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Case notes

TORTS

Liebeck v. McDonald's

Jury trial · New Mexico, 1994



Why did a jury award $2.86 million for spilled coffee?

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Contents

1. Case card
2. The story in 150 words
3. Facts
4. Procedural history
5. The questions presented
6. The holding and the rule
7. The reasoning
8. Concurrences and dissents
9. Doctrine map
10. What happened next
11. Common myths vs the record
12. Study questions
13. Remember
14. Sources
15. Test yourself

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Case card

Field	Record
Case name	*Stella Liebeck v. McDonald's Restaurants, P.T.S., Inc.* (McDonald's Corporation added as a defendant by amended complaint; P.T.S., Inc., the local franchisee, was dismissed before the case went to the jury) [S1]
Citation	*Liebeck v. McDonald's Restaurants, P.T.S., Inc.*, No. CV-93-02419, 1995 WL 360309 (N.M. Dist. Ct., Bernalillo County, 1994) [S1]. There is **no official or regional reporter citation**: no appellate court ever issued an opinion. The Westlaw number is a database identifier, not a reporter.
Court	Second Judicial District Court of New Mexico, Bernalillo County (Albuquerque) — a state trial court [S1]
Judge	Hon. Robert H. Scott, District Judge [S1, S4]
Parties' counsel	Plaintiff: S. Reed Morgan (Texas), Jerry R. McKenney, and local counsel Kenneth R. Wagner (Albuquerque). Defendant: Rodey, Dickason, Sloan, Akin & Robb, P.A. (Albuquerque), including Tracy McGee [S1, S3]
Filed	Original complaint filed 21 March 1993 [S1]
Tried	8–12 and 15–17 August 1994 [S1]
Verdict	17 August 1994 (Retro Report: "Wednesday, August 17th") [S5]. Note: the Westlaw entry is reported with a date of 14 August 1994 [S1], which falls *before* the verdict and is likely a database or transcription error; other secondary accounts give 18 August. We use 17 August and flag the conflict.
Jury	Twelve jurors, six men and six women [S1, S3]
Vote	Not applicable (trial court; no appellate panel).
Verdict figures	Compensatory damages $200,000, reduced by 20% for Ms. Liebeck's comparative fault to **$160,000**; punitive damages **$2,700,000** [S1, S3, S4]
Post-trial ruling	September 1994: new trial ordered unless the plaintiff accepted a **remittitur** of punitive damages to **$480,000** (three times $160,000), for a total of **$640,000** [S1, S4]
Final outcome	Judgment vacated 28 November 1994; **confidential settlement**, reported in the press in early December 1994. Amount never made public [S1, S4]
Outcome in one line	A jury found McDonald's coffee defectively dangerous and McDonald's 80% at fault; the judge cut the punitive award by about 82%; the parties then settled privately.

The story in 150 words



Slide 1: One cup, February 1992 · Watch this part (0:00)

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In February 1992, Stella Liebeck, 79, was a passenger in her grandson's car in Albuquerque. He had parked after buying breakfast at a McDonald's drive-through so she could add cream and sugar to her coffee. With nowhere flat to set the cup, she held it between her knees, pulled at the lid, and the coffee spilled into her lap. She suffered third-degree burns and needed skin grafts.

Her family asked McDonald's to cover her costs and to check its coffee temperature. McDonald's offered $800. At trial in 1994 the jury heard that McDonald's required coffee to be held at 180–190 °F and had received at least 700 burn reports in about ten years. It found the coffee defective, held Ms. Liebeck 20% responsible, and added $2.7 million in punitive damages. The judge cut that to $480,000. The parties then settled confidentially. The public mostly heard only the first number.

Facts



Slide 3: Sweatpants · Watch this part (1:09)

Because no court wrote an opinion finding facts, the "facts" here are (a) what the pleadings alleged, (b) what witnesses testified to, as reported, and (c) what the jury's verdict necessarily decided. Pin references are to the sections of the sources in `SOURCES.md`.

The spill.

