

University of Nevada, Reno

**Mock Jurors' Attributions and Attributional Processes in a Medical Malpractice Case:  
Examining the Influence of Plaintiff Weight, Juror Characteristics, and Deliberations**

A dissertation submitted in partial fulfillment of the requirements  
for the degree of Doctor of Philosophy in Social Psychology

by

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## Abstract

Research suggests that most Americans harbor weight-related prejudices, which can translate into discrimination against the obese across a variety of contexts. Yet, little is known about how anti-fat bias may influence juror decisions in cases involving an obese trial participant. This study examined the main and interactive effects of plaintiff weight, deliberations, and individual differences on jurors' decisions in a medical malpractice case. The Culpable Control Model (CCM) was used to ground the research and to help illuminate the attributional processes underlying mock jurors' decisions.

College student mock jurors were presented with a photograph of either a normal weight or obese plaintiff and assigned to non-deliberating or deliberating conditions. After reading the case summary, non-deliberating jurors rendered case judgments independently and responded to a series of items designed to measure attributional processes in accordance with the CCM. Deliberating jurors also reviewed the case summary independently but then discussed the case in small groups; each group rendered case judgments as a jury. Following deliberations, jury group members were instructed to provide independent, "individual level" responses to the same series of items completed by the non-deliberating jurors. Several individual differences were assessed in the total sample, including belief in a just world (BJW), belief in the protestant work ethic (BPWE), and anti-fat attitudes (AFAs).

Results revealed no main effects of plaintiff weight on case-related judgments or on any of the measures of attributional processes. However, deliberations and several individual difference variables moderated the effects of plaintiff weight on the dependent variables. Contrary to expectations, deliberations appeared to exacerbate rather than attenuate the effects of anti-fat bias on jurors' decisions. Compared to non-deliberating jurors, deliberating jurors were more likely to find the obese plaintiff responsible for the negative medical outcome

and awarded fewer non-economic damages to the obese plaintiff. Numerous individual differences variables moderated the effects of plaintiff weight on the dependent variables, but BJW was the strongest, most consistent moderator. As expected, those with stronger just world beliefs were less likely to find the defendant liable and were overall more punitive toward the obese plaintiff than those with weaker beliefs. Analyses further indicated that jurors' attributional processes were consistent with those proposed by the CCM, such that their initial reactions to the case and the plaintiff and defendant influenced their interpretation of attributional information and criteria, which in turn influenced their case decisions. Significant findings not directly tied to formally advanced hypotheses also emerged. Overall, deliberating jurors were more lenient toward the defendant than non-deliberating jurors. In addition, analyses revealed several main effects of individual difference variables on case judgments and attributional processes.

This research is limited in terms of verisimilitude and generalizability; yet, it also yields many significant findings that have thus far been undocumented in published studies. Both the contributions and limitations of this study illuminate exciting directions for future research. In particular, more research is needed to clarify how anti-fat bias may affect jurors' in particular circumstances, how civil jurors' decisions may be impacted by deliberations and individual differences more generally, and how the CCM can best be used to help understand decision-making in applied contexts.

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## Chapter 1: Introduction

The integrity of the U.S. justice system largely rests upon the decisions made by ordinary citizens. In assuming the role of a juror, these citizens are faced with a formidable task. Though humans naturally incorporate prior experience, attitudes, and intuition into their decisions (Kunda, 1999), jurors are instructed to ignore such factors, rendering a verdict only in accordance with the evidence and testimony presented at trial (Feigenson, 2000). Such verdicts bring serious consequences. They often permanently alter the lives of alleged victims, defendants, and the trial participants' families; they also may set a precedent for legal interpretation in future cases.

Over the past several decades, social science researchers have become increasingly interested in the processes underlying jurors' decisions and susceptibility to bias. Though case facts are the primary predictors of jury verdicts, a growing body of evidence indicates that jurors often incorporate emotions, attitudes, values, and other extra-legal factors into their decisions (see Devine, 2012; Feigenson, 2000). Most of this research has been conducted within the context of criminal cases; however, studies also suggest that civil jurors often are influenced by extra-legal factors (e.g., Feigenson, Park, & Salovey, 1997; Hastie, Schkade, & Payne, 1998). As "extra-legal factors" encompass all legally irrelevant considerations, researchers have examined a variety of phenomena that may inappropriately influence jurors' decisions. Examples include juror demographics and personality characteristics (see Lieberman & Olson, 2009, for a review), case-specific attitudes and beliefs (Giner-Sorolla, Chaiken, & Lutz, 2002; Hans & Loftquist, 1994; Vinson, Costanzo, & Berger, 2008), and consideration of case-related but legally irrelevant material such as pre-trial publicity (Kerr, Niedermeier, & Kaplan, 1999) and inadmissible evidence (Kerwin & Shaffer, 1994; London & Nunez, 2000). In addition, prejudice and

stereotypes may influence juror decisions as a function of victim or defendant characteristics such as race, religion, and attractiveness (e.g., Jones & Kaplan, 2003; Miller, Maskaly, Green & Peoples, 2011; Patry, 2008); this literature almost exclusively targets criminal jurors.

The current study will extend this line of research in examining the effects of plaintiff weight (obese vs. normal) on mock jurors' attributional processes and decisions in a hypothetical medical malpractice case. The near-ubiquity of weight-related stereotypes and prejudice in America is well documented (Crandall, 1994; Quinn & Crocker, 1999; Teachman, Gapinski, Brownness, Rawlins, & Jeyaram, 2003) and these negative attitudes and beliefs often translate into behavioral responses. Overweight and obese individuals are subject to discrimination across a wide variety of contexts, such as in employment, educational, and healthcare settings (see Puhl & Heuer, 2009, for a review). Considering the prevalence of weight stigmatization in America, it is conceivable that anti-fat bias may affect juror decisions in cases involving an overweight party. Yet, this extra-legal factor has been largely ignored by jury decision making researchers, with two exceptions (Reichert, Miller, Bornstein, & Shelton, 2011; Schvery, Puhl, Levandoski, & Brownell, 2013). A more thorough understanding of how anti-fat bias may influence juror decisions is needed, as both the incidence of obesity and weight discrimination in America are increasing (Puhl, Moss-Racusin, Schwartz, & Brownell, 2008). Exploring reactions to the plaintiff in a malpractice case may help address other gaps in the jury decision making literature (e.g., the need to increase focus on civil jurors and on malpractice cases in particular; examining extra-legal factors related to plaintiffs rather than to defendants).

