The Role of Emotions in Comparative Negligence Judgments

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NEAL FIEGENSCHOW

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The effects of specific emotions on social judgments and the role of affect in social judgments, most

Of the considerable research on the role of affect in social judgments, most

Effects of Jurors' Emotions on Legal Judgments

The present study is another

research, however, continues to offer reasons to believe that jurors' emotions may

The effects of specific emotions on social judgments are another matter. In general, research on

Judgments of guilt and comprehension is another matter. In general, research on

Whether these are other emotional consequences play any causal role in jurors' judgments

Perceived blameworthiness of the parties

Several researchers have studied the attributional underpinnings of emotions, such as sympathy and regret, that might be expected to affect these judgments.
other things, making the injury external vs. internal) has also been shown to affect the amount of damages awarded in product-liability cases (Darden, DeConinck, Babin, & Griffin, 1991). By manipulating the parties' blameworthiness and the severity of the outcome, we cannot only gauge participants' emotional responses to the parties, but also determine whether those responses mediate the effects of blameworthiness and severity on participants' judgments of fault and compensation.

Effects of Attributional Ambiguity on Emotional Response

The intensity of jurors' emotional responses may depend on the relative blameworthiness of the parties to the accident. Specifically, where legal responsibility clearly belongs to one party—where either the plaintiff or the defendant is plainly blameworthy—participants' emotional responses to the case should be strong. However, where attributions of responsibility are likely to be ambiguous because both parties are highly blameworthy or because neither of them is, participants' emotional responses should be more hesitant and equivocal. We call this the attributional ambiguity effect.

Two lines of research suggest an attributional ambiguity effect. First, according to attributional theories of emotions (e.g., Weiner, 1995), the amount of sympathy or anger that observers feel for sufferers depends on the degree of control over their predicament that the observers attribute to sufferers. Similarly, Ortony et al. (1988) theorized that the intensity of sympathy that an observer feels for a target person varies with how much the observer believes that the target deserves to suffer; the intensity of anger that an observer feels toward the target varies with the target's judged blameworthiness (see also Lerner, Goldberg, & Tetlock, 1998). It might seem, therefore, that jurors' sympathy for or anger toward the plaintiff, say, would be affected by only the plaintiff's degree of blameworthiness.

If, however, jurors believe that there is some fixed quantum of blame to be assigned, so that the amount of blame they assign to the plaintiff and the defendant, respectively, must be inversely proportional, then the defendant's perceived

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3 Also, experiments on the simulation heuristic (Kahneman & Tversky, 1982) show that sympathy for the plaintiff, compensation, and the defendant's perceived fault are intercorrelated: Observers tend to feel greater sympathy for the victim of an accident that occurs under exceptional (rather than normal) circumstances, to hold the defendant more responsible for the accident, and to award the victim greater compensation (Macrae, 1992; Macrae & Milne, 1992).

4 We want to distinguish our use of the term attributional ambiguity from prior research presented under the same rubric. That research indicates that people strategically create or exploit attributional ambiguity to avoid undesirable attributions for their behavior (Snyder & Wicklund, 1981). For instance, Snyder, Kleck, Strenta, and Mentzer (1979) showed that people are more likely to avoid the handicapped when they have a plausible alternative explanation for their behavior, such as a choice of movies, only one of which is that they might need to sit near a handicapped person. This body of research involves attributions about the self (by the actor or others), whereas in the present experiment we are concerned with attributions regarding the behavior of others.
Emotions and Comparative Negligence

Thomas F. Parzefal, 1987), have even proposed that emotional responses are not always consistent with the facts of a case. For example, in a negligence case, where the plaintiff's emotional response is extreme, the jury may be more likely to award a higher damages amount, even if the plaintiff's injuries are not severe.

Second, emotional responses can also be influenced by the presence of other factors, such as the strength of the plaintiff's relationship to the defendant. In some cases, the plaintiff's emotional response may be more intense if the defendant has a close relationship to the plaintiff.

Third, emotional responses can also be influenced by the defendant's emotional response. For example, if the defendant is also emotionally affected by the accident, their emotional response may influence the plaintiff's response.

Finally, emotional responses can also be influenced by the presence of other people. For example, if the plaintiff is accompanied by a friend or family member, their emotional response may be more intense.

In conclusion, emotional responses can be influenced by a variety of factors, including the strength of the relationship between the plaintiff and the defendant, the presence of other factors, and the presence of other people. These factors can all contribute to the plaintiff's emotional response, and can have a significant impact on the outcome of a case.