- On 27 February 1992 Ms. Liebeck, then 79, was in the passenger seat of her grandson Chris Tiano's 1989 Ford Probe. They bought breakfast at the McDonald's drive-through at 5001 Gibson Blvd. S.E., Albuquerque [S1, "Where was the McDonald’s franchise in question?"; S2, ¶ 4].
- The car was **parked**: her grandson testified he drove to a parking space, and she testified he parked "so [she] could put cream in [her] coffee" [S2, ¶ 5].
- She testified that she "couldn’t hold it, so [she] put it between [her] knees and tried to get the top off that way" (as quoted by S2, ¶ 6; Newsweek quotes the same testimony in a slightly different form, S6). The lid came away and the coffee spilled into her lap [S2, ¶ 6].
- She was wearing sweatpants (CAOC [S8]; Retro Report [S5] says "sweat suit"), which held the coffee against her skin.

The injuries (described non-graphically).

- The amended complaint alleged second- and third-degree burns to the lower body requiring skin grafting [S1, "What damages were alleged in the amended complaint?"]. The WSJ reported third-degree burns of the groin, inner thighs and buttocks, seven days in hospital, and skin grafts [S3].

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- The treating physician testified that about 6% of her body was burned, most of it third-degree [S1, "Who were the testifying experts?"]. Retro Report quotes her daughter giving different percentages [S5]. Burn-area figures differ between sources; this pack does not rely on them.

The coffee.

- McDonald's operations and training manual said coffee must be brewed at 195–205 °F and **held at 180–190 °F** "for optimal taste" (WSJ's summary of the manual produced before trial) [S3].
- A defense law clerk's 1993 survey of local restaurants found none within about 20 °F of McDonald's serving temperature (WSJ) [S3; S1, "What was the basis of the McDonald's motion for summary judgment?" ¶¶ 9–13].
- The cups carried a warning that the contents were hot [S3; S6 ("CAUTION: CONTENTS HOT")].

Prior burn reports.

- Company documents showed that "in the past decade McDonald's had received at least 700 reports of coffee burns ranging from mild to third-degree, and had settled claims arising from scalding injuries for more than $500,000" (WSJ) [S3]. Retro Report gives the period as 1983–1992 and the figure as "nearly 700" [S5].

Pre-trial settlement attempts.

- The family asked McDonald's to check its coffee temperature and to cover costs; McDonald's offered **$800** [S3; S5; S6].
- The size of the initial request differs between sources: **$20,000** to cover medical costs and lost income (CAOC, TIME, Abnormal Use citing the WSJ) [S8; S9; S1], versus "out-of-pocket expenses — about $2,000 — plus the lost wages of her daughter" (Newsweek) [S6]. The amended complaint pleaded past and future medical expenses of about $12,500 [S1].
- Before trial, plaintiff's counsel offered to settle for $300,000; a court-ordered mediator recommended $225,000; McDonald's declined [S3; S6].

Procedural history



Slide 6: $800 and a lawsuit · Watch this part (2:07)

Date	Court / event	What happened	Source
27 Feb 1992	—	Spill and injury in Albuquerque	S1, S2

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Date	Court / event	What happened	Source
Aug 1992	—	Letter to McDonald's asking it to lower the temperature and cover costs; $800 offered	S6
21 Mar 1993	2d Jud. Dist. Ct., Bernalillo County	Complaint filed against franchisee P.T.S., Inc.; amended complaint later adds McDonald's Corporation, pleading strict product liability (citing Restatement (Second) of Torts § 402A), negligence, breach of implied warranty and punitive damages	S1
21 Jan 1994	same	Defendants' summary-judgment motion; denied	S1
29 Jul 1994	same	Plaintiff's motion for partial summary judgment on liability denied by letter decision; parties stipulate that the coffee caused the burns	S1
Aug 1994	same	Court-ordered mediation; mediator recommends $225,000; McDonald's declines	S3
8–17 Aug 1994	same (jury trial)	Verdict for plaintiff: product defect and breach of implied warranty; plaintiff 20% at fault; $200,000 compensatory (→ $160,000); $2.7 million punitive	S1, S3, S5
29 Aug 1994	same	McDonald's post-trial motions (new trial; judgment notwithstanding the verdict)	S1
Early Sept 1994	same	Judge Scott appoints retired N.M. Supreme Court Justice William F. Riordan to mediate	S1 (citing AP, 2 Sept 1994)
Mid-Sept 1994	same	New trial / JNOV denied; punitive damages held excessive; **remittitur to $480,000** or new trial	S1 (order dated 16 Sept 1994; AP coverage dated 15 Sept 1994)
Oct 1994	N.M. Supreme Court	Reported to have declined Ms. Liebeck's challenge to the remittitur	S1 (citing Chicago Tribune, 14 Oct 1994)
3 Nov 1994	2d Jud. Dist. Ct.	Plaintiff's motion to reconsider remittitur denied	S1
28 Nov 1994	same	Judgment vacated	S1
~1–2 Dec 1994	—	Confidential settlement reported	S1 (citing Houston Chronicle, 2 Dec 1994)