In addition, this research will explore the effects of deliberations on juror decisions and attributional processes. Jury decision-making research is often criticized for examining the decisions of individual jurors rather than those of deliberating jurors (Bornstein, 1999); thus, the



incorporation of deliberations in the current research is critical to its generalizability. Generally, research has shown that deliberations attenuate the biasing effects of a variety of extra-legal factors (London & Nunez, 2000; Patry; 2008; Sommers, 2006), though there are some cases in which deliberations may actually exacerbate the influences of extra-legal factors on jurors' decisions (Kerr, Niedermeier, & Kaplan, 1999; MacCoun, 1990). With respect to the current research, it is expected that deliberations will minimize any individual biases stemming from the plaintiff's weight. Findings also may illuminate more general effects of deliberations on juror decisions in malpractice cases.

This research is guided by the Culpable Control Model (CCM), an attributional framework focusing on the effects of emotion and motivation on blame ascriptions (Alicke, 2000). Briefly, the CCM proposes that negative reactions to an event and the actors involved bias processing of attributional information (i.e., information about causality, intention, and foresight), which in turn lead to blame judgments that cohere with these initial negative reactions (Alicke, 2000). As the CCM assigns a central rather than a peripheral role to bias in the attributional process, it is highly applicable to an investigation of the effects of extra-legal influences on jury decision making (Nadelhoffer, 2006). Moreover, the CCM can help account for the influences of affect and motivation on juror decisions (e.g., via biased processing of evidence or by directly impacting blame ascriptions; Alicke, 2000). A relatively new model, the CCM has not been comprehensively tested, and has only been applied to jury decision making in one published study (Bright & Goodman-Delahunty, 2008). Thus, the current research can further both theory and practice by examining the assumptions of the CCM and expanding this model into psycho-legal arenas.

This work will proceed in the following manner:

Chapter 2 discusses the extent and nature of weight-stigmatization to support the contention that jurors in the current study will be influenced by plaintiff weight. Evidence of prejudice and discrimination against the overweight and obese is reviewed, as are the potential underpinnings of anti-fat bias. Chapter 3 advances Crandall and Eshleman's (2003) Justification-Suppression Model of Prejudice (JSM) as the most plausible framework for understanding weight-related prejudice and its expression. Though all aspects of the JSM will not be explicitly tested in the current research, results can help substantiate its main tenets. Ultimately, this theory will help guide predictions in the current study regarding the likelihood that jurors will express their weight-related prejudices (overtly or covertly) via their individual judgments and during deliberations. Further, the principles of the JSM are highly consistent with those of the CCM, which grounds the current research.

Chapter 4 describes how extra-legal factors can influence juror decisions, specifically focusing on the documented and anticipated effects of the extra-legal factors most relevant to the current research. This chapter aims to illustrate the complexity of the effects of extra-legal factors on trial outcomes. Multiple case-related features (including case and offense type, decision rules, characteristics of trial participants, etc.) may interact with juror characteristics (e.g., demographics, personality, ideology, attitudes and beliefs) when impacting juror decisions. This chapter concludes with a discussion of how extra-legal factors are expected to influence juror decision making in the current research.

The current research will measure and compare judgments of individual and deliberating jurors. Chapter 5 discusses how deliberations can both attenuate and exacerbate juror bias. Information and normative processes are implicated as the primary psychological mechanisms responsible for attenuation/exacerbation effects. After reviewing this research, it is

concluded that deliberations in the current study will most likely attenuate the effects of anti-fat bias on juror decisions (such that jurors who deliberate will be less affected by plaintiff weight than will individual jurors). However, deliberating jurors may still be influenced by plaintiff weight, particularly if the jury is relatively homogenous.

Chapter 6 introduces the Culpable Control Model, the attributional framework grounding the current research. This chapter summarizes the main tenets of the CCM and relevant literature. Specific emphasis is placed on the CCM's applicability to the current research (as opposed to other attributional frameworks) and the merits of conducting a thorough test of the model. Predictions for the current research will be described in terms of the CCM and its relationship to the JSM.

Chapter 7 presents an overview of the study, highlighting its purpose, design, general methodology, and expected findings. Specific hypotheses and research questions are advanced. Chapter 8 describes methodology in further detail and includes information on participants, procedures, and all measures and materials used in this research. Chapter 9 details data coding, scoring and scale development. In addition, Chapter 9 describes data screening procedures and presents the results of preliminary analyses exploring verdict distribution and participant characteristics across conditions. Chapter 10 presents all results from analyses addressing hypotheses and research questions that pertain to the non-deliberating sample, and Chapter 11 presents all results from analyses and research questions pertaining to the deliberating sample and to comparisons between non-deliberating and deliberating samples. The implications of these findings for theory and practice are discussed in Chapter 12, as are the limitations of the current study and directions for future research. Conclusions are summarized in Chapter 13.

## Chapter 2: Weight Stigmatization

The incidence of obesity in America has increased dramatically in recent years. As of 2010, approximately 67% of adults were overweight or obese, and 35.7% of these were classified as clinically obese (Centers for Disease Control and Prevention, 2012). Despite the prevalence of obesity, research suggests that weight-related stigma is actually intensifying (Puhl et al., 2008). Now more than ever before, there is a need for research focusing on how weight stigmatization operates in unexplored contexts, such as in the legal system.

This chapter explores several facets of weight stigmatization as a foundation for understanding its potential influence on juror decision making, particularly with respect to medical malpractice cases. First, it reviews literature examining anti-fat attitudes, beliefs, and emotions, and how these constructs translate into behaviors (i.e., discrimination against the overweight). Second, it describes the likely underpinnings of and moderators of anti-fat bias. Taken together, this research suggests that anti-fat bias may indeed affect jurors' decisions and attributions. The manifestation of weight-related prejudice in jury decision-making contexts will be discussed further in Chapter 3, which focuses on the applicability of Crandall and Eshleman's (2003) justification-suppression model (JSM) to the current research.

