

# Liebeck vs mcdonalds assignment

Law



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Introduction This assignment is regarding the Liebeck vs McDonalds case back in 1992. The issues involved are discussed thoroughly as well as the difference between consumer protection laws in Malaysia and also the United States where the case took place. This assignment will also discuss the implications of the case and also businesses/consumers responsibility when handling accident prone products.

Question 1 Major issues

1. The 180 degrees coffee caused full thickness or third degree burns to Liebeck's skin. 16 percent of her body suffered the third degree burns and 16 percent suffered lesser. The incident caused her to be hospitalized for eight days followed by two years of medical treatment. She lost almost 20% of her bodyweight due to the incident. After having to go through skin grafting and debridement, it would not be entirely wrong to assume that Liebeck also suffered tremendous emotional trauma especially since accident happened at the age of 79.
2. Carelessness of Liebeck in handling the coffee cup also plays a major role in the accident.

It would be totally understandable if the incident happened to a kid below 5 years of age. Liebeck who has lived for 79 years at the point of accident should have known better than to rush into putting cream and sugar into the hot coffee in the car right after she bought it. The cotton sweat pants that Liebeck was wearing could indicate that she was in no hurry to go anywhere.

3. Prior to Liebeck's lawsuit against McDonalds, there were more than 700 claims by people who have been burnt by the coffee and some reportedly suffered similar third degree burns.

The documented complaints show that McDonalds chose to turn a blind eye and continued to serve their coffee at 180 degrees as they claim that it is the

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temperature to maintain optimum taste. Later in the case, McDonalds also argued that people generally buy the coffee on the way to work or on the way home. Hence, the coffee would have cooled to a lower temperature by the time they reach the office or home. 4. The accident did not only cause physical and emotional pain for Liebeck but she was also financially scarred as the family thought she was due about \$2000 for out-of pocket expenses.

This amount was hefty as she earned \$5000 a year as a Sales Clerk. Her daughter who had to stay at home to look after her suffered loss of wages. 5. If McDonalds insisted to keep serving their coffee at 180 degrees to maintain the optimum taste, the least they could have done to protect their customers was to enlarge the " Caution: Contents Hot! " sign on the coffee cup. The tiny warning print is almost invisible to the naked eye. One who is hungry or particularly craving for morning coffee could have easily overlooked the miniature sign. 6. McDonalds was quick to turn down the \$2000 Liebeck asked for her expenses.

The family said that they were only offered \$800. McDonalds clearly wanted to wash their hands off the case. When they saw an opportunity to file a lawsuit against others, they were quick to jump on it as they did with the Mccurry case in Malaysia. Question 2 In regards to this case, McDonalds should have served their coffee at a lower temperature such as between 135-160 degrees. Even though they argued that the 180 degree is the optimum temperature for their coffee, they should have realized their responsibility to serve good coffee and yet protect their customers at the same time.

They should have realized this after the first accident that was reported to them and not still ignore the demand to reduce the temperature 700 cases later. As a huge franchise, McDonalds should be more sensitive towards consumer complaints as their margin of profit relies on customers' satisfaction. If they still insist on serving the coffee that hot, they should really consider making the caution sign noticeable. A bigger, bolder and more obvious color such as red would not cost them more than the tiny caution sign they are currently using. Liebeck was 79 when the incident happened.

One would assume that she would not have noticed the caution sign printed on the cup. Perhaps if the styrofoam cup had a coffee sleeve/collar, then the older generations' mind could have processed the information that the coffee was hot and they should be careful faster. In this case, McDonalds showed no responsibility and completely disregarded their customers' needs. If they would have listened to customers concern in regards to the temperature, they would have done the necessary to protect them. They can serve the coffee at 180 degrees (as they claim customers like it that way) and also protect them at the same time.

McDonalds was not totally at fault in this case. Liebeck would have avoided the accident if she was more careful while handling the coffee. She had difficulties in opening the lid of the cup during her initial attempt. She completely disregarded her own safety by placing the cup in between her legs and tried to open the lid then. After the failed attempt, she should have waited until she had gone home for her to drink the coffee or she should have asked her grandson to do it for her. Being in shock is natural in her

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circumstances but she stayed in her seat for a good 3 minutes before jumping off.

By then the coffee had already absorbed which led to her third degree burns. As customers and also humans, we are responsible for our own actions.

