



presented by
 **WESTEX**
A MILLIKEN BRAND

PUBLIC RELATIONS PITFALLS AND LITIGATION

*BY: SHARI D. GOGGIN, PARTNER, HOUSTON OFFICE
RESNICK & LOUIS, PC*

Shari D. Goggin, Partner Resnick & Louis, PC

- 99 trials (jury and bench)
- Defending multi-million-dollar, high-level exposure fleet safety, trucking, commercial, premises, products, construction and personal injury, wrongful death and large loss property damage liability claims from inception through jury trials and appeals in State and Federal cases.
- Counseling commercial clients in their ongoing operations using litigation experience to prevent litigation and to place clients in positions of strength should a lawsuit arise.



How to Identify a Pitfall: You Can Only Avoid What You See

- Take Action Before an Accident Happens
- High Profile Cases
- High Profile Clients
- Reduce Potential Negative Public Opinion and Publicity
- An Eye to the Jury
- An Eye to the Client's reputation



IT DOESN'T HAVE TO BE A LEAP OF FAITH

Preparation and Experience are Key.....

- This is the study of several real clients and real cases where I was lead counsel for the defense
- Some of the names of the parties and some facts have been changed to protect the innocent and edited for time



How to Establish Your Reputation

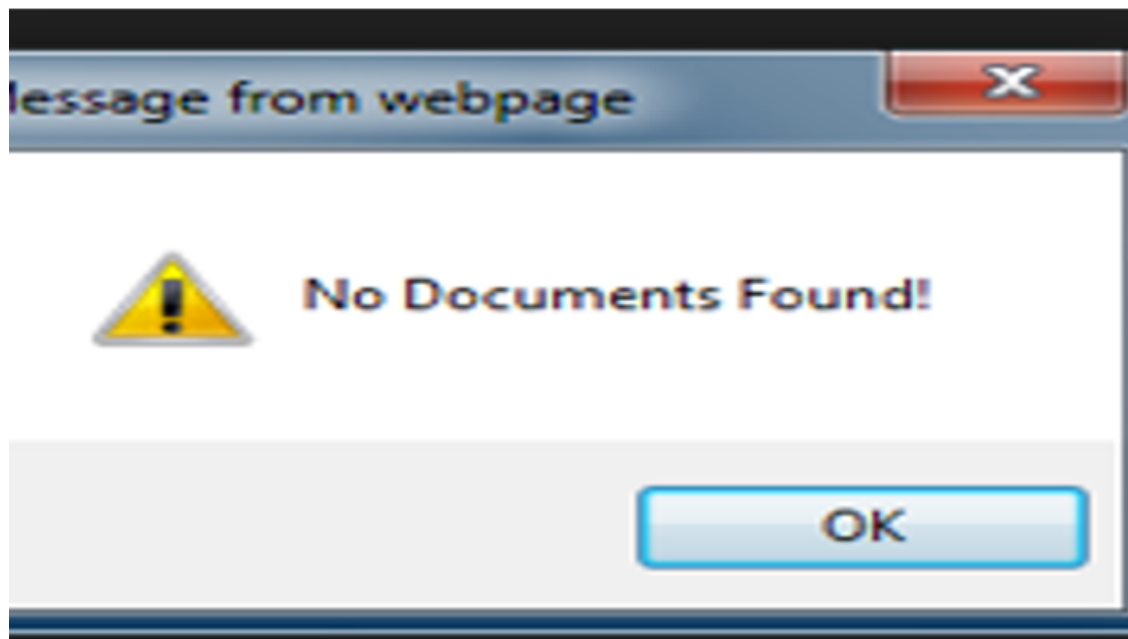
- 1. Industry Custom & Practice
- 2. Policies and Procedures in Writing
- 3. Follow Them
- 4. Document Everything

INDUSTRY CUSTOM & PRACTICE



- What is it?
- Are we meeting it?

ERROR....



- Without documentation, it didn't happen....

Accidents Always Happen



LIEBECK V. MCDONALD'S

- McDonald's was my client during this era. No one knew, no one prepared.
- Facts:
 - 1994 products liability lawsuit that became a flashpoint in publicity and litigation. Juries still talk about it. In the case the jury awarded \$2.8 million to plaintiff Stella Liebeck, a 79-year-old woman who suffered third-degree burns in her pelvic region when she accidentally spilled hot coffee in her lap after purchasing it from a McDonald's restaurant in New Mexico; ultimately, the trial Judge reduced the jury's verdict to "only" \$640,000.
 - The jury damages included \$160,000 to cover medical expenses and compensatory damages, but the jury awarded \$2.7 million in **punitive** damages. The parties settled for a confidential amount before an appeal was decided.