### **Scope and Nature of Anti-fat Bias**

Researchers have argued that the obese are among the few remaining socially acceptable targets of prejudice and discrimination in an increasingly "politically correct" environment (see Latner, O'Brien, Durso, Brinkman, & MacDonald, 2008; Puhl & Brownell, 2003). Indeed, an extensive body of literature has demonstrated the near-ubiquity of anti-fat bias in America. Pervasive negative attitudes and beliefs about the obese have been documented in multiple populations, including college students, medical professionals,

employers, educators, close family members and friends of the obese, and those who suffer from obesity themselves (see Puhl & Heuer, 2009, for a review). Not only do these negative attitudes and beliefs lead to harmful psychological consequences for many obese individuals, but they also promote weight discrimination (Bannon, Hunter-Reel, Wilson, & Karlin, 2008).

Stereotypes about the overweight and obese are highly consistent. This population is commonly characterized as lazy, unmotivated, lacking in self-discipline, incompetent, sloppy (Puhl & Heuer, 2009), unintelligent (Puhl et al., 2008) and unlikeable (Weiner, Perry, & Magnusson, 1988). Though medical professionals should better understand the causes and nature of obesity than many laypersons, they too share many of these perceptions. More than half of 620 primary care physicians believed obese patients to be awkward, unattractive, and noncompliant (Foster et al., 2003). Other studies examining attitudes and beliefs in samples of over 500 physicians have found that roughly one-third of participants viewed obese patients as lazy and self-indulgent (Bocquier et al, 2005; Campbell, Engel, Timperio, Cooper, & Crawford, 2000). Such beliefs also are common among other medical professionals such as nurses (Brown, Stride, Psarou, Brewins, & Thompsom, 2007) and dieticians (Berryman, Dubale, Manchester, & Mittelstaedt 2006), as well as among elementary and secondary school teachers (Greenleaf & Weiller, 2005; Puhl & Latner, 2007).

Numerous researchers have assessed more comprehensive attitudes toward the overweight, most commonly via scales targeting a combination of cognitive, affective, and behavioral components of anti-fat attitudes (see Allison, Basile, & Yaker, 1991; Latner et al., 2008; Wrench & Knapp, 2008); some also have measured implicit attitudes toward the overweight and obese (Teachman & Brownell, 2001; Teachman et al., 2003). Consistent with studies exploring particular stereotypes of the overweight and obese, this body of research

suggests that anti-fat attitudes are pervasive and widespread across a variety of populations (e.g., college students, non-student adults, close friends and family members of obese individuals, medical professionals; Bannon et al., 2008; Puhl & Brownell, 2003; Teachman & Brownell, 2001). Such general negative evaluations of obese targets are often accompanied by negative affective responses such as anger, disgust, and discomfort (Pryor, Reeder, Yeadon, & Hesson-McInnis, 2004; Weiner et. al., 1998).

More specific examinations of attitudes toward the overweight and obese illuminate the unique nature of anti-fat bias. Most notably, research consistently reveals that overweight individuals are equally likely to express anti-fat attitudes as their thinner counterparts (Bannon et al. 2008; Latner et al., 2008; Teachman et al., 2003; Quinn & Crocker, 1999); they seem to lack the protective ingroup identification characteristic of other stigmatized groups such as ethnic minorities, religious minorities, and gays (Latner et al., 2008). This may be in part attributed to the “temporary” nature of obesity; obese individuals may anticipate losing weight and escaping their marginalized status (Puhl & Brownell, 2003). In addition, close contact with obese individuals or knowledge of the multiple causes of obesity does not appear to significantly attenuate negative attitudes towards the overweight or obese, as medical professionals and close family members and friends of obese individuals often exhibit strong anti-fat attitudes (Puhl & Brownell, 2003; Puhl & Heuer, 2008; Puhl et al., 2008). This diverges from other findings that frequent contact with members of marginalized groups often attenuates negative attitudes and stereotypes about these groups (Corrigan, Markowitz, Watson, Rowan, & Kubiak, 2003; Haider-Markell & Joslyn, 2008).

Though anti-fat bias is profound, expressing prejudice against the overweight may not be as “socially acceptable” as some researchers have assumed (e.g., Puhl & Brownell, 2003).

Implicit attitude tests typically yield more negative evaluations of the obese than do explicit attitude tests (Teachman & Brownell, 2001; Teachman et al., 2003), and higher scores on measures of social desirability predict more benign explicitly expressed attitudes toward the obese (Latner et al., 2008). Research has indicated that prejudice against obese persons is considered “moderately acceptable” - more appropriate than prejudice against ethnic and religious minorities, but less appropriate than prejudice against smokers, alcoholics, and homeless people (Crandall, Eshleman, & O’Brien, 2002). Thus, though prejudice against the overweight may indeed be more “politically correct” than that against some other marginalized groups, its expression is still socially sanctioned.

Social norms sometimes prohibit the expression of prejudice against the obese, but the aforementioned negative beliefs, attitudes, and emotions do often result in discrimination against this population. Participants were less willing to assist an obese target (via personal assistance or endorsement of charitable interventions) than a normal weight target (Weiner, 2006; Weiner et al., 1988); they also distance themselves (e.g., via requesting an alternative interaction partner) from obese confederates (Graziano, Bruce, Sheese, & Tobin, 2007; Pryor et al., 2004). Interpersonal research has indicated that men are significantly less willing to pursue a dating relationship with obese females than with normal weight females (Smith, Schmoll, Konik, & Oberlander, 2007), and are more willing to date a woman with a history of drug abuse than an obese woman (Sitton & Blanchard, 1995).

Discrimination also exists in employment settings. Large-scale survey data indicate that obese workers earn significantly less than their thinner counterparts, despite controlling for multiple confounds such as socioeconomic status, familial variables, and health limitations (Baum & Ford, 2004; Cawley, 2004; Maranto & Stenoien, 2000). Wage penalties tend to increase

with employees' weight, and are more pronounced among female workers (Baum & Ford, 2004; Maranto & Stenoien, 2000). Employees' weight also may affect a variety of other job-related outcomes. For instance, experiments have revealed that participants were significantly less likely to "hire" obese applicants and evaluated overweight employees more negatively than normal weight employees (see Roehling, Roehling, & Pichler; 2007, for a review).