No court above the trial court ever ruled on the merits. A 1998 federal appeals court, discussing coffee-burn cases generally, put it this way: the New Mexico suit "produced a widely publicized jury verdict of some $3 million but not a published opinion (the case was settled before appeal)" [S10, ¶ 6].

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The questions presented



Slide 10: A claim about the product · Watch this part (3:17)

At trial (as framed by the pleadings and the verdict form described in S1):

1. Was McDonald's coffee, served at the temperature McDonald's specified, a **defective and unreasonably dangerous product**, including through an inadequate warning?
2. Did McDonald's breach the **implied warranty** of fitness?
3. Under New Mexico's comparative-fault system, **how should fault be divided** between McDonald's and Ms. Liebeck?
4. Was McDonald's conduct **willful, reckless, malicious or wanton**, so that punitive damages were available, and if so, how much?

After trial: 5. Was the $2.7 million punitive award **excessive as a matter of law**?

The holding and the rule



Slide 16: The verdict: 80% and 20% · Watch this part (7:21)

The jury found for Ms. Liebeck on product defect and breach of implied warranty, and found her 20% at fault [S1]. The WSJ reported that the jury "found that McDonald's had engaged in willful, reckless, malicious or wanton conduct, the basis for punitive damages" [S3].

The trial judge's post-trial order (quoted in S1; we have not seen the order itself):

> "The award of punitive damages of 2.7 million dollars was excessive, as a matter of law. Accordingly, a new trial shall be granted on all issues unless Plaintiff accepts — by written notice to the Court within

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> 25 days of the date of entry of this Order – a remittitur of the punitive damages award as hereby directed by the Court." [S1, "What became of the verdict?"]

> "The remittitur, if accepted, shall reduce the punitive damages award to $480,000, which represents the trebling of the $160,000 award of compensatory damages." [S1, same]

The same order stated that "the compensatory award of $160,000 shall not be disturbed" [S1].

Rule illustrated. A jury may find both the seller and the injured buyer at fault and reduce compensation by the buyer's share. Punitive damages require a separate finding of aggravated conduct. A trial judge who thinks a punitive award is excessive may offer a **remittitur**: the plaintiff accepts a reduced award or faces a new trial.

The reasoning



Slide 13: Why the degrees mattered: time · Watch this part (4:21)

There is no written opinion explaining the verdict. What we have is (a) the judge's reported remarks and (b) jurors' post-trial interviews.

Step 1 — Temperature mattered because of time. McDonald's expert said any coffee hotter than 130 °F could cause third-degree burns, so the exact temperature did not matter. Ms. Liebeck's medical expert answered that lowering the temperature mattered because the time needed to cause a serious burn rises steeply as the temperature falls [S3]. The WSJ reported:

> "it takes less than three seconds to produce a third-degree burn at 190 degrees, about 12 to 15 seconds at 180 degrees and about 20 seconds at 160 degrees." [S3— WSJ paraphrase of testimony]

These seconds are reported testimony, and other sources give different figures (S6 reports Dr. Baxter on second-degree burns at 170 °F). We report them as testimony, not as settled science.

Step 2 — The company knew. The quality-assurance manager, Christopher Appleton, "testified that McDonald's knew its coffee sometimes caused serious burns but hadn't consulted burn experts about it," and that it did not intend to change its coffee policies, saying: "There are more serious dangers in restaurants." [S3]

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Step 3 — Numbers versus people. A defense human-factors expert told the jury hot-coffee burns were "statistically insignificant" compared with the cups sold [S3]; Newsweek quotes him as calling them "basically trivially different from zero" [S6]. Juror Betty Farnham told the WSJ:

> "There was a person behind every number, and I don't think the corporation was attaching enough importance to that." [S3]

Step 4 — Shared fault. McDonald's argued that Ms. Liebeck contributed to her injuries by holding the cup between her legs and not removing her clothing immediately [S3]. The jury agreed in part and assigned her 20% [S1; S3].