The importance of understanding emotional responses cannot be overstated. By understanding how emotional responses are influenced by these factors, attorneys can better prepare their cases and provide a more effective representation for their clients.
participants’ emotional responses to the case, we can ascertain whether those emotions display the hypothesized attributional ambiguity effect.

Severity Effect and Anti-Plaintiff Bias

Participants’ emotional responses to the accident case may also play a part in biased judgments of responsibility and damages. In our earlier study (Feigenson et al., 1997), we found that participants’ determinations of responsibility and damages were influenced by the legally relevant variables of the plaintiff’s blameworthiness and accident severity, but not entirely in legally prescribed ways. Mock jurors conflated the legally distinct elements of liability and damages in reaching decisions on fault and compensation. The conflation operated in both directions: Outcome severity influenced participants’ attributions of fault, and the plaintiff’s degree of blameworthiness affected gross damage awards. These findings confirmed those of earlier researchers and commentators (e.g., Kalven, 1958; Vidmar, 1995) that jurors’ damage awards are influenced by their liability judgments, and more generally, the results were consistent with other evidence that jurors use holistic rather than rule-element judgmental strategies (e.g., Kerr & Sawyers, 1979).

In addition, we found that participants’ responsibility judgments and damage awards reflected an anti-plaintiff effect (Feigenson et al., 1997). First, participants attributed a greater percentage of fault to the plaintiff when the consequences of the accident were more serious. The simple fact that outcome severity increased attributions of responsibility to the plaintiff (“blame the victim”) rather than the defendant (“straight severity”) when presumably both parties, with the benefit of hindsight, could have foreseen the serious consequences of their carelessness, seemed to reflect an anti-plaintiff bias. Second, participants “double discounted” damages by improperly taking the victim’s blameworthiness into account in reducing gross damages. Any reduction of gross damages by the victim’s responsibility indicated an anti-plaintiff bias, because gross damages ought to represent the amount necessary to compensate plaintiffs fully for their injuries, regardless of fault. Third, participants often allocated nonzero percentages of blame to victims in the low-blameworthiness condition, whose behavior was designed to be more or less blameless in a legal sense. A connection between participants’ emotional responses and this anti-plaintiff effect was indicated by the finding that increasing the plaintiff’s blameworthiness significantly increased participants’ anger at and disgust with the plaintiffs and significantly decreased their ability to imagine themselves in the plaintiff’s place. This illustrated the classic definition of defensive attribution (Shaver, 1970): By blaming the victim, observers distanced themselves from him, preserving their belief that they would not find themselves in the same position (Lazarus, 1991; Wispé, 1991).

We sought to replicate and extend these results in the present study by using two of the four accident scenarios that we employed previously and once again
Finally, they were asked to assess their agreement with the real instructions regarding gross and discounted damage, respectively. They then read a brief set of legal instructions concerning appropriate reimbursement to the plaintiff and, after reading each summary, participants responded to questions addressing their emotional reactions to the case and the plaintiff. They then read a brief set of scenarios and discussions about these scenarios.

The Present Experiment

Previous designs have employed external validity to avoid possible confounding variables from the previous design. We also employed some of the legal instructions and some of the responses from previous designs to ensure the desirability of the legal instruction of the defendant's motives (Lerner, 1980). Treatment assignments were determined in order to assess the possible effect of the defendant's motives on the participants' perceptions of the defendant. In this study, we asked participants to assess their agreement with various counterfactual propositions in order to focus more closely on their attributional processes and to provide a more comprehensive account of the possible effects of the defendant's motives on the participants' perceptions of the defendant. In this study, we assessed the participants' emotional reactions to the case and the plaintiff, as well as their beliefs about the defendant. The addition of emotional images also enhanced the external validity of the design. It is important to note that emotional images cannot be used to test for interactions (e.g., attributional ambiguity) and reciprocal effects (e.g., the effect of the defendant's blameworthiness on the plaintiff's perception of the defendant). Several changes in design manipulations of blameworthiness and outcome severity were employed in this study, to test for the presence of these effects. First, in the present study, we manipulated both the defendant's and the plaintiff's blameworthiness, which allowed us to test for interactions (e.g., attributional ambiguity) and reciprocal effects. Second, in our previous study, we manipulated the defendant's and the plaintiff's blameworthiness, but not the defendant's or the plaintiff's severity. Finally, in the present study, we manipulated both the defendant's and the plaintiff's blameworthiness, as well as the defendant's severity. In this study, we manipulated both the defendant's and the plaintiff's blameworthiness, as well as the defendant's severity.
various counterfactual propositions regarding the case. We expected that participants’ emotions would mediate the effect of the independent variables on their judgments of fault and compensation, and that attributionally ambiguous cases would yield less intense emotional responses. We also expected that outcome severity would affect participants’ apportionments of fault by increasing the amount of fault allocated to the plaintiff.