Furthering the notion that close contact with obese individuals fails to reduce prejudice toward this group, Crandall (1991, 1995) found that overweight female college students were significantly less likely to report that their parents helped pay for their college education than normal weight female students. Though Crandall (1991, Study 1) found some evidence of similar discrimination against overweight male college students, this effect was not replicated in a different sample obtained from the same University (Crandall, 1991, Study 2). The relationship between female college students' weight and parents' financial contributions persevered after controlling for ethnicity, number of children in the family, parents' income and education, and other potential confounds; however, it was more pronounced among conservative families. Interestingly, conservative families contribute more to their daughter's college education overall, suggesting that this bias toward overweight daughters stems from a more complex interplay between ideology and behavior (i.e., conservative parents are not less inclined to pay for their daughter's college in general; Crandall, 1995). This discrepancy may be partially attributable to conservatives' heightened tendency to endorse weight-related stereotypes (see Crandall, 1994; Crandall et al., 2001). For instance, conservatives may be more likely to believe that obese persons are unintelligent and unmotivated than are liberals, and therefore may subconsciously perceive funding their overweight daughter's college education as wasteful. Crandall (1995) further suggests that the negative emotions stemming from conservatives'



propensity to blame the obese for their situation impact their decisions regarding college financial support.

Evidence of discrimination against the obese in health care settings is primarily obtained via self-report (e.g., Anderson & Wadden, 2004; Thompson & Thomas, 2000) or secondary data. Examining videos of first-time primary care physician visits, Bertakis and Azari (2005) found that physicians spent less time providing health-care education to obese patients than to normal weight patients. However, comparisons between obese and normal weight Veteran's Health Administration patients and medical beneficiaries failed to detect differences in the quality of care as measured by a few specific indicators (i.e., whether patients received recommended tests, screenings, and vaccinations; Chang, Asch, & Werner, 2010). More research is needed to determine whether obese patients are subject to lower-quality care in other areas, or if physicians are largely able to separate anti-fat attitudes from their behaviors and decisions in practice.

In sum, weight stigmatization is a powerful and widespread force in America. It is unique from other forms of stigma in several respects. Typically, the targets of stigmatization are members of minority groups, but weight stigmatization has become more pervasive even though most Americans are overweight or obese (Puhl et al., 2008). Close contact with obese or overweight individuals does not appear to minimize anti-fat bias (see Puhl et al., 2005; Puhl & Heuer, 2009). In fact, even obese and overweight individuals themselves frequently harbor anti-fat attitudes and endorse some forms of weight discrimination (Crocker & Major, 1994; Quinn & Crocker, 1999). Social norms may often prohibit the blatant expression of weight-related prejudice; still, weight discrimination has been documented across a variety of contexts. Thus, it

is quite possible that jurors' anti-fat sentiments may indeed influence their decisions as a function of plaintiff weight.

### **Underpinnings of Weight Stigmatization**

The potential foundations and moderators of anti-fat bias have been relatively well-studied. There is a general consensus among researchers that weight stigmatization ultimately stems from the tendency to blame obese individuals for their condition (Bannon et al., 2008; Puhl et al., 2008; Teachman et al., 2003). Two main lines of research dominate the understanding of the foundations of weight stigmatization: One retains its primary focus on the attributions for obesity (Weiner et al., 1988; Weiner, 2006), whereas the other gives more consideration to ideological variables that affect such attributions (Crandall, 1994; Crandall & Martinez, 1996; Crandall et al., 2001). Both help to explain the growing strength and scope of anti-fat bias; however, there may be additional components of weight stigmatization that are not yet well understood.

Weiner's (2006) motivational model of attribution helps illuminate the basic foundations of anti-fat bias. Though this framework has been used to explain attributions across a variety of contexts (e.g., in employment and educational settings), it was initially developed to account for reactions to stigmatized groups such as the homeless and those who suffer from both mental and physical illnesses (Weiner et al., 1988). Like many other attribution theorists, Weiner proposed that when confronted with a situation (e.g., a stigma, an illness, a negative outcome), observers first search for its underlying cause. The belief that a condition or situation was caused by factors outside of an individual's control (e.g., genetics, situational features, random misfortune) minimizes ascriptions of responsibility and elicits affective responses such as empathy and pity. These emotions in turn foster more positive attitudes, reduced "social

distance” between perceivers and actors, and an increased willingness to assist the target. The belief that a condition or situation was caused by factors largely within an individual’s control, however (e.g., behavioral choices), increases ascriptions of responsibility as well as feelings of anger and contempt. Such negative affective responses lead to less favorable evaluations and minimized willingness to interact with or assist members of the group in question. According to Weiner’s framework, then, the pervasive American belief that weight is highly controllable is responsible for weight-related prejudice and discrimination. Indeed, research demonstrates solid relationships between perceptions of weight controllability, responsibility attributed to the overweight, resulting emotions, and attitudes/behavioral responses in the predicted directions (Weiner et al. 1988, Weiner, 2000).

Attributions of responsibility help to explain prejudice against the overweight, but there are likely more complex social, cultural, and psychological factors underpinning anti-fat bias. Though the majority of Americans are overweight, an intense “fear of fat” perseveres (Puhl & Brownell, 2003). One study found that 24% of women and 17% of men reported that they would give up three or more years of their lives to achieve their ideal weight (Garner, 1997). In addition, many Americans develop eating disorders or smoke cigarettes in an effort to remain thin (Puhl & Brownell, 2003). It is unlikely that individuals would risk their lives on the basis that obesity is merely a “blameworthy” condition; further, those who develop illnesses resulting from the aforementioned behaviors (e.g., lung cancer, bulimia) are also widely perceived as responsible for their situation (Bannon et al., 2008; Pryor et al, 2004). Moreover, presenting obesity as largely uncontrollable typically does not attenuate anti-fat bias (see Bannon et al., 2008; Crandall & Martinez, 1996; Teachman et al., 2003).

