

The jury decided what??

The McDonald's Case Revisited

The Litigation Lottery

People often cite “The McDonald’s Coffee Case” as the prime rationale for tort reform. Judges, lawyers, and members of the public are baffled by a jury’s decision to award millions of dollars in a “frivolous lawsuit” to a woman who *spilled hot coffee in her lap*.

The most common arguments against the verdict include the “facts” as reported by media, and as people remember them today:

- A woman goes to McDonald’s drive-thru lane
- Orders a cup of coffee
- Puts the cup between her legs
- Drives off
- The coffee spills in her lap
- She sues the company saying the coffee was too hot *and wins millions*

So, the woman becomes a millionaire seemingly because of a dumb mistake? Not exactly.

The woman was not the “ditzy airhead” that media painted her to be. Here’s more of the story:

- The woman was a grandmother and her nephew was driving
- They stopped in the parking lot to add cream & sugar
- The cup tipped over while the car was *parked*, spilling the coffee
- The coffee caused 2nd and 3rd degree burns in 2-3 seconds
- Grandma’s burns covered 16% of her body
- Treatment included surgery and extensive skin grafts
- Doctors thought she might not survive the injuries

So, sympathy drove the verdict? Not exactly.

Jurors certainly felt sympathy for the injured grandma, but that is not what drove their decision.

Why would jurors award multi-millions?

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Here's the lynchpin of the story:

- McDonald's had received 700 reports of similar injuries to other customers and their children, and
- McDonald's coffee was significantly hotter than coffee served by competitors

Knowledge & Control Are King

Jurors apportioning blame consider each party's level of knowledge in the situation and their ability to control and avoid the bad outcome. Here, jurors determined the company had more of both: **McDonald's knew** all of the risks associated with overly hot beverages and **did nothing** to protect customers. Jurors reasoned the company knew it was not humanly possible to drink coffee at that very high temperature, and that coffee would spill on occasion, even with the greatest care. So, jurors reasoned, if it could not be drunk as served, AND it could seriously hurt someone if spilled, then WHY continue serving it *that* hot? Jurors figured the restaurant could have reduced the serving temperature of the coffee to eliminate the risk of 2nd and 3rd degree burns without compromising their sales.

Anger, not sympathy, drives damage awards.

Jurors were astounded that McDonald's refused to change its practices or even cover the medical bills of injured customers. The company had miscalculated the risks of both the temperature of the coffee, and the extent of anger jurors would feel about its response to the 700 similar complaints. So, jurors awarded Grandma medical expenses and the money the company made in two days of coffee sales – totaling \$2.7 million.

See *Liebeck v. McDonald's Restaurants and/or "Hot Coffee"* – an HBO documentary © 2011.

Moral of the story:

Don't underestimate the risk of a case by ignoring what real people will believe your client knew and could have done to avoid the bad outcome. If jurors decide your client had more knowledge and control over the situation than the other guy, you'll get burned.

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