Step 5 — Why $2.7 million. Plaintiff's counsel suggested punishing McDonald's by one to two days of company-wide coffee sales, which he estimated at $1.35 million a day; some jurors argued for as much as $9.6 million; the jury settled on $2.7 million [S3]. These are **sales (revenue)** figures, not profit.

Step 6 — The judge's view. Judge Scott reduced the punitive award to three times compensatory damages. As reported, he still described McDonald's conduct as "willful, wanton, reckless" and "callous" (AP, as quoted in S1), and told Newsweek the case was "not a runaway. I was there." [S6]. Newsweek reported that he wanted to show it "was appropriate to punish and deter" McDonald's coffee policy [S6].

Concurrences and dissents

None. This was a jury trial in a state trial court. No appellate opinion, concurrence or dissent exists.

Doctrine map

Doctrine	Key test / element	How Liebeck fits	Leading authority (full citation)
Strict products liability	A seller of a product "in a defective condition unreasonably dangerous" is liable for physical harm it causes	The complaint pleaded this rule and the jury found the coffee defective	Restatement (Second) of Torts § 402A (1965), as pleaded in the amended complaint [S1]
Consumer-expectations test	Is the danger greater than the ordinary consumer, with ordinary community knowledge, would expect?	Plaintiff's core theory: people know coffee is hot, not that it can cause full-thickness burns in seconds	Indiana's statutory version is quoted in *McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651 (7th Cir. 1998) [S10, ¶ 16]
Risk-utility / design defect	Do the benefits of the design (taste, holding time) outweigh its risks?	McDonald's argued that customers wanted hot coffee and that the temperature matched industry practice	*McMahon*, 150 F.3d 651, rejected a coffee-maker design claim for lack of evidence on costs and benefits [S10, ¶¶ 18–19]
Failure to warn	Was the warning adequate for a non-obvious, serious danger?	A "contents hot" label was on the cup; the jury had to decide whether it was enough	*McMahon*, 150 F.3d 651 [S10, ¶¶ 8, 13–14], citing Restatement (Third) of Torts: Products Liability § 2 cmt. j (Proposed Final Draft 1997)
Comparative fault	Damages reduced by the plaintiff's own share of fault	20% to Ms. Liebeck; $200,000 → $160,000	New Mexico applies comparative fault (reflected in the verdict) [S1, S3]

Doctrine	Key test / element	How Liebeck fits	Leading authority (full citation)
Punitive damages	Aggravated conduct (willful, wanton, reckless, malicious); amount must be proportionate	$2.7M by jury; remitted to $480,000 (3:1 ratio)	*BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996) [S12]; *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003) [S13]
Remittitur	Judge may offer a reduced award as the alternative to a new trial	Used here	Trial court order [S1]

Before and after Liebeck. Coffee-burn claims usually failed. In *McMahon* the Seventh Circuit listed several defense rulings, including *Huppe v. Twenty-First Century Restaurants of America, Inc.*, 130 Misc. 2d 736, 497 N.Y.S.2d 306 (N.Y. Sup. 1985), *Greene v. Boddie-Noell Enterprises, Inc.*, 966 F. Supp. 416 (W.D. Va. 1997) and *Barnett v. Leiserv, Inc.*, 968 F. Supp. 690 (N.D. Ga.), aff'd, 137 F.3d 1356 (11th Cir. 1998). It also noted one contrary ruling, *Nadel v. Burger King Corp.*, 119 Ohio App. 3d 578, 695 N.E.2d 1185 (1997), which held that such a claim could go to trial [S10, ¶ 6; citations as given in that opinion].