Method

Participants

Students (116 law school students, 98 undergraduates, approximately equally divided by sex in both samples) voluntarily participated in this study. The undergraduates received partial course credit or monetary compensation ($8.00). The law students completed the task in class and were not compensated.

Materials

We constructed a folder containing the summary descriptions of two accident cases (home accident and workplace accident) and three photographs for each case. The photographs presented an image of the victim before the accident, the accident scene (e.g., a house burned down by fire), and the injured victim after the accident (e.g., the victim sitting in a wheelchair with legs paralyzed, or the victim with a bruise on his face). Each photograph was presented with corresponding text on the next page inserted in plastic protectors.

The scenarios were selected from actual cases and were used in a previous study (Feigenson et al., 1997). In the first scenario, a man resting at home heard a hissing noise in his kitchen and smelled gas; he ran outside just before his house exploded and injured him. In the second scenario, a railroad worker was riding on the back of a line of boxcars and “talking” the engineer (via radio) through a backup maneuver; a crossover switch had been left in the wrong position, and the line of boxcars ran into another line of cars sitting on a different track, catching the worker between the cars.

We manipulated the independent variables (outcome severity, victim blameworthiness, and defendant blameworthiness) by varying relevant sentences in the descriptions. For instance, in the exploding-house scenario, sentences regarding high- and low-severity conditions were “[Mr. R] suffers severe spinal injury rendering him a paraplegic (unable to use his legs)” and “[Mr. R] suffers a black eye and facial bruises,” respectively. Similarly, sentences concerning high and low victim-blameworthiness conditions in the railroad-accident scenario were “[Mr. G] forgot to bring his lantern, a violation of Railroad rules” and “Even though [Mr. G] brings his lantern, as required by Railroad rules…” Finally,
the presence of emotional property damage in the first scenario (house destroyed) and, in the second scenario (outdoor structure damaged), given the extent of the influence in the severe-outcome conditions but not in the mild-outcome conditions—of severity, our results show that the presence of emotional property damage in the first scenario increases the likelihood of reporting property damage to a higher extent. This is consistent with our finding that emotional property damage is more likely to be reported than physical property damage.

We believe that the ad damnum, or requested damages in all outcome-severity conditions and...

Detailed about the purpose of the study.

Potential jurors. After consultation to participate in the study, participants were fully participated in the task. After completing the task, participants were fully present with the folder. Participants were fully presented with the task.

Procedure

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By respondents to an item assessing the strength of their belief in a just world.

To answer the questions, they were asked if applicable. Participants then read the instructions and participated in the study. The instructions for each scenario were presented to the participants. In the first scenario, participants were asked to read a passage that described a situation in which a product was damaged. In the second scenario, participants were asked to read a passage that described a situation in which a person was injured. After reading each scenario, participants were asked to respond to a yes-no question about whether they thought the product or the person was at fault. Participants were then asked to respond to a yes-no question about whether they thought the product or the person was at fault.
Results

Preliminary Analyses

Affiliation and gender. A preliminary analysis revealed that college affiliation (i.e., law student or undergraduate) did not produce any significant main effects or interactions with other independent variables on any dependent variables. Similarly, participant gender was found not to influence dependent variables systematically. Consequently, the data were collapsed over affiliation and gender in subsequent analyses.

Cases. Another preliminary analysis was conducted, including case as an independent variable. Because we found that the two cases were not generally different from each other, we analyzed the data after collapsing across the cases.

Primary Analyses

Apportionment of fault. Participants were asked to judge whether each of the parties was at all to blame. If both parties were judged to be at fault, participants were instructed to assess the amount of fault in percentage terms attributed to both the plaintiff and the defendant. A $2 \times 2 \times 2$ (Outcome Severity: High vs. Low $\times$ Victim Blameworthiness: High vs. Low $\times$ Defendant Blameworthiness: High vs. Low) ANOVA was performed on fault apportionment for each party. The mean values are presented in Figure 1. Because means for the plaintiff and the defendant were designed to sum to 100, they are interdependent. That is, a significant effect on fault apportionment for one party is significant on fault apportionment for the other. The analysis on apportionment of fault for the plaintiff revealed that more fault was assigned to the plaintiff when the plaintiff was highly blameworthy, $F(1, 197) = 18.54, p < .0001$; and when the defendant was less blameworthy, $F(1, 197) = 6.06, p < .02$. Interestingly, the plaintiff was judged to be less at fault when the outcome was severe, $F(1, 197) = 6.35, p < .02$.  

