

"Return to McDonald's"

Fall 2003 Torts Group Writing Assignment
Professor Russell

This assignment accounts for 10 percent of your yearly grade and 2/7's of your fall grade.

Your fall group writing assignment is to write no more than 2,000 words about *Liebeck v. McDonald's*. Nearly every word processor will count words. You must not exceed this limit. Include your word total at the end of the assignment.

For this assignment, the class is divided into 17 [groups](#) of 5 students apiece.

The default rule is that the point total for the assignment will be divided equally among all 5 students in the group. However, the members of the group may elect to divide the point total differently if they see fit to do so. At the time of the turning in the assignment, groups that choose to divide their point total differently should specify how points should be allocated on a cover sheet to their answer. This cover sheet should specify the percentage allocation for each group member. This total should add to 100 percent. (If the total adds to less than 100 percent, Professor Russell will discard the remaining points.) Allocation of less than 15 percent of the point total to any group member requires a written explanation and the written assent of at least 4 of the 5 group members. This assignment is also subject to the [freerider](#) policy. Please try not to turn this assignment into [Survivor](#).

Your job is to draft a memo in which you explain the case to an intelligent undergraduate senior with no legal education. Your explanation should cover the following six issues, organized in the most effective way that you can conjure:

1. Explain the damage award. As part of your discussion, you should explain what tort damages are supposed to do and explain the relationship of the award in the case to the goals of tort damages.
2. You should explain the role, if any, that insurance likely played in the case.
3. You should also describe mechanisms used to adjust the damage award after the jury verdict.
4. You should situate the outcome in the case within the broad empirical contours of accidents, claims, and tort litigation within the United States. As part of your explanation, you **must** include a description of the outcome that was statistically most likely for someone injured as the plaintiff was in this case.

5. You should explain why a jury could have concluded that McDonald's was negligent.
6. You should estimate how much the plaintiff received in this case.

Note that you do not know about products liability or warranties under the Uniform Commercial Code. For this reason, DO NOT DISCUSS PRODUCTS LIABILITY NOR UCC WARRANTIES.

Also, you should accept the jury's verdict that McDonald's was liable.

Your explanation should be clear. Obfuscation and deliberately over-technical writing will cost you points, as it should. I don't care about the style of your footnotes, although your footnotes should be sufficient to identify your sources.

For additional research, you should find and read a *Wall Street Journal* Article on the case from September 1994 and also look at the following website: [The McDonald's Scalding Coffee Case](#).

Apart from these, there is no need and no reward for additional research.

Professor Russell is very fussy and pedantic about prose. Your writing and grade will benefit from your visiting Russell's [fussy comments](#) about writing.

The assignment is due by 3 pm on Thursday, 14 November. Deliver your assignment via e-mail to my assistant, Ms. Janet [Dowling-Best](#). Assignments turned in after 3 pm on 14 November receive zero credit.