Despite McDonalds ignorance towards their customers safety, accidents can be avoided if customers are vigilant. When we buy products such as hot coffee, we should be mindful and responsible. Question 3 If I had been a juror in this case, I would have voted against Liebeck. As sorry as I feel for her condition and circumstances, she should not have tried to handle the coffee in the car given her age and physical condition. Pity should not be an element of judgment in the court of law. I would not have let McDonalds go just like that but I would also not have voted for compensatory damages for \$200, 000. The compensatory damages were 100 times more than the amount that she asked for in the first place. People should be responsible for their own recklessness. If we feel that the coffee is too hot, we can always choose not to buy it rather than buying it and hurting ourselves with it.

Question 4 This case was like a poster child for product related lawsuits.

Negligence cases blaming product malfunction bloomed like mushrooms after rain following this case. Take Rhyne vs Kmart Corp for instance. The Rhyne's were awarded an astounding 23 million for punitive damages. The amount is rather absurd considering that the fact that the Rhyne's were trespassing Kmart after hours going through the garbage in the first place. Civil suits has somewhat become a trend in the United States. They live in a litigating society where filing for lawsuits is something they come across or hear on a daily basis.

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As bizarre as we think it sounds to award somebody 23 million for trespassing, this is not entirely the citizen's fault. Consumers are protected by the Consumer Product Safety Act 1972 by United States Congress to protect them against unreasonable risk of injuries associated with consumer products. Section 2 of the Restatement (Third) of Torts: Products Liability distinguishes between three major types of product liability claims which are manufacturing defect, design defect and failure to warn. All of the mentioned claims can be used by consumers to file lawsuit against manufacturers even for petty injuries.

It's safe to say that manufacturers have a duty to protect consumers one way or the other. This is not only for the United States. In Europe, the *Donoghue vs Stevenson* [1932] AC 562 was a decision of the House of Lords that established the modern form of the tort of negligence in English and Welsh law, and in Scots law, by setting out general principles whereby one person would owe another person a duty of care. Fortunately or unfortunately, we do not live in that type of society. Product negligence lawsuits are almost unheard of in our society.

In our court of law, cases that usually attract public attention usually involve crime and defamation. In Malaysia, people are less willing to bear legal fees to aid the trial that sometimes can take up to 10 years. Here in Malaysia, we are not completely protected by consumer protection acts as securely as American citizens are by their State law. The Consumer Protection Act which was enforced on 15 November 1999 is seldom relied upon by our people. Based on the Product Liability article by Shearn Delamore, Malaysians are still leaning towards common law tort of negligence.

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Further to that, whether a failure to warn gives rise to liability depends on the circumstances. For example, if a product exposes the consumer to a high degree of danger, a failure to warn the consumer of the danger may be negligent. On the other hand, if the danger is obvious to the consumer, then a failure to warn the consumer may not be negligent. Hence, if the Liebeck was tried in our country, she might not have been awarded the punitive damages as she was in the United States. Conclusion In conclusion, this assignment has showed us the vast difference an act or law could have on a society.

Without the specific rules and regulations for consumers and lawyers to abide to, there would not be a foundation strong enough for consumers to fight on. As consumers, we are entitled to get what we have paid for and for us to be compensated if it was proven that the service or quality did not meet our expectations. Hence, our Consumer Protection Act 1999 should be strengthened so that our consumers in Malaysia would have a sturdy act to rely on. REFERENCES Journals Shearn Delamore Co. The International Comparative Legal Guide to : Product Liability 2006 Books

Peter B Maggs. Recent Developments in Product Liability Law in USA. Springer Netherlands Doctoral Dissertations Ruzian Markom: Faculty of Law, Universiti Kebangsaan Malaysia, Bangi, Selangor. Enhancing Consumer Protection Law in Malaysia: A brief comment to the consumer protection bill 1999. Online Articles <http://www.cjlaw.com> <http://www.lectlaw.com/files/leg11.htm> [http://en.wikipedia.org/wiki/Liebeck\\_v.\\_McDonald's\\_Restaurants](http://en.wikipedia.org/wiki/Liebeck_v._McDonald's_Restaurants) [http://www.cooter-ulen.com/tort\\_liability](http://www.cooter-ulen.com/tort_liability).

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htm#Coyote v. Acme <http://www.aoc.state.nc.us/www/public/coa/opinions/2002/001516-1.htm>