

NEW MEXICO INJURY ATTORNEY BLOG

PUBLISHED BY
COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

March 10, 2010

Scalding Coffee, Explosive Chicken Sandwiches? Solution Tort Reform!

The debate over frivolous lawsuits almost always leads to the McDonald's scalding hot coffee case. The case, *Liebeck v. McDonald's* was filed in Albuquerque's Second Judicial District Court. The outcome was a jury verdict of \$160,000 in compensatory damages which reflected a finding of 20 percent comparative negligence on the part of Stella Liebeck. In addition, the jury awarded \$2.7 million in punitive damages. This is the portion that gets everyone so excited.

There are many misconceptions about what happened. Many argue that Ms. Liebeck was driving, the coffee was normal temperature, that she knew she could get burned and that somehow it was her own negligence that caused the injuries. Finally, it is often suggested that Ms. Liebeck suffered only minor injuries. The jury did find her 20% responsible. The rest is false.

Ms. Liebeck was not driving. She was a passenger in the car. The car in which she was a passenger was not moving, it was parked so that she could put cream and sugar in her coffee. The coffee was 185 degrees, where industry and safety standards dictated that the coffee be no hotter than 155 degrees to avoid serious burns.

As Ms. Liebeck was opening the Styrofoam cup to put in sugar and cream, the cup collapsed pouring the entire contents of the cup into her lap. Ms. Liebeck suffered 3rd degree full thickness burns over 6 percent of her body around her groin, buttocks, and thighs. She was hospitalized for 7 days where she underwent skin grafting, and very painful daily debridement treatments to prevent infection which can prove fatal in burn cases.

So why the \$2.7 million in punitive damages? McDonald's had documented over 700 similar incidents with its coffee, many also resulting in 3rd degree burns. McDonald's knew of the danger. McDonald's also knew that the temperature of their coffee posed a risk to patrons. It was well documented both within and outside McDonald's that 185 degree coffee posed a serious risks of injury to customers. McDonald's also recognized and admitted that the industry standard, due to safety issues, was to maintain coffee temperature at 145-155 degrees. The risks was even more pronounced due to the fact that the very purpose of the drive-through coffee sales was to put coffee in the hands of drivers in moving vehicles, a combination certain to lead to spills.

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.newmexicoinjuryattorneyblog.com/>

In short, McDonald's was well aware of the danger of its coffee. Ms. Liebeck to the contrary had no reason to expect that a coffee spill would result in 3rd degree full thickness burns over 6 percent of her body. There was simply no reason for Ms. Liebeck to expect such injuries, nor any reason for her to take extraordinary caution to protect against them.

Despite the clear finding of liability and fault and a finding that McDonald's action was reckless, callous and willful, and that \$2.7 million represented only 2 days of coffee sales, the court reduced the punitive damages to \$480,000. The parties eventually settled. The final settlement amount is not known to the public but rest assured it was much higher than the original offer of settlement of \$20,000 from Ms. Liebeck to cover her medical expenses.

So why bring up the McDonald's coffee lawsuit now? McDonald's is back in the news with a lawsuit related to exploding pockets of grease in its chicken sandwiches. The news and commentators should be bristling with outrage in the coming weeks over the audacity of a McDonald's patron to sue over what surely must be an assumed risk of eating at McDonald's.

Certain to be absent from these discussions is corporate arrogance, greed and irresponsibility that led McDonald's to refuse a modest offer of settlement in the coffee case, and now leads them to dodge responsibility for explosive chicken grease in its sandwiches. I guess it is asking too much for McDonald's to accept responsibility and fix the problem on its own. Instead, McDonald's is forcing the litigation which if its gamble does not pay off it will later herald as the downfall of democracy, capitalism, and everything we hold dear in America.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.newmexicoinjuryattorneyblog.com/>