![Graph showing apportionment of fault for the plaintiff.](image-url)
Participants were asked to calculate the final (adjusted) damage award by subtracting from the total gross damage award an amount corresponding to the offset of fault that they assigned to the plaintiff. Figure 3 provides the mean value of the gross damage awarded in cases where the defendant was at fault and the plaintiff was not. The amount of gross damages awarded was higher when both parties were at fault than when only one party was at fault. ANOVA showed that the amount of gross damages awarded was significantly different between cases where both parties were at fault and cases where only one party was at fault. The ANOVA revealed a significant interaction effect between the severity of the injury and the defendant's fault. In addition, we found that the amount of damages when the outcome was severe was significantly higher than the amount of damages when the outcome was mild. The analysis was conducted using a 2 x 2 x 2 factorial design. Means are presented in Figure 2. A x 2 x 2 (Outcome) x 2 (Fault) x 2 (Severity) ANOVA revealed a significant interaction effect between the severity of the injury and the defendant's fault.
revealed that the adjusted damage award was considerably higher when the outcome was severe, $F(1, 216) = 181.89, p < .0001$. No other effects were significant. 

Attributional ambiguity. We expected that participants' emotional reactions would be stronger when attributions of blame for the outcome were unambiguous, such that one and only one party was highly to blame. This effect can be reflected in the interaction of plaintiff blameworthiness and defendant blameworthiness on
 Hierarchical reactions (e.g., sympathetic) for the defensive, high-risk situation were stronger than others (e.g., stress). In the current experiment, we examine the question of whether or not reactions are more appropriate in situations of emotional context or situations of emotional context. We also examine the question of whether or not reactions are more appropriate in situations of emotional context or situations of emotional context. We conclude with suggestions for future research on emotional context and emotion regulation.
mediated the effects of outcome severity and the parties’ blameworthiness on participants’ assignment of fault and damages. We tested this possibility using hierarchical multiple regression analyses. First, the dependent variables were regressed on emotional reactions and then on severity and blameworthiness independent variables, together with emotional reactions.

When apportionment of fault for the defendant was regressed on emotional reactions, three were significant predictors: anger at the defendant ($\beta = 0.28, p < .01$), anger at the plaintiff ($\beta = -0.39, p < .0001$), and sympathy for the defendant ($\beta = -0.18, p < .05$). Of course, when apportionment of fault for the plaintiff was regressed on emotional reactions, the same three emotional reactions were significant, except that the betas had opposite signs. If emotional variables mediated the effects of severity and blameworthiness on the apportionment of fault, the regression coefficients for severity and blameworthiness should be appreciably reduced when these independent variables are included in the same regression model. Consistent with this expectation, none of the regression coefficients for the original independent variables (severity and blame) were significant when they were placed in the same regression model, but only the beta weights for anger toward the parties remained as significant predictors. This indicates that participants’ apportionment of fault was probably mediated by participants’ anger toward the parties. When damage awards were regressed on the emotional reactions alone, sadness for the plaintiff turned out to be a significant predictor for both the gross damage award and the adjusted damage award ($\beta = 0.52, p < .0001$, and $\beta = 0.45, p < .0001$, respectively). However, when emotional reactions and independent variables (severity and blameworthiness) were included in the same regression model, no emotional reactions were significant regressors, but severity was a strong predictor. Damage awards do not appear to be mediated by the emotional reactions.

Discussion

Mock jurors’ emotions affected their judgments of fault, but not compensation, in comparative negligence cases, and some of their emotions were less intense when blame for the accident was ambiguous. We take up each of these findings in this section and then discuss relationships between the present study and our previous work.

Effects of Emotions on Judgments of Fault and Compensation

Participants’ anger toward the parties appeared to mediate the effects of legally relevant variables, outcome severity and the parties’ blameworthiness, on their judgments of fault but not of compensation. Specifically, participants’ anger at the defendant mediated the effect of outcome severity on apportionment of fault; and their anger at the plaintiff mediated the effect of victim blameworthi-
These findings are consistent with the cognitive definition of the portion of fault apportioned to the plaintiff by the judge. The portion of fault apportioned to the defendant by the judge is maximized if the portion of fault apportioned to the defendant by the judge is decreased. The portion of fault apportioned to the defendant by the judge is increased.