The Seventh Circuit's own view:

> "Bunn can't deliver a medical education with each cup of coffee." [S10, ¶ 13]

> "It expects consumers to educate themselves about the hazards of daily life--of matches, knives, and kitchen ranges, of bones in fish, and of hot beverages--by general reading and experience" [S10, ¶ 14 — describing Indiana law]

Punitive-damages ratios. Two years after Liebeck, the Supreme Court held that the Due Process Clause limits punitive awards. *Gore* identified three guideposts, beginning with reprehensibility: "Perhaps the most important indicium of the reasonableness of a punitive damages award is the degree of reprehensibility of the defendant's conduct." [S12, Part III-A]. *Campbell* added that "in practice, few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process." [S13, Part III]. Judge Scott's 3:1 remittitur came before both cases. The jury's original award was about 17:1 against the $160,000 compensatory figure, which is our own arithmetic, not a court finding.

What happened next



Slide 20: A private ending · Watch this part (9:14)

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- **Settlement.** The judgment was vacated on 28 November 1994, and a confidential settlement was reported in early December [S1].
- **The temperature.** One day after the verdict, a local reporter measured coffee at the same restaurant at 158 °F (WSJ) [S3]. Retro Report (2013) said McDonald's franchisee handbooks now call for coffee "ten degrees lower" [S5]. McDonald's did not respond to Retro Report, so this is not a company statement.
- **Congress.** In the March 1995 House debate on the Common Sense Legal Reforms Act (part of the "Contract with America"), the case was invoked on both sides. Rep. John Bryant (Tex.), opposing the bill, said on the floor: "McDonald's was warned 700 times by complaints from people saying they had been burned by this super-heated coffee." [S11a, 141 Cong. Rec. H2877 (daily ed. Mar. 8, 1995)]. He returned to it the next day [S11b, H2907–08 (Mar. 9, 1995)]. Newsweek reported that the American Tort Reform Association used the case in radio ads [S6].
- **Later coffee cases.** *McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651 (7th Cir. 1998), affirmed summary judgment against a burned coffee drinker [S10, ¶ 21].
- **Culture and memory.** The case became the standard "frivolous lawsuit" example. Retro Report traced how a 697-word local story shrank to as few as 48 words in some papers [S5]. The 2011 documentary *Hot Coffee* revisited it [S1; S7].
- **The people.** Stella Liebeck died on 5 August 2004, aged 91 [S1; S5; S7; S9]. Judge Scott later became a U.S. Magistrate Judge in New Mexico (Abnormal Use, 2011) [S1].

Common myths vs the record

Myth	Record
"She was driving."	She was the passenger, and the car was parked [S2, ¶¶ 4–5; S5; S6].
"It was just a minor spill."	Third-degree burns, a hospital stay and skin grafts [S1; S3; S6].
"She got rich: $2.9 million."	The jury's $2.86M ($160k + $2.7M) was cut to $640,000 and then replaced by a confidential settlement [S1; S6].
"She was greedy from the start."	The family first asked for costs (figures differ: about $20,000 or about $2,000 plus lost wages) and for a temperature check. McDonald's offered $800 [S3; S6; S8].
"The jury ignored her own fault."	The jury found her 20% at fault and cut her compensation [S1; S3].
"Everyone's coffee is that hot."	Disputed at trial. A defense survey found local coffee about 20 °F cooler (WSJ) [S3]. McDonald's and an industry group said it met industry standards [S3]. In 1998 the Seventh Circuit noted that other courts had reported an industry standard of 175–185 °F [S10, ¶ 8].
"It was a first-time freak accident."	There were at least 700 earlier burn reports in about a decade [S3].
"Juries hand out money on a whim."	The judge reviewed and reduced the award, and later called it "not a runaway" [S1; S6].

Study questions

1. Where and when was the case tried, and why is there no appellate opinion?

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2. What is the difference between compensatory and punitive damages? Use the Liebeck figures.
3. How did comparative fault change Ms. Liebeck's compensatory award?
4. What is a remittitur, and what choice did it give Ms. Liebeck?
5. Why did the plaintiff's expert focus on *time to injury* rather than whether coffee can burn at all?
6. How did each side use the 700 prior burn reports?
7. The jury based its punitive figure on two days of coffee *revenue*. Is revenue the right yardstick for punishment? What would profit, or a ratio to harm, measure instead?
8. Compare *McMahon v. Bunn-O-Matic Corp.* with the Liebeck verdict. Is the difference about the law (Indiana vs New Mexico), the defendant (machine maker vs seller), the evidence, or the decision-maker (judge vs jury)?
9. After *BMW v. Gore* and *State Farm v. Campbell*, would a 17:1 punitive ratio survive today? Would the 3:1 remittitur?
10. Why do short news summaries of jury verdicts tend to distort them? What did the 697 → 48 word compression leave out?

