

Spilled Coffee

Elementary School Level

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BACKGROUND

Students are responsible for their actions and must use reasonable care in handling product, from knives to coffee. Students should understand the responsibility of consumers to exercise reasonable care in the use of a product and the responsibility of business to produce and sell a safe product.

PURPOSE

This lesson teaches students about product liability. As additional discussion, students can explore the concept of warnings and how warnings can shift the responsibility from the producer to the consumer. Students can also explore the award of damages, including pain and suffering and enhanced compensatory damages, in a product liability action. In addition, students can be questioned on how to best deter a company from producing a dangerous product.

PROCEDURE

Students will adjudicate a products liability case in which Joe Fisher is injured by spilling some scalding hot coffee on himself. As background, explain the role of judges, juries and the judicial system. Appoint each student as a judge and explain that the judge is going to be presented with a case and that they will be asked to rule whether the manufacturer is negligent, whether the consumer is negligent, and the damage award, if any. A variation on this procedure is to divide the class into groups of 6 or 12 students to be juries. Each "juror" must talk to one another and come to an agreement on a ruling.

THE LAW

Negligence is the failure to use reasonable care. Reasonable care is that degree of care which a (reasonably careful) person would use under the same or similar circumstances. If a person fails to live up to that standard, the person is said to be negligent.

A product has a **defect in design** when it has been manufactured in conformity with the manufacturer's design, but the design itself presents unreasonable dangers to a user/consumer. In deciding whether a design presents unreasonable danger, the desirability and/or usefulness of the product to the public as a whole should be considered.

A manufacturer may avoid liability as a matter of law if it gives reasonable **warning** of danger incident to the use of a product. A manufacturer, however, has no duty to provide any notice or warning of an obvious hazard presented by a product or for a hazard which has been created by the user/consumer's own alteration or misuse of the product.

The consumer can collect **damages** caused as a result of the legal fault of the other party if the manufacturer is found to be at fault. Damages can be awarded for the reasonable value of medical care, lost wages to date, or wages the injured party probably would have earned to date if there had not been an injury, any future wages that the injured party would have earned had there not been an injury, and reasonable compensation for any pain and suffering. In addition, in New Hampshire, a party can claim enhanced compensatory damages if the action of the other party is wanton, malicious or oppressive (describe as mean or evil).

FACT PATTERN

Joe Fisher has brought an action against BurgerTime based on the following facts. Joe Fisher was driving to work one morning when he decided to buy coffee at the drive-through window at BurgerTime. Joe bought the cup of coffee and placed it between his legs. As he was driving, he attempted to take the lid off the Styrofoam cup to add sugar and cream to the coffee. As he tried to remove the lid, the entire cup of coffee spilled on his lap.

Joe suffered third-degree burns to his thighs from the coffee. He was hospitalized for eight days and after he was released, he had permanent scarring. He has been disabled for two years and unable to work. Joe earned \$20,000 each year prior to the accident. He now earns \$15,000 each year. In addition, his medical bills total about \$10,000. (It might be helpful to write the figures on the chalk board.)

Joe sued BurgerTime because the coffee did not have adequate warnings and he claimed it was too hot. Joe also stated that the coffee was too hot to drink.

DISCUSSION

If the students are judges, ask for individual rulings and explanations. Each judge should be asked which party is at fault, if both parties could be found to be at fault, and the amount of money, if any, awarded to the injured party. After several rulings and explanations have been made, add a fact listed below, and then ask if any judge has changed his or her ruling and why.

If the students are divided into juries, time is needed for the deliberation process. Therefore, provide all of the facts, including those facts listed below, before the juries start their deliberations.

1. Coffee is served at BurgerTime at a temperature of 180 to 190 degrees Fahrenheit, while coffee brewed at home is usually between 135 to 140 degrees. In addition, coffee above 140 degrees is too hot to drink. The hotter the coffee, the quicker it burns the skin.
2. Brewing coffee at 175 degrees allows it to obtain a better flavor than brewing it at 140 degrees. Marketing studies done by BurgerTime show that people prefer their coffee hotter because it has a better flavor. BurgerTime claims it is just giving people what they want.
3. Joe Fisher suffered such horrible burns because he is older and has skin that is thinner and more vulnerable to burns. In addition, if he had taken off his sweatpants right away, he wouldn't have suffered such horrible burns.
4. BurgerTime sells \$1.3 million worth of coffee each day.
5. BurgerTime had received at least 700 complaints of coffee burns over the 10 years prior to the accident. BurgerTime has a "Hamburger and Cheeseburger University" devoted to the study of selling food and drink. Despite the 700 complaints, BurgerTime has never consulted any specialist regarding the temperature of its coffee.
6. Joe Fisher has purchased coffee from BurgerTime on numerous occasions, at least 12 times the month before the accident. When asked if he knew it was hot, he stated that he did. He has even burned the roof of his mouth and his tongue on the hot coffee before.
7. The coffee cup had a caution on it that read "Caution—liquid is very hot."
8. Joe is a 5-year-old child who, when his mother is not watching him, grabs the cup of coffee that his mother purchased at BurgerTime and spills it on himself.

ADDITIONAL ACTIVITIES WHICH EXPAND THE LESSON PLAN

1. What is a manufacturer's duty to warn? What warnings have you seen on a product?
2. Does a manufacturer have a duty to provide notice or warning of an obvious hazard of the product? For example, does a manufacturer of a knife have a duty to warn that the knife is sharp?
3. Does a manufacturer have a duty to warn of a hazard which has been created by the person using the product's own misuse or alteration of the product? For example, does a manufacturer have a duty to warn the owner of a car that he/she must replace the oil after draining it from the engine?
4. Who is the user or consumer of a product? Does a manufacturer have to warn every possible person of a danger?
5. What damages are foreseeable and should the manufacturer be held responsible if the product is defective or fails to warn of a danger? Should damages be awarded to punish a manufacturer of a dangerous product?