Note: Items were rated on a 7-point scale ranging from 1 (not at all) to 7 (very much).

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Table 1

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Page 589
anger as the emotional response to holding another person responsible for blameworthy behavior and being upset about the outcome (Ortony et al., 1988). Thus, we would expect anger to vary with the perceived blameworthiness of the target, the extent of the harm that the target caused, or both.

The finding that mock jurors’ emotions play a role in their judgments in comparative fault cases is perhaps unsurprising, confirming as it does considerable anecdotal evidence of juries as prone to emotion-based decision making (Feigenson, 1997). But only one emotion (anger) helped to explain those judgments. It may seem curious, for instance, that mock jurors’ sympathy for the plaintiff, which was quite strong in response to the outcome-severity manipulation, \( F(1, 206) = 62.55, p < .001 \), Cohen’s \( d = 1.10 \), did not mediate judgments of either fault or compensation. This finding appears inconsistent with prior research on the effect of sympathy on both fault and compensation judgments in accident cases (Bornstein, 1994, 1998; Darden et al., 1991).

The limited role of participants’ sympathy in their judgments may conceivably indicate that participants followed the judge’s instruction that they “should not be swayed by sympathy for or prejudice against either party” (Appendix B). Other research shows, however, that such instructions are likely to be ineffective (Feigenson, 1997) or even counterproductive (Edwards & Bryan, 1997). We believe it to be more probable that sympathy for the plaintiff did not mediate apportionment of fault because that judgment is driven more by the plaintiff’s blameworthiness than by any other independent variable, and anger toward the plaintiff is more responsive than is sympathy for the plaintiff to changes in levels of the plaintiff’s blameworthiness. Furthermore, sympathy for the plaintiff did not mediate gross damage awards because it added no significant predictive power to a model that already included outcome severity. The absence of mediation may also reflect measurement limitations. When several emotions are included in the same model, those emotion terms that are most readily understood and, therefore, that are measured most reliably (e.g., anger) may appear to account for more variance than less widely understood and reliably measured terms (e.g., sympathy).

Participants’ more generalized moods of anxiety and fear were affected by the severity of the accident, in the expected direction—the more serious the outcome, the more anxious and fearful they were—but neither mood mediated their judgments of fault or compensation. Because we did not measure other moods nor did we manipulate mood as an independent variable, we cannot determine whether other nonspecific mood states may also have influenced participants’ judgments.

Attributional Ambiguity Effect

Participants were significantly less emotionally involved with the plaintiffs in accident cases when either both parties were highly blameworthy or when neither
That short, emotional response, should reflect a view in which the accident victim and

suffer the brunt.

but if one is also angry at the defendant, then one may be led to temper one's

The emotional response that may inspire anger,

understand emotionally ambiguous cases; however, the emotional cues may be understood

inference, anger toward the plaintiff in an emotionally ambiguous case, is consistent for

emotional response to one party as a cue to how they ought to feel about the other

angst of injustice in a competitive causal case at zero-sum war, may take their

highly inferential and happy thoughts about the outcome as cues to how satisfied and happy they themselves other

less success-erected-fee, even the same opponent's apparent level of satisfaction or

more about the defense party, who perceive the -

higher emotional intensity of the one.

both parties are to blame or neither, the signals provided by each party's

decision making under a competitive causal fault rule, in terms seem generally the more intense

in the context of emotional ambiguity, the more intense

This attributional ambiguity effect is also consistent with the emotion-partitioning paradigm with

We suspect that when it was more difficult for each judge to figure out who

was that is, when attributions of blame for the accident were designed to be

EMOTIONS AND COMPARETIVE NEGLIGENCE

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for the accident—but also to a conception of justice often argued to underlie tort law. Comparative negligence indeed invites jurors to give ideal *distributive* justice by apportioning accident losses in accordance with perceived fault (*Li v. Yellow Cab Co. of California*, 1975), but the larger context of the lawsuit may lead jurors to think of their role as meting out *corrective* justice. The defendant has (allegedly) upset the status quo by wrongfully injuring the plaintiff (Coleman & Ripstein, 1995), and the jurors’ job is to correct the imbalance to the extent that it deserves to be corrected. Thus, jurors may justifiably conceive of their decision as linking the parties in a complementary way: A damage award for the plaintiff takes just that amount away from the (sufficiently solvent) defendant; a verdict for the defendant “saves” the defendant and “deprives” the plaintiff by precisely the same amount.

