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MYTHBUSTER

THE “McDONALD’S COFFEE CASE” AND OTHER FICTIONS

Anecdotal descriptions of a few atypical lawsuits intended to shock or amuse the public have been the cornerstone of the business community’s anti-jury advertising and public relations campaign since the 1980s. Focusing on a few rare, anecdotal cases, instead of the majority of cases that pass through the courts each year, feeds into a false and dangerous perception that the system is overflowing with frivolous lawsuits. Often such verdicts have either been thrown out or substantially reduced by trial judges or appellate courts, which is exactly how the system is supposed to work. Yet the public is given the false impression that a plaintiff received a windfall, a defendant was financially ruined, or the system failed. This is particularly irresponsible when, as is typical, cases are not cited by name or even by date so they can be checked for accuracy. When journalists or researchers do track them down, they find in virtually every situation that such cases have been misreported and misused.

The “McDonald’s coffee” case. We have all heard it: a woman spills McDonald’s coffee, sues and gets \$3 million. Here are the facts of this widely misreported and misunderstood case:

Stella Liebeck, 79 years old, was sitting in the passenger seat of her grandson’s car having purchased a cup of McDonald’s coffee. After the car stopped, she tried to hold the cup securely between her knees while removing the lid. However, the cup tipped over, pouring scalding hot coffee onto her. She received third-degree burns over 16 percent of her body, necessitating hospitalization for eight days, whirlpool treatment for debridement of her wounds, skin grafting, scarring, and disability for more than two years. Morgan, *The Recorder*, September 30, 1994. Despite these extensive injuries, she offered to settle with McDonald’s for \$20,000. However, McDonald’s refused to settle. The jury awarded Liebeck \$200,000 in compensatory damages -- reduced to \$160,000 because the jury found her 20 percent at fault -- and \$2.7 million in punitive damages for McDonald’s callous conduct. (To put this in perspective, McDonald’s revenue from coffee sales alone is in excess of \$1.3 million a day.) The trial judge reduced the punitive damages to

\$480,000. Subsequently, the parties entered a post-verdict settlement. According to Stella Liebeck's attorney, S. Reed Morgan, the jury heard the following evidence in the case:¹

1. By corporate specifications, McDonald's sells its coffee at 180 to 190 degrees Fahrenheit;
2. Coffee at that temperature, if spilled, causes third-degree burns (the skin is burned away down to the muscle/fatty-tissue layer) in two to seven seconds;
3. Third-degree burns do not heal without skin grafting, debridement and whirlpool treatments that cost tens of thousands of dollars and result in permanent disfigurement, extreme pain and disability of the victim for many months, and in some cases, years;
4. The chairman of the department of mechanical engineering and bio-mechanical engineering at the University of Texas testified that this risk of harm is unacceptable, as did a widely recognized expert on burns, the editor in chief of the leading scholarly publication in the specialty, the Journal of Burn Care and Rehabilitation;
5. McDonald's admitted that it has known about the risk of serious burns from its scalding hot coffee for more than 10 years -- the risk was brought to its attention through numerous other claims and suits, to no avail;
6. From 1982 to 1992, McDonald's coffee burned more than 700 people, many receiving severe burns to the genital area, perineum, inner thighs, and buttocks;
7. Not only men and women, but also children and infants, have been burned by McDonald's scalding hot coffee, in some instances due to inadvertent spillage by McDonald's employees;
8. At least one woman had coffee dropped in her lap through the service window, causing third-degree burns to her inner thighs and other sensitive areas, which resulted in disability for years;
9. Witnesses for McDonald's admitted in court that consumers are unaware of the extent of the risk of serious burns from spilled coffee served at McDonald's required temperature;
10. McDonald's admitted that it did not warn customers of the nature and extent of this risk and could offer no explanation as to why it did not;

11. McDonald's witnesses testified that it did not intend to turn down the heat -- As one witness put it: "No, there is no current plan to change the procedure that we're using in that regard right now;"
12. McDonald's admitted that its coffee is "not fit for consumption" when sold because it causes severe scalds if spilled or drunk;
13. Liebeck's treating physician testified that her injury was one of the worst scald burns he had ever seen.

Moreover, the Shriners' Burn Institute in Cincinnati had published warnings to the franchise food industry that its members were unnecessarily causing serious scald burns by serving beverages above 130 degrees Fahrenheit.

In refusing to grant a new trial in the case, Judge Robert Scott called McDonald's behavior "callous." Moreover, "the day after the verdict, the news media documented that coffee at the McDonald's in Albuquerque [where Liebeck was burned] is now sold at 158 degrees. This will cause third-degree burns in about 60 seconds, rather than in two to seven seconds [so that], the margin of safety has been increased as a direct consequence of this verdict."²

Irresponsible use of anecdotal cases by "tort reform" proponents is nothing new. The case of Charles Bigbee was the "McDonald's coffee case" of the 1980s. Ronald Reagan described Bigbee's case in a 1986 speech as follows: "In California, a man was using a public telephone booth to place a call. An alleged drunk driver careened down the street, lost control of his car, and crashed into a phone booth. Now, it's no surprise that the injured man sued. But you might be startled to hear whom he sued: the telephone company and associated firms!" In fact, Bigbee's leg was severed after a car hit the phone booth in which he had been trapped. The door jammed after he saw the car coming, he tried to flee but could not. The accident left him unable to walk, severely depressed and unable to work. Because the phone company had placed the booth near a known hazardous intersection, and because the door was defective, keeping him trapped inside, he sued the phone company for compensation.³ Bigbee was brought to Congress to testify. He said, "I believe it would be very helpful if I could talk briefly about my case and show how it has been distorted not only by the President, but by the media as well. That is probably the best way to show that people who are injured due to the fault of others should be justly compensated for the damages they have to live with the rest of their lives."⁴ Charles Bigbee died in 1994 at age 52.

NOTES

¹ Morgan, *The Recorder*, Sept. 30, 1994.

² *Ibid.*

³ Nader & Smith, *No Contest: Corporate Lawyers and the Perversion of Justice in America* (1996).

⁴ House Committee on Banking, Finance and Urban Affairs, July 23, 1986.