

and an additional amount for pain and suffering. When McDonald's refused, she went to court, asking for \$300,000. Lawyers for the company argued in response that McDonald's coffee was not unreasonably hot and that Liebeck was responsible for her own injuries.

The jury saw it differently, however. *First*, McDonald's served its coffee at 185 degrees Fahrenheit, significantly hotter than home-brewed coffee. The jury was persuaded that coffee at that temperature is both undrinkable and more dangerous than a reasonable consumer would expect. *Second*, before Liebeck's accident, the company had received over seven hundred complaints about burns from its coffee. In response to the complaints, McDonald's had in fact put a warning label on its cups and designed a tighter-fitting lid for them. Ironically, the new lid was part of the problem in the Liebeck case because she had held the coffee cup between her legs in an effort to pry it open.

Although the jury found that Liebeck was 20 percent responsible for her injuries, it also concluded that McDonald's had not done enough to warn consumers. The jury's \$2.7 million punitive-damage award was intended, jurors later said, to send a message to fast-food chains. Although the judge reduced the award—equivalent to only about two days' worth of coffee sales for McDonald's—he called McDonald's conduct "willful, wanton, reckless, and callous."



### CASE 6.3

## Sniffing Glue Could Snuff Profits

**HARVEY BENJAMIN FULLER FOUNDED THE H. B. Fuller Company in 1887. Originally a one-man wallpaper-paste shop, H. B. Fuller is now a leading manufacturer of**

industrial glues, coatings, and paints, with operations worldwide. The company's 10,000 varieties of glue hold together everything from cars to cigarettes to disposable diapers.

### DISCUSSION QUESTIONS

1. Is hot coffee so dangerous, as the jury thought? Should a reasonable consumer be expected to know that coffee can burn and to have assumed this risk? Is a warning label sufficient? Is our society too protective of consumers these days, or not protective enough?
2. In serving such hot coffee, did McDonald's act in a morally responsible way? What ideals, obligations, and effects should it have taken into consideration?
3. McDonald's claims that most consumers would prefer to have their coffee too hot rather than not hot enough. After all, if it's too hot, they can always wait a minute before drinking it. Suppose this is true. How does it affect McDonald's responsibilities? Given that McDonald's serves millions of cups of coffee every week, how important are a few hundred complaints about its coffee being too hot?
4. Was Liebeck only 20 percent responsible for her injuries? Do you agree with the amount of compensatory and punitive damages that the jury awarded her? If not, what would have been a fairer monetary award?
5. Should juries be permitted to award punitive damages in product liability cases? If so, should there be a limit to what they can award? Is it right for a jury to award punitive damages against one company in order to send a message to a whole industry?

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However, some of its customers don't use Fuller's glues in the way they are intended to be used.

That's particularly the case in Central America, where Fuller derives 27 percent of its profits and where tens of thousands of homeless children sniff some sort of glue. Addicted to glue's intoxicating but dangerous fumes, these unfortunate children are called *resistoleros* after Fuller's Resistol brand. Child-welfare advocates have urged the company to add a noxious oil to its glue to discourage abusers, but the company has resisted, either because it might reduce the glue's effectiveness or because it will irritate legitimate users.<sup>106</sup>

Either way, the issue is irritating H.B. Fuller, which has been recognized by various awards, honors, and socially conscious mutual funds as a company with a conscience. Fuller's mission statement says that it "will conduct business legally and ethically, support the activities of its employees in their communities and be a responsible corporate citizen." The St. Paul-based company gives 5 percent of its profits to charity; it has committed itself to safe environmental practices worldwide (practices that are "often more stringent than local government standards," the company says); and it has even endowed a chair in business ethics at the University of Minnesota. Now Fuller must contend with dissident stockholders inside, and demonstrators outside, its annual meetings.

The glue-sniffing issue is not a new one. In 1969, the Testor Corporation added a noxious ingredient to its hobby glue to discourage abuse, and in 1994 Henkel, a German chemical company that competes with Fuller, stopped making certain toxic glues in Central America. However, Fuller seems to have been singled out for criticism not only because its brand dominates Central America but also because—in the eyes of its critics, anyway—the company has not lived up to its own good-citizen image. Timothy Smith, executive director of the Interfaith Center for Corporate Responsibility, believes that companies with a reputation as good corporate citizens are more vulnerable to attack. "But as I see it," he says, "the hazard is not in acting in a socially responsible way. The hazard is in over-marketing yourself as a saint."