Doing justice by taking into account the relative deservingness of all those involved has also been observed to be an important feature of commonsense justice (Finkel, 1995). Jurors’ emotional responses reflect this attitude toward the tort action as a squaring or balancing of accounts, as indicated not only by the attributional ambiguity effect, but also by correlational analyses. Participants’ emotional reactions to one party generally correlated significantly (and in the expected direction) with corresponding emotional reactions to the other party. For instance, anger toward the defendant was positively and significantly correlated with sympathy for the plaintiff (*r* = .49, *N* = 214, *p* < .0001) and sadness for the plaintiff (*r* = .24, *N* = 214, *p* < .001); anger toward the plaintiff was positively correlated with sympathy for the defendant (*r* = .22, *N* = 214, *p* < .002).  

The attributional ambiguity effect is also consistent with various lines of research on social schemas and affect (Fiske & Taylor, 1991). For example, research on schema-triggered affect (Fiske, 1982) indicates that schemas carry affective associations, and new instances that are perceived to fit the schema will be imbued with those associations. Similarly, people have affective expectancies (Wilson, Lisle, Kraft, & Wetzel, 1989) regarding upcoming situations, and

> if the actual experience fits their expectancy, their affective reactions are faster; if the experience is slightly discrepant, they may still assimilate it to the expectancy. When the experience is quite discrepant and they notice it, people have more trouble forming preferences. (Fiske & Taylor, 1991, pp. 427-428)

If jurors have a prior schema for how accidents generally happen—that they are caused by one and only one party—and a set of affective responses is

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7 As in our previous study, however, we failed to find the inverse correlation between sympathy for the plaintiff and sympathy for the defendant that Bornstein (1994) reported (*r* = .08, *N* = 214, ns).
behaved as wrongfully passed.

paradoxical received to think that the defendant was more to blame, the plaintiff must not have
gotten appropriation of daily residence to that his presence appears as a conspirator's action.

Some of the findings in the present experiment reflect this view. In judging whether the plaintiff
materials inquired accounts for the first point. Both of the case, scenario involving
Note that attributability ambiguity affected pariah interrelationships emotional responses
’found.

that way. It would be less readily assimilated, leading to more muted responses, as we
seriously sort. Feeling sad or sorry for the plaintiff. The attributability complex
involved with the characters depicted (Zillmann, 1969). The attributability
involved in mediation, has been shown to facilitate empathic
(Slade, 1969), and thus provides further evidence of the Jouris' hypotheses. 

by in fact the more morally blame-worthy the act is (culpable cooperation; Altheke, 1972).

of Wiltshire, 1980). The tendency to ascribe more causal responsibility

the case, scenario involving the most from some regretroom room (home theater;)

that is, follows that fewer develop the most from some regretroom room (home theater;)

to concide with the neuroticism view of accidents as the fundamental attribution

following major may possess a commonsense schema of responsibility for accidents and

especially effective explanatory theory, there does seem to be considerable evidence

and so cannot offer our findings as direct support for either the schema-fitted or

Although we did not directly test for the existence of any such prior schemes

the schema by being attributability ambiguous would be expected to trigger

associated with that schema (e.g., feeling sorry for the victim), then cases that fit
many real product-liability and workplace-accident cases, depicted an individual plaintiff versus an impersonal corporate defendant (Appendix A). Photographs of the plaintiff before and after the accident made his presence all the more vivid. Thus, the effect of attributional ambiguity on participants’ emotional reactions toward the plaintiff, but not the defendant, may be a result of participants’ greater attentional focus on the plaintiff. At the same time, attributional ambiguity may have affected participants’ empathetic emotions but not their aversive ones (anger and disgust) because a floor effect (anger toward the plaintiff, $M = 2.52$, $SD = 1.25$; disgust with the plaintiff, $M = 2.02$, $SD = 0.98$, on 7-point scales) restricted the range of aversive emotional responses, and thus attenuated their relationships with other variables.