Crandall (1994) argued that anti-fat bias is a product of attributions of responsibility and their links to more deep-seated American values. Specifically, Crandall and Martinez (1996) proposed that a vast ideological network founded on the Belief in a Just World (i.e., that life is ultimately fair and people get what they deserve) and the Protestant Ethic (i.e., that anyone can achieve success through hard work and determination) guides attributions of blame for obesity, leading to the social rejection of fat people. Thus, much like the concept of symbolic racism (Sears, Lau, Tyler, & Allen, 1980; Kinder & Sears, 1981), prejudice against the obese may be considered “symbolic fatism” and function to reinforce one’s worldview (Crandall, 1994). Ultimately, in order to dislike obese people, one must have a cultural preference for thinness and also believe that weight is highly controllable (Crandall & Martinez, 1996). This contention is supported by findings that negative attitudes towards the obese are highly correlated with the Belief in a Just World (BJW), Belief in the Protestant Work Ethic (BPWE), authoritarianism, and conservatism (Crandall, 1994; Crandall & Martinez, 1996). Further, Crandall and colleagues (2001) found that attributions of controllability and cultural values exerted a multiplicative effect on anti-fat attitudes, but only in individualist countries such as the U.S. and Australia. Adding to Weiner’s (2006) framework, Crandall and Martinez’s (1996) mediational analyses support the assumption that individualistic values lead to blame, which in turn foster anti-fat bias.

Researchers also have illuminated likely moderators of weight-related prejudice and discrimination. Though anti-fat sentiments are pervasive across multiple sectors of the American populace, some individuals are more inclined to express prejudice against the obese than others. As indicated by Crandall (1994) and Crandall and colleagues (1996; 2001), individuals scoring higher in measures of related personality variables such as political conservatism,

authoritarianism, BJW, and BPWE express stronger anti-fat attitudes than those with lower scores on these assessments; they also may be more likely to discriminate against the overweight (Crandall, 1991, 1995).

Men have more pronounced anti-fat attitudes than do women (Latner et al., 2008; Puhl et al., 2005), and also are more likely to discriminate against the overweight or obese (Bannon et al., 2008; Graziano et al., 2007). The single published study examining the effects of defendant weight on mock jurors' decisions in a criminal case suggests that men's greater tendency to discriminate against the obese may occur in legal contexts (Schvey et al., 2013). In this study, participants were led to believe the defendant was either a normal weight male, and obese male, a normal weight female, or an obese female. The case scenario involving check fraud charges remained the same across all conditions. Defendant weight and gender had no impacts on female mock jurors' decisions. In addition, the weight of the male defendant did not impact male mock jurors' decisions. However, when the defendant was female, male mock jurors were significantly more likely to find her guilty when she was depicted as obese (Schvey et al., 2013).

These gender discrepancies may be attributable to a combination of factors. Throughout the past several decades, women have been significantly more likely to be overweight or obese than men. This gender gap has recently closed, with significant gender differences in the prevalence of obesity in America existing in 2007 but not in 2010 (Centers for Disease Control and Prevention, 2012). Despite this current finding, men lose weight at a faster rate than women, perhaps because of metabolic and physiological differences (Dasinger, Gleason, Griffith, Selker, & Shaefer, 2005; Hollis et al., 2008). This may be why men are significantly more likely than women to perceive weight as controllable and overweight individuals as responsible for

their situation (Bannon et al., 2008), which in turn may exacerbate anti-fat attitudes. Further, studies indicate that overweight and obese men do not experience the same level of stigmatization as their female counterparts (Crandall, 1991; Puhl et al., 2009; Schvey et al., 2013). Thus, men may simply be less sympathetic than women toward the overweight and obese.

As previously discussed, several studies have shown that overweight and obese individuals often express anti-fat attitudes and sometimes even approve of discrimination against members of their own ingroup (Bannon et al., 2008; Crocker, Cornwell, & Major, 1993; Crocker & Major, 1994). However, there is some evidence that those with higher Body-Mass Indexes (BMIs, a reliable indicator of body fatness; Centers for Disease Control and Prevention, 2011) are more inclined to sympathize with the obese and less likely to endorse weight-related stereotypes than those with lower BMIs (Teachman et al., 2003). The only published study to date examining the effects of plaintiff weight on jurors' decisions revealed that adult community members expressed more favorable opinions and judgments regarding an obese plaintiff than did college students (Reichert et al., 2011). Though participants' weight was not assessed, Reichert and colleagues proposed that community members (who varied widely in age) were more likely to have struggled with their weight than college students. Thus, many community members likely identified with the obese plaintiff on some level, which decreased their perceptions of patient responsibility for a negative medical outcome (and increased perceptions of physician responsibility). It should be noted, however, that Schvey et al. (2013) found that female participants' BMI did not affect their judgments in a criminal case regardless of defendant weight. However, male participants with lower BMIs were more likely to believe that

the obese female defendant met the criteria for her charged offense and would be a repeat offender than male participants with higher BMIs.

The relationships between the aforementioned individual differences and anti-fat attitudes are well established, but more evidence is needed to determine when and how these differences influence motivations, decision making, and behaviors. For instance, the behavioral outcomes of anti-fat attitudes among obese and overweight individuals are not well understood. They may be similarly prone to discriminate against the overweight as their thinner counterparts. Alternatively, some self-protective mechanism may be engaged that minimizes harmful behavioral responses toward members of their own ingroup, despite pre-existing anti-fat bias. Reichert et al.'s (2011) findings suggest that the weight of civil jurors may bias their decision making such that they are more lenient towards obese plaintiffs than normal weight-plaintiffs, but Schvey et al.'s (2013) findings suggest that the opposite effect may occur among male jurors. However, both predictions are speculative. Reichert et al. (2011) did not establish a direct relationships between participants' weight and decisions, and Schvey et al. (2013) examined the effects of participant BMI on judgments in a criminal case rather than in a civil case. More research is needed to determine how individual differences linked to anti-fat bias operate in applied contexts. The current study will explore the impact of individual differences such as gender, BMI, and personality variables (BPWE, BJW) on juror decisions in malpractice cases involving both normal weight and obese plaintiffs.

