge Robert Scott reduced the award to \$640,000, calculating the amount to be 3 times the compensatory damages. He said the case "was not a runaway. I was there," and that it "was appropriate to punish and deter" McDonald's corporate coffee policy. After more negotiations, the company settled with Stella for an undisclosed amount.

What did McDonald's do then?

A report in Liability Week, September 29, 1997, said that Kathleen Gilliam, 73, suffered first and second degree burns when a cup of coffee spilled onto her lap. Reports at that time indicated that McDonald's still kept its coffee at 185 degrees, **still 20 degrees hotter than other restaurants.**

What should you do?

Third degree burns occur at 185 degrees in just two to seven seconds. They can require skin grafting and other expensive medical treatments that can exceed tens of thousands of dollars and inflict severe prolonged pain and permanent disability.

Be aware of the potential danger. Make sure that children don't have access to scalding liquids, at restaurants, and at home. **And make sure you know all the facts before jumping to conclusions about widely publicized cases.** Don't let propaganda rob you of your rights to use our civil justice system to insure your family's safety.

What does this lawsuit mean for you, the consumer?

This action, like many other civil lawsuits, directly benefits the public by informing consumers about a dangerous product. According to our Constitution, our civil justice system provides a place for citizens to petition the courts when they are wronged. These petitions often result in more safety and greater reliability in our products and services because manufacturers and providers must bear responsibility.

For more information, please contact
the Civil Justice Foundation at
The Connecticut Trial Lawyers Association,
860-522-4345, fax 860-522-1027 or
www.cttriallawyers.org.

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