Interestingly, at the same time that attributional ambiguity reduced participants’ empathetic emotional response to the plaintiff, it increased their gross damage awards and decreased their agreement with the proposition, “I don’t think the outcome of this accident was severe for [the plaintiff],” $F(1, 206) = 6.94, p < .01$. We suspect that the additional mulling over of the details of the attributionally ambiguous case made the plaintiff’s injuries more salient and hence more available to the participants (Tversky & Kahneman, 1982). The availability of this information in participants’ minds increased their sense that the outcome was severe and that the victim deserves more compensation. If this account is correct, this measure of the attributional ambiguity effect would be predicted not to obtain in most actual cases, because jurors in actual cases already have sufficient reasons to take the plaintiff’s injuries seriously, regardless of the attributional configuration of the case.

We must keep in mind that attributional ambiguity significantly affected only participants’ empathetic emotional responses to the plaintiff. Their attributions of fault were not significantly affected by attributional ambiguity. Participants may have been drawn to feel about the case in ways that fit the response patterns prompted by melodrama, and some of their feelings influenced some of their ultimate judgments, but in making those judgments participants did not simply give in to their predilection for melodrama.

**Biases in Judgments of Fault and Compensation**

We found in our previous study (Feigenson et al., 1997) that mock jurors conflated judgments of fault and compensation, and did so in a way that displayed an anti-plaintiff bias. The present results confirm the first finding and qualify the second. Outcome severity significantly affected responsibility attributions: The more seriously the victim was hurt, the greater the percentage of fault that participants attributed to the defendant. Thus, as in the previous study, participants conflated judgments of responsibility and fault, although on the whole there was less evidence of this. Unlike the previous study, participants in the present
The research shows that jurors consider serious injury to constitute more severe
injuries than death, as measured by compensatory damage awards (Bovbjerg,
1997). In addition, the severity of the victim's injuries is correlated with gross
damages, regardless of the defendant's efforts to mitigate. This suggests that
participants in the second study, who were instructed to adjust gross damages
based on their perception of the defendant's efforts to mitigate, were more
likely to award higher damages than those in the first study, who were not.

In contrast, the first study found that participants in the second study,
who were not instructed to adjust gross damages, did not take into account
the defendant's efforts to mitigate. This suggests that the second study
provided more accurate assessments of the defendant's actions.

Overall, the results indicate that the severity of the victim's injuries and
the defendant's efforts to mitigate play significant roles in determining
the amount of damages awarded.
manipulation of outcome severity overcomes any other anti-plaintiff bias, at least with regard to this particular measure.9

Nevertheless, other results suggest that participants in the present study blamed the accident victims. First, participants assigned nonzero percentages of fault to plaintiffs in the low plaintiff-blame conditions, which were designed so that the plaintiff was more or less legally blameless. Second, as in the prior study, participants’ discursive responses indicated that some of them simply assumed that the low-blameworthiness plaintiffs must have done something to bring about their misfortunes, although nothing in the facts supported such assumptions. For instance, in the exploding-house case (Appendix A), some participants asserted that the homeowner should have demanded that the defendant gas company replace the intake valve in his house sooner, even though the facts do not indicate that this was within his power. In both of these respects, participants seemed to be reaching for a way to deflect responsibility away from the defendant and toward the plaintiff (Vidmar, Lee, Cohen, & Stewart, 1994). Third, increasing the plaintiff’s blameworthiness significantly increased participants’ anger at the plaintiff much more so than increasing the defendant’s blameworthiness increased their anger at the defendant. This is one indication of defensive attribution, which, as we have argued previously (Feigenson et al., 1997), may underlie an anti-plaintiff bias.10

The defensive attribution of blame to an accident victim is also related to belief in a just world. People’s belief that the victim “got what he deserved” serves to rationalize their habit of distancing themselves psychologically from the victim in order to preserve their belief that they can themselves avoid similar misfortune (Lerner, 1980; Wispé, 1991). Consistent with this, we found a significant negative correlation between participants’ belief in a just world and their empathetic emotions toward the plaintiff: sympathy for the plaintiff, r = -.14, N = 214, p < .05; sad for the plaintiff, r = .15, N = 214, p < .04; and sorry for the plaintiff, r = -.15, N = 214, p < .04. In short, we found considerable evidence of anti-plaintiff sentiment.

The present experiment is among the first to explore the effects of legally relevant variables (party blameworthiness and outcome severity) on jurors’ multiple

9One might speculate that participants in the present study would have had more difficulty blaming the handicapped victims in the severe-outcome condition (whom they could see) than the participants in the earlier study faced in blaming the (absent) deceased victims in the severe-outcome condition in that study. The results appear to support this: Participants in the present study apportioned somewhat less fault on average to victims in the severe-outcome condition (M = 25.98%) than did participants in the previous study (M = 28.00%).