Hypothetical A. A café serves tea at 200 °F in a ceramic mug at a table. A customer knocks it over and suffers third-degree burns. The menu has no warning. Apply consumer-expectations and risk-utility analysis. Does the setting (table vs car, mug vs foam cup) change your answer?

Hypothetical B. A chain receives 1,000 burn reports in ten years from 10 billion drinks sold. An internal memo says lowering the temperature by 15 °F would "hurt taste scores". A jury awards $50,000 compensatory and $5 million punitive damages. Analyse reprehensibility, ratio and comparable penalties under *Gore*.

Remember

1. Liebeck v. McDonald's Restaurants (N.M. Dist. Ct., Bernalillo County, 1994): a jury trial with no appellate opinion.
2. Strict product liability (§ 402A): defective and unreasonably dangerous; consumer-expectations versus risk-utility.
3. Comparative fault: she was found 20% at fault, so $200,000 became $160,000.
4. Punitive damages need a separate finding of willful, reckless, malicious or wanton conduct. The jury awarded $2.7M.
5. The 700 prior burn reports showed notice: the company knew some customers were getting hurt.
6. Remittitur: punitive damages cut to $480,000 (3 × $160,000), or a new trial. The total was $640,000.
7. The case ended in a confidential settlement after the judgment was vacated; the amount was never public.
8. Later ratio limits: BMW v. Gore (1996) and State Farm v. Campbell (2003).

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Slides, the quiz and the episode: gameoflawsuits.com/cases/liebeck.html

Sources

The sources these notes were checked against.

- **S1** Jim Dedman & Nick Farr, "The Stella Liebeck McDonald's Hot Coffee Case FAQ," *Abnormal Use* (blog of Gallivan, White & Boyd, P.A., a products-liability **defense** firm). It quotes the complaint, amended complaint, answer, summary-judgment papers, post-trial memorandum and the remittitur order, and it cites AP, Chicago Tribune, Houston Chronicle and Nation's Restaurant News items by WLNR number
- **S2** "The McDonald's Hot Coffee Case: Revisiting The Eyewitness Trial Testimony," *Abnormal Use* (Aug. 2014). It quotes the trial testimony of Stella Liebeck and Chris Tiano
- **S3** Andrea Gerlin, WSJ staff reporter, "A Matter of Degree: How a Jury Decided That a Coffee Spill Is Worth $2.9 Million," *Wall Street Journal*, Sept. 1, 1994, p. A1, as republished under Gerlin's byline in the *St. Petersburg Times* (now *Tampa Bay Times*) archive, Sept. 2, 1994, "When spilled coffee is worth $2.9-million"
- **S4** Legal Information Institute, *Wex*, "Liebeck v. McDonald's Restaurants (1994)"
- **S5** abnormaluse.com
- **S5** retroreport.org
- **S6** Aric Press, with Ginny Carroll and Steven Waldman, "Are Lawyers Burning America?" *Newsweek*, Mar. 20, 1995, p. 32. Text as reproduced on an Occidental College course page; newsweek.com returned HTTP 406
- **S7** *Democracy Now!*, "Do You Know the Full Story Behind the Infamous McDonald's Coffee Case…?" Jan. 25, 2011
- **S8** Consumer Attorneys of California, "The McDonald's Hot Coffee Case"
- **S9** TIME, "Top 10 Outrageous Legal Battles," entry "What You Want Isn't What You Get" (page dated May 19, 2009)
- **S10** *McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651 (7th Cir. 1998) (Easterbrook, J.; Bauer, Easterbrook, Rovner, JJ.), No. 97-4131, argued May 27, 1998, decided July 2, 1998
- **S11a** 141 Cong. Rec. H2877 (daily ed. Mar. 8, 1995) (Rep. Bryant of Texas)
- **S11b** 141 Cong. Rec. H2907–08 (daily ed. Mar. 9, 1995) (Rep. Bryant of Texas)
- **S12** *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996) (Stevens, J.), argued Oct. 11, 1995, decided May 20, 1996
- **S13** *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003) (Kennedy, J.), argued Dec. 11, 2002, decided Apr. 7, 2003
- **S14** Borchgrevink, Sciarini & Susskind, "Hot Beverages at Quick Service Restaurant (QSR) Drive-Thru Windows," Cornell eCommons

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Test yourself

7 questions. The answers are on the last page.

