



Advocacy Club
Boot Camp on
Substack

Hard Questions/Bad Facts in Spun Seven Elements

Choices:

- Can be a good fact.
- Can be neutralized.
- Can be of limited impact.

Plaintiff

1. The widow May Donoghue escaped the stress of a busy Glasgow to visit her best friend in Paisley, Audrey MacIsaac, to spend a pleasant evening at the quaint Wellmeadow Café.
 - a. Plaintiff: no issues.
 - b. Defence: no issues.
2. To celebrate their time together, Audrey ordered two Scotsman's Floats, dishes of ice cream and bottles of ginger beer.
 - a. Plaintiff: no issues.
 - b. Defence: no issues.

3. The Café's owner, Mr. Minchella, brought the ice cream to May in a tumbler and the ginger beer in an opaque bottle from Stevenson, a major bottler and distributor to local merchants.
 - a. Plaintiff: no issues.
 - b. Defence: It's an opaque bottle. Limited impact because it's the (low) industry standard
4. As he served his customers, Minchella poured some ginger beer onto the ice cream in May's tumbler.
 - a. Plaintiff: no issues.
 - b. Defence: It's neutral that Minchella made a direct connection to May (not his customer?). The opaque bottle has no change from above.
5. As May enjoyed her Float, Audrey poured the balance of May's ginger beer onto May's ice cream.
 - a. Plaintiff: It's neutral that Audrey did not inspect the bottle contents.
 - b. Defence: It's neutral that Minchella did not inspect the bottle contents.
6. As Audrey did so, the gross and disgusting remains of a decomposed snail emerged from the bottle.
 - a. Plaintiff: no issues.
 - b. Defence: Best to minimize the impact. It was just a snail, right?
7. May immediately became violently ill from the ginger beer, causing her to flee the Café to return home for extensive medical care.
 - a. Plaintiff: no issues as it stands. I expect the actual facts are more ambivalent.
 - b. Defence: no issues. Minchella may be asked to explain what he did, but as it stands, I can't see anything to challenge his conduct.

Defence

1. Stevenson is a local bottler and distributor of ginger beer to merchants in Paisley.
 - a. Plaintiff: no issue.
 - b. Defence: no issue.
2. Stevenson uses only modern, sanitary and safe methods to make and package its products
 - a. Plaintiff: no issue.
 - b. Defence: Stevenson must defend his record, and there may be skeletons there. How old was his equipment, anyway? What about the Glasgow solicitor's other clients who took sick? It may be neutral (state of the industry standard, however low) or negative if there were other victims.
3. The Wellmeadow Café is one of Stevenson's regular clients.
 - a. Plaintiff: no issue.
 - b. Defence: no issue unless Minchella has had other customers get sick.
4. The Wellmeadow Café bought ginger beer from other bottlers, some of whom used Stevenson's bottles, refilled with their own product.
 - a. Plaintiff: no issue.
 - b. Defence: it will be hard to prove any of this. If Minchella did buy from other suppliers, then he would be hard put to prove this bottle came from Stevenson and that he did not take extra precautions because of using risky vendors to save a few bob. Minchella may turn out to be the real defendant if he fails here.

5. The Wellmeadow Café sold ginger beer, which may have been Stevenson's product, to its customer, MacIsaac, in an industry-standard tinted glass bottle.
 - a. Plaintiff: no issue.
 - b. Defence: Stevenson will have to defend his bottle choice. Is it neutral if he used the same as others did?
6. MacIsaac shared her ginger beer with Donoghue, who may have taken sick from consuming it.
 - a. Plaintiff: only an issue of May should have inspected the contents. Doubtful. May does not contend she was the direct contracting customer, so this is not a problem.
 - b. Defence: has to answer, "Is it OK to harm a consumer so long as it's not the one who paid for it?" The neutral – "It's not me, it's the law" - won't play too well.
7. Donoghue's illness could have had many causes apart from consuming the product MacIsaac purchased from the Wellmeadow Café.
 - a. Plaintiff: May can't (likely) prove causation except in the *res ipse loquitor* sense.
 - b. Defence: Can't prove anything, so no issue.