Though individual differences can exacerbate or attenuate anti-fat bias, few Americans are immune to negative weight-related stereotypes and attitudes. Anti-fat attitudes are highly resistant to change, as evidenced by the failure of educational interventions designed to depict weight as uncontrollable in minimizing anti-fat bias (Puhl et al., 2009; Teachman et al., 2003).

Moreover, anti-fat attitudes are intertwined with multiple related ideologies and beliefs (Crandall, 1994; Crandall et al., 2001). Such embeddedness should increase the stability of anti-fat attitudes, as changing the attitude would require significant modification and reorganization of the entire ideological network upon which it is founded (Petty & Wegener, 1998). As these attitudes are often affectively-based, it is probable that many malpractice jurors will be unduly influenced by a plaintiff's weight. The justification-suppression model of the expression and experience of prejudice (JSM; Crandall & Eshleman, 2003) may help elucidate the conditions under which such influence occurs.



### **Chapter 3: Antecedents and Consequences of Weight-Related Prejudice:**

#### **The Justification-Suppression Model**

Understanding stereotypes, prejudice, and discrimination has long been a primary concern in social psychology. Multiple theories of prejudice were advanced throughout the past several decades (Dovidio, Glick, & Rudman, 2005). Despite the recognition of “new” targets (e.g., homosexuals, religious minorities), most extant frameworks of prejudice focus on race and ethnicity. The JSM is unique in that it is an all-encompassing theory of prejudice, and consequently has been used to account for anti-fat attitudes and behaviors. Though recently advanced and somewhat inconsistent with prior notions regarding the underpinnings of anti-fat bias, the JSM is the most appropriate model for explaining when and how weight-related prejudice may influence juror decisions and attributional processes.

Popular race-centered models of prejudice include system-justification theory (see Jost & Banaji, 1994; Jost, Banaji, & Nosek, 2004) and aversive racism (Gaertner & Dovidio, 1986). The former contends that that stereotypes and prejudices exist to maintain the status quo and legitimize existing social arrangements (Jost et al., 2004). Aversive racism involves more covert forms of prejudice and discrimination, proposing that many American Whites hold egalitarian values but remain uncomfortable and fearful around Blacks, which in turn subconsciously affects their behaviors and decision making (Gaertner & Dovidio, 2005). Neither of these frameworks adequately describe weight-related prejudice. System-justification theory ultimately rests upon socio-economic concerns, and there is little evidence that the obese are subordinated at the expense of maintaining a social hierarchy (though values thought to promote anti-fat bias do indeed serve to justify existing arrangements). Moreover, it does not appear that individuals

experience significant discomfort or guilt with regard to their anti-fat attitudes, rendering aversive racism an unlikely explanation of anti-fat bias.

Though similarly focused on racial prejudice, symbolic racism (Sears & Kinder, 1971) is more applicable to anti-fat bias. Symbolic racism asserts that prejudice against Blacks is driven by a combination of “anti-black affect” and beliefs that Blacks violate traditional American values such as individualism and BPWE (Kinder & Sears, 1981). Weight-related prejudice is correspondingly believed to be a product of “anti-fat affect” (or a cultural preference for thinness) and the perception that the obese are responsible for their situation (Crandall & Martinez, 1996; Crandall et al., 2001). As previously mentioned, Crandall (1994) has explicitly likened anti-fat bias to symbolic racism, and the correlates of each (i.e., strong BPWE, GBJW; political conservatism; see Crandall; Kinder & Sears; 1981) are strikingly similar. Yet, symbolic racism provides little insight regarding how and when weight-related prejudice may be expressed, or how such prejudices may color jurors’ decisions and attributions.

Crandall and Eshleman’s JSM (2003) not only helps account for weight-related prejudice, but also elucidates the conditions under which these prejudices may be expressed and subsequently affect jurors’ decisions. As its name implies, the JSM is a model for the *expression* of prejudice rather than for the mere existence of prejudice. It posits that all individuals hold genuine prejudices, that is, inherent and unmanaged negative reactions to devalued group members. Genuine prejudices may be effortlessly acquired through a variety of social psychological processes (e.g., family influences, cultural dissemination, social categorization processes; Crandall & Eshleman, 2003). According to the JSM, genuine prejudices are powerful motivational forces grounded in affect, but are rarely expressed in true form. Rather, the expression of prejudice is typically a product of underlying genuine prejudice and suppression

efforts. People may suppress their prejudices for a variety of reasons: to comply with social norms, to present oneself favorably in front of an audience, or to reinforce one's self-conception as a caring and unprejudiced individual.

As genuine prejudice is a source of energy and negative affect, its suppression heightens psychological tension. In addition, suppression is an active, effortful process that usurps cognitive resources (Macrae, Milne, & Bodenhausen, 1994). Thus, release and expression of underlying prejudices is both psychologically and cognitively rewarding. The JSM identifies justifications as the primary mechanisms whereby genuine prejudices are released. Broadly, justifications are "any psychological or social process that can serve as an opportunity to express genuine prejudice without suffering internal or external sanction" (Crandall & Eshleman, 2003, p. 425).

Justifications may assume numerous forms. Crandall and Eshleman (2003) argue that many seemingly "inherent" and "stable" beliefs, values, and personality traits serve as justifications for the expression of prejudice. For instance, strong beliefs in a just world allow individuals to justify prejudice against the poor or other disadvantaged groups on the premise that "people get what they deserve," and Social Darwinists may release their prejudices through the belief that social inequalities are natural and inevitable (i.e., survival of the fittest). Similarly, prejudices may be justified through stereotypes. Beliefs that certain racial minorities are lazy or dishonest may minimize any guilt related to harboring prejudice towards these groups or help substantiate discriminatory behavior. Most pertinent to the proposed research, the JSM posits that attributions and attributional processes may function as justifications for prejudice. This is evidenced by the widespread tendency to "blame the victim." Presumably, discomfort associated with suppression of prejudice motivates individuals to find disadvantaged targets

responsible for their own suffering, thereby justifying prejudice and discrimination (Crandall & Eshleman, 2003).