1. **The jury set compensatory damages at $200,000 and found the plaintiff 20% at fault. What compensatory award resulted?**
   - **A.** $200,000
   - **B.** $180,000
   - **C.** $160,000
   - **D.** $40,000
2. **What separate finding made punitive damages available?**
   - **A.** That the coffee caused the burns
   - **B.** That McDonald's conduct was willful, reckless, malicious or wanton
   - **C.** That the cup lacked any warning
   - **D.** That Ms. Liebeck was less than half at fault
3. **Judge Scott held the $2.7 million punitive award excessive. What did his remittitur do?**
   - **A.** Entered judgment for McDonald's
   - **B.** Gave the plaintiff a choice: accept $480,000 in punitive damages or face a new trial
   - **C.** Doubled the compensatory award
   - **D.** Sent the case to the New Mexico Supreme Court
4. **Why did the plaintiff's burn expert focus on time to injury rather than on whether coffee can burn at all?**
   - **A.** Because the defense said any coffee over about 130 °F could cause third-degree burns, so the temperature didn't matter
   - **B.** Because the warning label mentioned time
   - **C.** Because New Mexico law requires timing evidence
   - **D.** Because the spill happened while driving
5. **Which test asks whether a product's danger is greater than an ordinary consumer would expect?**
   - **A.** Risk-utility test
   - **B.** Consumer-expectations test
   - **C.** Learned-intermediary rule
   - **D.** Res ipsa loquitur

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6. **Under BMW v. Gore and State Farm v. Campbell, how does the 3:1 remittitur compare with the jury's roughly 17:1 ratio?**
   A. Both are clearly invalid
   B. 3:1 is within the single-digit range Campbell describes; 17:1 is outside it
   C. Ratios are irrelevant after Gore
   D. Only the 17:1 ratio is within the guideposts

7. **Why is there no published opinion in Liebeck?**
   A. The jury verdict was sealed
   B. The parties settled after the trial-court rulings, before any appeal was decided
   C. The federal court dismissed the case
   D. The Supreme Court denied certiorari

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Answer key

1. **C. $160,000.** Comparative fault reduces compensation by the plaintiff's share: $200,000 less 20% leaves $160,000. (Slide 16 in the slides.)
2. **B. That McDonald's conduct was willful, reckless, malicious or wanton.** Punitive damages need a separate finding of aggravated conduct; the jury found the conduct willful, reckless, malicious or wanton. (Slide 17 in the slides.)
3. **B. Gave the plaintiff a choice: accept $480,000 in punitive damages or face a new trial.** A remittitur offers a reduced award as the alternative to a new trial. Here, $480,000, three times the $160,000 compensatory award. (Slide 19 in the slides.)
4. **A. Because the defense said any coffee over about 130 °F could cause third-degree burns, so the temperature didn't matter.** McDonald's expert said lower temperatures also cause third-degree burns. Her expert answered that hotter coffee leaves less time to react before a serious burn. (Slide 13 in the slides.)
5. **B. Consumer-expectations test.** The consumer-expectations test: people know coffee is hot, but not that it can cause full-thickness burns in seconds. (Slide 10 in the slides.)
6. **B. 3:1 is within the single-digit range Campbell describes; 17:1 is outside it.** Campbell said few awards exceeding a single-digit ratio will satisfy due process. Here $2.7M ÷ $160,000 ≈ 17:1, while $480,000 ÷ $160,000 = 3:1; the ratio is one Gore guidepost, along with reprehensibility. (Slide 22 in the slides.)
7. **B. The parties settled after the trial-court rulings, before any appeal was decided.** The judgment was vacated and the parties settled confidentially. The citation, 1995 WL 360309, is a database number, not a reporter. (Slide 7 in the slides.)

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