10This could also reflect simply that the manipulation of the plaintiff’s blameworthiness was more effective than was that of the defendant’s blameworthiness. Other measures support this interpretation; for example, that the effect of the plaintiff’s blameworthiness on the percentages of fault apportioned to the parties (Cohen’s d = 0.62) was much larger than the effect of the defendant’s blameworthiness on percentage fault (d = 0.38).
References

Emotion and cognition to reach decisions in accident cases. Present results offer important insights into the ways in which jurors combine emotion and cognitive processes to make decisions. Researchers have, however, shown that the way in which emotion is evaluated varies depending on the emotional content of the case. For instance, in cases involving personal injury, the intensity of emotion plays a significant role. Scoville et al. (1969) showed that the intensity of emotion affects the intensity of emotion. Similarly, emotional images, such as videos or photos, can influence jurors' decisions. In addition, the novel finding that the attributional complexity of emotions in co-accident cases, and to identify the emotional responses in co-operative negligence cases, and to identify the

et al. (1988)

In addition, the novel finding that the attributional complexity of emotions in co-accident cases, and to identify the emotional responses in co-operative negligence cases, and to identify the emotional responses in co-operative negligence cases, and to identify the emotional responses in co-operative negligence cases, and to identify the emotional responses in co-operative negligence cases, and to identify the emotional responses in co-operative negligence cases.


shattered legs have to be amputated. He suffers severe and lasting internal injuries and his
horror as he watches the train that will end his life crush over the switch and collide with the cars on the main track. Mr. G is crushed
onto the main track, where other cars are standing. The train backs up and goes
crossing switch has been improperly set in a position that will send its train
rules. For these reasons, Mr. G does not notice [even though Mr. G brings his
switches! 'and Mr. G has forgotten to bring his lantern, a violation of Railroad
condutor through the breaking maneuver. The Railroad [has no evidence] (has
condutor himself on the rear of the train at back of his train, st the critical
condition worse (condutor, engineer, brakeman) and back a train up in a yard
in which the Railroad has never before assisted him to work for the critical
task. Mr. G is position himself in the rear on making him a condutor, but never again.
Worcester Railroad. He has been employed for about 9 months as a brakeman.
Mr. G is a young brakeman, who works for the defendant, Providence &

Case 2: Train accident

rendering him a paraplegic (unable to use his legs) [a black eye and facial
In the regenerator, then the explosion occurs. He suffers severe spinal injury
he steps through the front door] [Mr. Rogers was away from the house, fellow-
into the yard. After a moment, Mr. Rogers goes back toward the house
the small flammability of the explosion, which is so loud that the
he goes outside and hears the hissing from this kitchen. He goes outside and checks
in the house. He is at the front door, where he is at the front door
in the house. He is at the front door, where he is at the front door

Case 1: Exploding house

Appendix A
Independent Variables

Outcome severity: [severe] [mild]
Victim blameworthiness: [high] [low]
Defendant blameworthiness: [high] [low]
Scenario: Exploding house [pain accident]
Outcome severity: severe [mild]
The top of the next page and pain and suffering, and write the amount in the blank space marked "x."

and pain and suffering, and write the amount in the blank space marked "x."

on an amount for medical costs, lost wages, uninsured property damage, if any, and
accident. How much money do you think should be awarded the plaintiff? Decide
[5300.00] [5000.00] [5300.00] [5200.00] [5300.00]

The attorney for the plaintiff has asked for a $3,000,000.00 awarded to compensate the victim and his family for the

Gross Damages

b. Plaintiff (relevan name in each case):%

c. Defendant (relevant name in each case):%

Contribute losses for the outcome. Your percentage should add up to 100%.

Do you think the percentage is at all to blame for the outcome? Circle Yes or No

O

Do you think the defendant is at all to blame for the outcome? Circle Yes or No

Appointment of Fault

By sympatly for or prejudice against either party.

that factor in producing il in making these decisions, you should not be swayed
under the circumstances. An act is a "cause" of the accident when it is such as
consequence of bringing is something that a reasonably prudent person would do
is doing something that a reasonably prudent person would not do under the cir-
party was at fault, and that the fault caused contributory to the accident. "Fault" of the

between the plaintiff (relevant name in each case) and the defendant (relevant
name in each case). To find a party blameworthy, you must find both that the

The next several questions ask you to allocate blame or responsibility

Judge's Instructions

Appendix B

EMOTIONS AND COMPARETIVE NEGLIGENCE