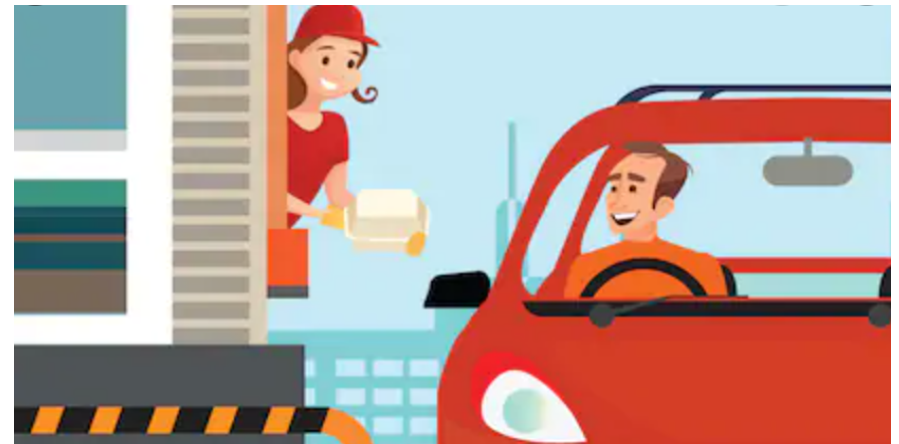
MCDONALD'S
GOT A BREAK

HOW MCDONALD'S CAME OUT ON TOP

- Training
- Reputation
- Research
- Publicity
- The swaying of public opinion
- Lessons learned

THE CASE OF THE BLOODY FRENCH FRY

- Facts: Drive Through at Night
- Claim: Stuck hand in bag started eating and surprise?
- Preparation: False claim? No damages? Settle now or file countersuit.
- Decisions



NECA
SAFETY SUMMIT
OCTOBER 27-29, 2020



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CONFIDENTIALITY AGREEMENTS AND NDAS



KADERLY V. BLACK HORSE CARRIERS

- Facts: Woman driving intoxicated at 4am flips car, people stop in road, the 64-year old Plaintiff/decendent stops about 200 yards behind that accident in middle of road (dispute as to lights), Defendant semi-truck rear ends Plaintiff's car killing her.
- Publicity: Plaintiff's counsel immediately contacts news, local/regional to plant story
- News stories get it wrong, but is it too late?
- Investigation not done until suit filed

LESSONS LEARNED



- Prepare before an accident
- Get counsel involved immediately to put out narrative
- Does “no comment” help or hurt a case?

KNOW YOUR AUDIENCE: JURY

- Number One Rule: Your jury should mirror the defendant not the Plaintiff
- Judge
- Venue
- Population Statistics
- Preconceived ideas: news, Google, social media

HOW DO VERDICTS GET SO HIGH?




- OPRAH!

Jury Verdict Forms

1. Medical bills.....	\$ _____
2. Lost Wages.....	\$ _____
3. Pain and suffering.....	\$ _____
4. Loss of a Normal Life.....	\$ _____
5. Disfigurement.....	\$ _____
6. Loss of earning capacity.....	\$ _____
7. Physical Impairment.....	\$ _____
TOTAL.....	\$ _____

- **COMPENSATORY DAMAGES:** The number of lines and length.



PUNITIVE
DAMAGES:
WHERE THE
REAL
MONEY IS

- Bad Publicity = Punitive Damages

Punishment is Supposed to Hurt

- Pure v. Deter
- Proof: evidentiary entitlement v. demand without proof
- Insurance Coverage: available or not?
- Caps: Proportional (up to jury) v. statutory caps
- Evidence: intentional, gross negligence, reckless, willful/wanton
- Corporate Value/Financial Disclosures Required

SALLIEZ V. EDY'S ICE CREAM

- Facts:
- Edy's semi made an illegal U-turn; Plaintiff was a 38-year old father with his 18-month old in back seat. Plaintiff was behind the semi, went under it and sheared off top of his car. Baby fine, 14.7 million demanded for dad's injuries.
- Publicity: little, defense counsel involved from day one, proper narrative, client documentation, industry custom and practice met, technology exceeded



IT WAS THIS BAD.....



