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## Inside Track

The price of hot coffee at a **Disney** resort

September 15, 2003

By: Matthew Haggman

**A** decade ago, Mickey Ds was hit with a big jury verdict in a negligence case involving an elderly woman who spilled hot coffee on her lap that she had bought at a McDonald's restaurant. Now another famous Mickey has been splashed in the face, legally speaking, with scalding coffee.

In October 2001, Miami Beach residents Andrew and Elizabeth **Allocco** were breakfasting with their 2-year-old daughter at the Polynesian Resort Hotel at **Disney** World in Orlando. During the meal, the beaming Allocos posed for a photo with Mickey Mouse.

Moments later, a waitress came by with a carafe of coffee. Holding the pot on a tray at shoulder height, she accidentally spilled all 28 ounces of java — later measured at about 180 degrees Fahrenheit — on the lap of Andrew **Allocco**, then 31.

Shrieking in pain, **Allocco** scampered about the restaurant, shedding his steaming clothes. An off-duty police officer wrapped **Allocco** in ice. The Miami Beach man later was treated at Jackson Memorial Hospital in Miami. He suffered first- and second-degree burns to his groin, waist and upper thighs, and spent four days in the hospital. After that, he was bedridden for six weeks.

In February of last year, the Allocos sued Walt **Disney** World Co. in Orange Circuit Court, claiming negligence and loss of consortium.

At first glance, the case seems strikingly similar to the 1992 McDonald's hot coffee case that was widely criticized as an example of the civil justice system run amok.

In the McDonald's case, a New Mexico jury awarded \$2.9 million to a 79-year-



From left, Elizabeth, Anabella and Andrew **Allocco** with Mickey Mouse in October 2001 at the Polynesian Resort Hotel at **Disney** World in Orlando.

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old women who spilled coffee on her lap while sitting in the passenger seat of her grandson's car. The verdict was later reduced to \$640,000 and settled confidentially out of court. The issue was whether McDonald's served its coffee too hot.

Days before trial, **Disney** admitted it was liable in the Alloccos' case. There remained the issue of damages.

The Alloccos' attorney, John E. **Leighton**, a partner at Leesfield **Leighton** Rubio Mahfood & Rubio in Miami, wanted to make sure the jury fully understood the differences between his client's case and the McDonald's case. Knowing the jurors were likely to remember the notorious 1992 case, **Leighton** brought it up during jury selection. And he encouraged the jurors to talk about it.

"The outrage in the McDonald's case was because someone spilled in their own lap," he explained to them. "In our case, the client did nothing wrong and had coffee poured on him by someone at **Disney**."

Leighton's efforts were successful. On Sept. 5, after a three-day trial, the jury awarded the Alloccos \$668,000, including \$68,000 in past and future medical expenses, \$500,000 in pain and suffering, and \$100,000 for loss of consortium.

**Disney**, which was represented by Kurt M. Spengler of Wicker Smith O'Hara McCoy Graham & Ford in Orlando, said it is weighing its options. Rena Callahan, a spokeswoman for Walt **Disney** World, said that "even though we admitted liability, the amount of the verdict seems excessive."

— Matthew Haggman

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