The notion that attributions may serve to justify prejudice illustrates the uniqueness of the JSM. Most theories of prejudice and attribution maintain that the factors the JSM conceptualizes as justifications are causes rather than consequences of prejudice. Conversely, the JSM posits that many beliefs, values, stereotypes, and attributions develop in response to existing prejudice. This perspective seems antithetical to Crandall and colleagues' (1996, 2001) earlier research on weight-related prejudice suggesting that beliefs about the controllability of weight are causes rather than effects of anti-fat bias. However, Crandall and Eshleman (2003) concede that prior attributional beliefs may foster prejudicial attitudes in some cases, as predicted by many classic attribution theories (e.g, Kelly, 1973; Shaver, 1985; see Moskowitz, 2005). They further argue that pre-existing prejudices can determine the course of attributions, and that these attributions in turn function to strengthen and release underlying prejudice. Thus, individual differences likely serve both causal and justificatory roles with respect to anti-fat bias. Though interesting, the precise underpinnings of weight-related prejudice are less relevant to the current research than understanding the mechanisms guiding its expression.

### **Prior JSM Studies**

The JSM has not yet received significant empirical attention, nor has it been applied to psycho-legal issues. However, the JSM has been examined with respect to prejudice against the overweight and obese. Consistent with prior research (Teachman et al., 2003), Hegarty and Golden (2003) found that presenting obesity as a highly uncontrollable condition failed to attenuate anti-fat attitudes. Further, participants scoring higher on measures of anti-fat attitudes listed more attributional thoughts about the controllable origins of obesity following

the controllability manipulation than those with more benign attitudes. Hegarty and Golden (2003) argued that these results cohere with the JSM because they suggest that prejudice precedes attributions (i.e., responsibility for one's weight) and demonstrate the tendency for individuals with strong prejudices to justify their negative attitudes.

Others have used the JSM to account for differences in the expression of prejudice toward the overweight. King and colleagues (2006) found that "removing" common justifications for weight-based prejudice minimized covert forms of discrimination against obese shoppers. In a series of studies, overweight confederates either dressed professionally or casually, informed the salesperson that they were dieting or mentioned their unwillingness to exercise, and drank a high-calorie or diet beverage. These manipulations served as proxies for the degree of controllability confederates exerted over their appearance and responsibility assumed for their weight. Overweight confederates dressed professionally or dieting and drinking a diet beverage were subject to less covert discrimination (e.g., time elapsed before the salesperson approached the confederate, the salesperson's body language) than the other overweight confederates. Similarly, providing participants with a justification for prejudice (i.e., confederates purportedly expressed negative attitudes toward the participants' university) increased covert discrimination against the obese but not normal weight confederates (Graziano et al., 2007). However, participants scoring low in Agreeableness expressed prejudice both in the presence and absence of justifications, whereas those high in Agreeableness expressed prejudice only when provided with a justification. Interestingly, those high in Agreeableness expressed *more* prejudice toward the obese target than those low in Agreeableness in the justification condition. In all conditions, men were more likely to express prejudice than women.

These findings suggest that the expression of prejudice may be related to individual factors (e.g., self-presentational concerns) in addition to the strength of genuine prejudice.

The JSM provides a more parsimonious account of weight-related prejudice than do most extant theories, which tend to focus on ethnic prejudices and its specific causes (see Dovidio, Gluck, & Rudman, 2005). Rather than attempting to disentangle all of the precise underpinnings of weight-related prejudice, the JSM simply posits that such prejudices exist for a variety of reasons, and that their affective force motivates expressive and justificatory processes. This motivational component of genuine prejudice helps substantiate the proposition that anti-fat bias will affect juror decisions and attributional processes.

#### **Applicability of the Justification-Suppression Model to the Proposed Study**

The JSM can help guide predictions regarding the effects of plaintiff weight on juror decision making and attributional processes. Though this model will not be explicitly tested in this research, results may support the overall framework and its more specific contentions (e.g., that genuine prejudices can directly affect attributions). In addition, the JSM shares its critical assumptions with the culpable control model (CCM), an attribution theory that will be tested in the current study. The relationships between the JSM and the CCM will be discussed further in Chapter 6.

Ultimately, the JSM suggests that individuals will release their genuine prejudices if they can provide a justification for such prejudices and/or they are in [an](#) environment in which they believe it is safe to do so (Crandall & Eshleman, 2003). In the current research, both of these conditions are satisfied among individual jurors. Upon encountering an obese plaintiff, participants will likely experience negative affective responses (e.g., anger, disgust) and a motivation to blame the plaintiff for her negative medical outcome in order to justify these

feelings. Though the JSM predicts that genuine prejudice will have a relatively direct impact on blame attributions, it should be noted that blame also could be impacted indirectly via biased interpretation of various pieces of evidence and testimony. That is, jurors motivated to blame the obese plaintiff for her negative outcome may be more inclined to implicate the plaintiff when considering various case facts related to the allegation of medical malpractice, which would in turn affect verdicts. With respect to the current research, the covert expression of prejudice against obese plaintiffs may emerge in verdict judgments, in measures of attributions of responsibility to the plaintiff and defendant, and/or in the amount of damages awarded to successful plaintiffs. Moreover, individual jurors will report their judgments anonymously, which heightens their susceptibility to anti-fat bias in rendering case decisions.

The JSM further suggests that the influence of anti-fat bias may be attenuated (but perhaps not eliminated) among deliberating jurors. Though prejudice against the overweight is more “politically correct” than prejudice against other groups (e.g., ethnic and religious minorities), its expression is still socially sanctioned (e.g., see Crandall et al., 2002; Graziano et al., 2007). Thus, jurors rendering judgments as a group should suppress their weight-related prejudice more than jurors making anonymous judgments. Deliberating jurors also may be more motivated to offer logical and “correct” interpretations of the case evidence and facts to support their conclusions than individual jurors, who need not provide a public explanation for their decisions (London & Nunez, 2000; McCoy, Nunez, & Danmeyer, 1999). Such self-presentational concerns can help minimize case-based justifications for blaming the obese plaintiff for her situation (e.g., via biased evidence interpretation and or weighing of evidence). Exposure to other jurors’ perspectives and additional consideration of case facts during deliberations may further remove justifications for blaming the obese plaintiff (see McCoy et al.,

1999). It should be noted, however, that the attenuating effects of deliberations are often contingent on jury composition and other case features (McCoy et al. 1999, Sommers, 2006). These factors will be discussed further in Chapter 5, which specifically focuses on the effects of deliberations on juror decisions.

