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FAQ ABOUT THE MCDONALD'S COFFEE CASE AND THE USE OF FABRICATED ANECDOTES

WHAT REALLY HAPPENED IN THE MCDONALD'S COFFEE 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.

Despite these extensive injuries, she offered to settle with McDonald's for \$20,000. However, McDonald's refused to settle for this small amount and in fact, never offered more than \$800.

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 was 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:

- By corporate specifications, McDonald's sold its coffee at 180 to 190 degrees Fahrenheit;
- 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;
- 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;
- 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*;
- 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;
- 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;

- 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;
- 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;
- 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 then required temperature;
- 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;
- McDonald's admitted that its coffee is "not fit for consumption" when sold because it causes severe scalds if spilled or drunk;
- Liebeck's treating physician testified that her injury was one of the worst scald burns he had ever seen.

Moreover, the Shriner's 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." Morgan, *The Recorder*, September 30, 1994.

WHAT ABOUT THE "STELLA AWARDS" (NAMED FOR STELLA LIEBECK) CIRCULATING AROUND THE INTERNET?

The Stella Awards, which are supposedly six "crazy" lawsuits, have been circulating around the Internet since May 2001. They are all entirely made up. According to Snopes.com, a website that debunks urban legends, "All of the entries in the list are fabrications – a search for news stories about each of these cases failed to turn up anything, as did a search for each law case." <http://www.snopes.com/legal/lawsuits.asp>

In 2003, then *Washington Post* media columnist Howard Kurtz reported on confronting *U.S. News & World Report* owner Mort Zuckerman about referencing these fictitious cases. "Great stuff," said Kurtz after describing two of the crazy lawsuits cited by Zuckerman. "Unfortunately for Zuckerman, totally bogus.... Zuckerman has plenty of company. A number of newspapers and columnists have touted the phantom cases since they surfaced in 2001 in a Canadian newspaper."

IS THIS USE OF FABRICATED ANECDOTES A NEW THING?

No. The "tort reform" movement has been using exaggerated or fabricated anecdotes to drive their agenda for years. In his 1996 article "Real World Torts," University of Wisconsin Law School professor Marc Galanter wrote, "Unfortunately, much of the debate on the civil justice system relies on anecdotes and atrocity stories and unverified assertion rather than analysis of reliable data." Professors William Haltom and Michael McCann illustrate many examples of this in their 2004 book *Distorting the Law; Politics, Media and the Litigation Crisis*, writing that "tort reformers" typically point to some extraordinary occurrence – some exaggerated or

fabricated “horror story” – to symbolize what they want to call “ordinary” about the tort system. The outcomes of these cases are told in a way to violate notions of common sense, and to demonstrate injustices and inefficiencies of the tort system, which is said to be of great cost and peril to individual responsibility, economic efficiency, and reason.

For example, the case of Charles Bigbee was the “McDonald’s coffee case” of the 1980s. President 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.

Consumer groups brought Bigbee and others to testify in Congress in 1986. Bigbee 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.” House Committee on Banking, Finance and Urban Affairs, July 23, 1986. Charles Bigbee died in 1994 at age 52.