IT'S YOUR TIME TO DECIDE

KADERLY-- SEMI V. GRAMMA

- A. <\$1,000,000
- B. \$1,000,000 to \$5,000,000
- C. Over \$5,000,000

ACTUAL VERDICT

• \$15,000,000*

SALLIEZ V. EDY'S ICE CREAM

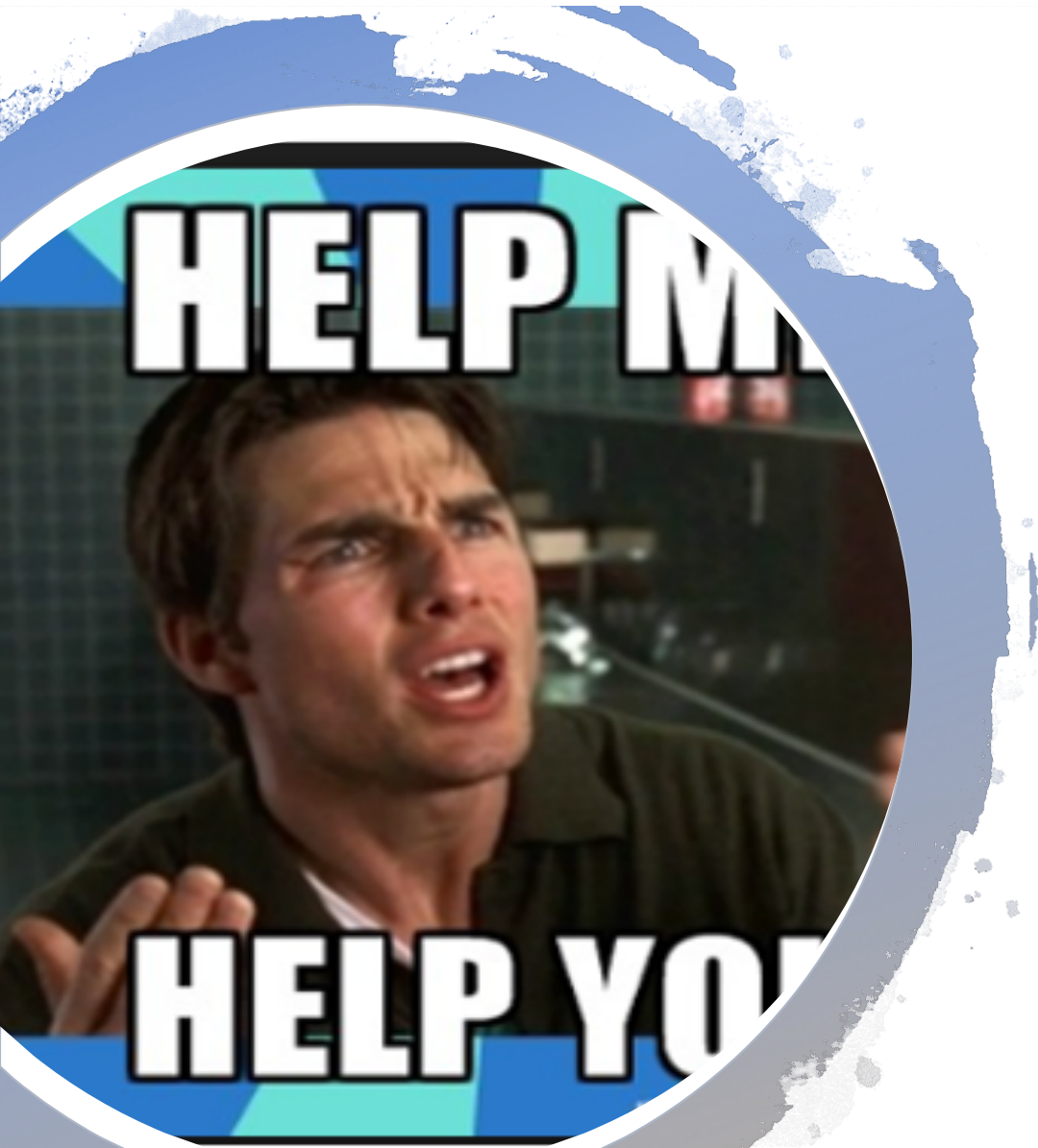
- A. <\$1,000,000
- B. \$1,000,000 to \$5,000,000
- C. Over \$5,000,000

ACTUAL VERDICT

• \$22,751

CONTROL THE NARRATIVE

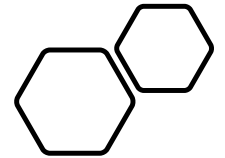
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HELP ME,
HELP YOU



YOU DON'T WANT TO JUST SEE IT YOU
WANT TO BUILD IT





QUESTIONS AND
THANK YOU!