Saintly or not, the company has made matters worse for itself by its handling of the issue. H. B. Fuller's board of directors

acknowledged that "illegal distribution was continuing" and that "a suitable replacement product would not be available in the near future." Accordingly, it voted to stop selling Resistol adhesives in Central America. "We simply don't believe it is the right decision to keep our solvent product on the market," a company spokesman said.

The Coalition on Resistoleros and other corporate gadflies were ecstatic, but their jubilation turned to anger when they learned a few months later that Fuller had not in fact stopped selling Resistol in Central America, and did not intend to. True, Fuller no longer sold glue to retailers and small-scale users in Honduras and Guatemala, but it continued to sell large tubs and barrels of it to industrial customers in those countries and to a broader list of commercial and industrial users in neighboring countries.

The company says that it has not only restricted distribution but also taken other steps to stop the abuse of its product. It has altered Resistol's formula, replacing the sweet-smelling but highly toxic solvent toluene with the slightly less toxic chemical cyclohexane. In addition, the company has tried—without success, it says—to develop a nonintoxicating water-based glue, and it contributes to community programs for homeless children in Central America. But the company's critics disparage these actions as mere image polishing. Bruce Harris, director of Latin American programs for Covenant House, a nonprofit child-welfare advocate, asserts that Resistol is still readily available to children in Nicaragua and El Salvador and, to a lesser extent, in Costa Rica. "If they are genuinely concerned about the children," he asks, "why haven't they pulled out of all the countries—as their board mandated?"

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#### DISCUSSION QUESTIONS

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1. What are H. B. Fuller's moral obligations in this case? What ideals, effects, and consequences are at stake? Have any moral rights been violated? What would a utilitarian recommend? A Kantian?
2. What specifically should H. B. Fuller do about Resistol? Are the critics right that the steps the company has taken so far are mere image polishing? Is the company's only

moral option to withdraw from the Central American market altogether?

3. When, if ever, is a company morally responsible for harm done by the blatant misuse of a perfectly legitimate and socially useful product? Does it make a difference whether the abusers are adults or children? Is it relevant that other companies market similar products?
4. Tobacco companies have a strong financial interest in cultivating future smokers, and although they deny doing

so, they consciously market their product to make it attractive to young people. Contrast their conduct with that of H. B. Fuller.

5. Given H. B. Fuller's conduct in other matters, would you judge it to be a morally responsible company, all things considered? Are companies that pride themselves on being morally responsible likely to be held to a higher standard than other companies? If so, is this fair?



#### CASE 6.4

## Closing the Deal

**NOW THAT SHE HAD TO, JEAN MCGUIRE WASN'T** sure she could. Not that she didn't understand what to do. Wright Boazman, sales director for Sunrise Land Developers, had made the step clear enough when he described a variety of effective "deal-closing techniques."

As Wright explained it, very often people actually want to buy a lot but suffer at the last minute from self-doubt and uncertainty. The inexperienced salesperson can misinterpret this hesitation as a lack of interest in a property. "But," as Wright pointed out, "in most cases it's just an expression of the normal reservations we all show when the time comes to sign our names on the dotted line."

In Wright's view, the job of a land salesperson was "to help the prospect make the decision to buy." He didn't mean to suggest that salespeople should misrepresent a piece of property or in any way mislead people about what they were purchasing. "The law prohibits this," he pointed out, "and personally I find such behavior repugnant. What I'm talking about is helping them

buy a lot that they genuinely want and that you're convinced will be compatible with their needs and interests." For Wright Boazman, salespeople should serve as motivators, people who can provide whatever impulse was needed for prospects to close the deal.

In Wright's experience, one of the most effective closing techniques was what he termed "the other party." It goes something like this.

Suppose someone like Jean McGuire had a hot prospect, someone who was exhibiting real interest in a lot but who was having trouble deciding. To motivate the prospect into buying, Jean ought to tell the person that she wasn't even sure the lot was still available because a number of other salespeople were showing the same lot, and they could already have closed a deal on it. As Wright put it, "This first move generally increases the prospect's interest in the property, and more important to us, in closing the deal pronto."

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