

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

FILED
2010 JUN 10 10 00 AM
CLERK OF COURT
JUDICIAL CENTER
CHICAGO, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Vicki LaRocco as mother and guardian)
of a minor, Mykael Vasquez, Vicki LaRocco)
individually)
Plaintiff)
v.)
McDonalds Corporation)
Defendant)

No. 2010L009771
CALENDAR/ROOM B
TIME 00:00
Product Liability

COMPLAINT AT LAW

Now comes the plaintiff, VICKI LAROCCO, as mother and guardian of a minor, MYKAEL VASQUEZ, by and through their attorneys, Beranek Feiereisel, Kasbohm & Hammer, and for their Complaint at Law against the McDonald's Corporation do hereby state as follows:

COUNT I

- 1) That on or about April 28, 2009 Mykael Vasquez was a minor with her residence in Northlake, Illinois where she resides with her mother, Vicki LaRocco and other family members.
- 2) That as of said date, the existed in Schiller Park, Illinois a McDonalds Restaurant at or about 9449 Irving Park Road.
- 3) That at the time alleged, the minor plaintiff was a passenger in a vehicle operated by her mother, and was a customer of the McDonald's restaurant at the "drive up" window.

- 4) At the time and place alleged, the plaintiff, through her mother, ordered a hot chocolate beverage, which beverage was tendered and paid for.
- 5) That at the time and place alleged the plaintiff was acting reasonably as would a minor of her age.
- 6) At the time and place alleged, the defendant, McDonalds Corporation owed a duty of reasonable care to the plaintiff and others like her.
- 7) Notwithstanding said duty, McDonalds, and its agents, servants and employees, was then and there guilty of the following negligent acts and/or omissions:
 - a) Served the hot chocolate beverage at a temperature which McDonalds knew or should have known was likely to cause severe burning and scarring;
 - b) Served hot chocolate at a temperature that it knew or should have known was too hot to be ingested by an adult or minor;
 - c) Served hot chocolate at a temperature without determining the serving temperature;
 - d) Served hot chocolate without a protocol or manner to maintain a consistent, serving temperature;
 - e) Failed to instruct and train its agents and employees regarding reasonable serving temperatures for hot beverages;
 - f) Failed to properly secure the lid on the hot chocolate beverage;
 - g) Failed to warn customers that hot beverages were served at a temperature that would cause immediate scalding and burning.
- 8) That as a direct and proximate result of said negligent acts or omissions by the defendant and its agents, servants and employees, the minor plaintiff sustained serious and scarring burns to her leg as a result of spilling the hot chocolate, and which burns caused severe pain and scarring which is permanent in nature.

- 9) That as result of said burns the plaintiff and her family have sustained medical bills her behalf and will incur medical expenses in the future.

WHEREFORE, the plaintiff, Vicki la Rocco as mother and guardian of a minor, Mykael Vasquez, respectfully request that judgment be entered in their favor and gainst McDonalds Corporation in excess of \$50,000together with costs.

COUNT II
Strict Products Liability

- 10-15) The plaintiff incorporates paragraphs 1-5 of Count I as paragraphs 10-15 herein.

- 16) That at the time and place alleged the defendant owed a duty to the plaintiff that the hot chocolate beverage that it served were reasonably safe for its foreseeable use and misuse by its customers.

- 17) That customers, particularly minors, of the defendant had reasonable expectations that hot chocolate beverages sold by the defendant were fit for consumption and would not cause scalding injuries.

- 18) That despite the duty to offer a product reasonably safe for its customers, the defendant's product was unreasonably dangerous in one or more of the following ways:

- a) The hot chocolate was too hot for consumption;
- b) The hot chocolate would cause immediate scalding injuries if spilled;
- c) The lids for cups in which beverages were served at 'drive up' windows were not secure to prevent scalding injuries;
- d) Failed to warn customers that the hot chocolate was of a temperature that would cause scalding injuries.

19) That as a direct and proximate result of one or more of the above unreasonably dangerous conditions, the plaintiff was severely burned, scalded and permanently scarred.

20) That as result of said burns the plaintiff and her family have sustained medical bills her behalf and will incur medical expenses in the future.

WHEREFORE, the plaintiff, Vicki la Rocco as mother and guardian of a minor, Mykael Vasquez, respectfully request that judgment be entered in their favor and against McDonalds Corporation in excess of \$50,000 together with costs.

COUNT III
Family Expense Act/Vicki LaRocco

21-41) For paragraphs 21 through 41 of Count III the plaintiff's incorporate the allegations of paragraphs 1-20 of Counts I and II.

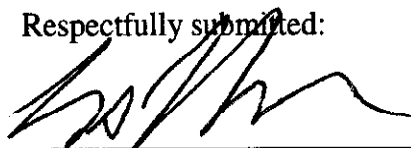
42) That as a result of the occurrence the plaintiff's family, in particular her parent Vicki LaRocco were caused to pay medical expenses and will pay medical expense in the future relative to the care and treatment of the injuries sustained by Michel Vasquez, her daughter, a minor, and a dependant.

43) That the defendant owes a duty to reimburse the family for these medical expenses pursuant to the Family Expense Act.

WHEREFORE, the plaintiff, Vicki LaRocco, specifically request that judgment be entered in her favor and against the defendant in an amount commensurate with medical, and medically related expenses, incurred on behalf

of treatment of her daughter, Mykael Vasquez, for the injuries caused by the defendant.

Respectfully submitted:



Eric A. Krumdick
Attorney for Plaintiff,

**BERANEK, FEIEREISEL
KASBOHM & HAMMER**
55 West Monroe Street, Suite 3400
Chicago, Illinois 60603-5081
Phone: 312-782-9255
Fax: 312-782-4537
Firm #46244