Social psychologists generally agree that all individuals harbor prejudices, which in turn affect people's judgments and behaviors. Prejudice as directed toward a trial participant (i.e., the alleged victim or defendant) is a primary means whereby extra-legal factors impact juror decisions. In addition to individual biases, jurors are susceptible to a variety of other extra-legal influences. The following chapter reviews some of the most common extra-legal influences on juror decisions and discusses their relevance to the current research.



#### **Chapter 4: Influence of Extra-Legal Factors on Juror Decisions**

Extra-legal influences on juror decisions may be placed into two broad categories. First, jurors may be inappropriately influenced by a multitude of factors related to a specific case. Documented case-specific influences include but are not limited to case/offense type (Gordon, 1990; Jones & Kaplan, 2003), pre-trial publicity (Kerr, Niedermeier, & Kaplan, 1999; Ruva, McEvoy, & Bryant, 2007), inadmissible evidence (Lieberman, Arndt, & Vess, 2009; London & Nunez, 2000) decision rules (Bornstein & Zickafoose, 1999; Sommer, Horowitz, & Burgeois, 2001), case event outcomes (e.g., type/severity of injury incurred; Bornstein, 1998; Feigenson, Salovey, & Park, 1997), and characteristics of victims and defendants (see Devine & Caughlin, 2014; Mazella & Feingold, 1994, for a review). Second, characteristics of the jurors themselves, or individual differences, might affect their decision making. Such individual differences include demographic characteristics (Eisenberg et al., 2005; Vinson, Costanzo, & Berger, 2008), personality variables (Leippe, Eisenstadt, Rauch, & Seib, 2004), ideology (Freeman, 2006; Visher, 1987) and personal beliefs (Lynch, 2009; Vidmar, 1995).

As the literature in this area is extensive, this chapter focuses on the extra-legal factors most relevant to the current research. However, in doing so, it illustrates the complexity involved in clarifying the relationships between case factors, juror characteristics, and juror decisions. Much of the literature examining the influence of various extra-legal factors on juror decision making has yielded conflicting or inconclusive results (see Greene & Bornstein, 2003; Lieberman & Olson, 2009). Ultimately, juror bias is likely best understood by considering interactions between the various types of extra-legal influences.

### **Evidence Strength and the Liberation Hypothesis**

Evidence strength is by far the most powerful predictor of jury decision-making (Lieberman & Olson, 2009). As instructed, jurors typically render liable or guilty verdicts when admissible evidence favoring the plaintiff's or prosecution's case is strong, and render not liable verdicts or acquit in the absence of strong, high-quality evidence (Devine et al., 2004; Feigenson, 2000). Though a definitively "legal" factor and the factor that jurors should primarily rely on in their decision-making, evidence strength may predict the extent to which jurors incorporate extra-legal factors into their decisions. Specifically, Kalven and Zeisel (1966) advanced the "liberation hypothesis," or the contention that jurors are most susceptible to extra-legal influences when case evidence is contradictory and/or ambiguous. That is, strong evidence presented by either side should effectively guide jurors' decisions, but when the evidence presented by both sides is equally convincing or difficult to interpret and reconcile, jurors will be "liberated" from their role as neutral fact-finders and increase their reliance on various extra-legal factors facilitate their decision-making in a difficult case.

The liberation hypothesis is intuitive and supported by social psychological theory (see Petty & Cacioppo, 1986). Yet, it has received surprisingly little empirical attention, with only two published studies to date specifically examining the interaction between case evidence strength and the incorporation of extra-legal factors into jurors' decisions. Reskin and Visser (1986) found that trial participants' demographics (e.g., those of the victim and defendant) exerted a stronger influence on jurors' *pre-deliberation* verdicts when the case against the defendant was weak or evidence presented by both sides was ambiguous. A more recent study revealed that verdicts rendered by *deliberating juries* were significantly more likely to be influenced by extra-legal factors in ambiguous cases involving contradictory evidence than in more clear-cut cases

(Devine, Buddenbaum, Houp, Studebaker, & Stolle, 2009). However, these juries only considered case-related extra-legal factors in ambiguous cases such as pre-trial publicity and charge severity; they did not rely on extra-legal factors pertaining to trial participants.

Most criminal and civil charges are settled out of court, especially when extant facts and evidence strongly favor either side (Brodsky, 2009). High-stakes civil cases and medical malpractice cases in particular are especially likely to be considered “close” or ambiguous when actually tried by a jury due to the more relaxed “preponderance of evidence” standard applied to civil cases (Feigenson, 2000). Further, medical providers and practitioners, as well as many corporate defendants, will typically seek to settle a viable case against them rather than risk further loss (Vidmar, 2005). Thus, jurors may be particularly susceptible to extra-legal influences in cases like the one featured in the current study.

### **Victim and Defendant Characteristics**

Much of the jury decision making literature has explored the relationships between trial participants’ characteristics and case judgments. In general, mock jurors are more lenient toward attractive defendants than unattractive defendants (Mazella, & Feingold, 1994; MacCoun, 1990; Patry, 2008), and one study found that male mock jurors were more lenient when the defendant was normal weight than when she was obese (Schvey et al., 2013). Obese persons, and obese females in particular, are perceived as significantly less attractive than their thinner counterparts (Grant & Mizzi, 2014), thus, manipulating the weight of a female trial participant may replicate the effects of manipulating her attractiveness. However, there are differences between perceptions of attractiveness and obesity. An individual can be perceived as unattractive even if they are not overweight; conversely, overweight individuals can be

perceived as attractive (Rothblum, Miller, & Garbutt, 1988). In addition, weight may be viewed as more controllable than attractiveness.

There is a large body of evidence indicating that both actual and mock jurors are more punitive towards Black defendants than White defendants (see Mitchell, Haw, Pfeifer, & Meissner, 2005). This influence becomes more pronounced when the defendant's ethnicity "matches" stereotypes regarding the crime (e.g., that Blacks and Hispanics are more inclined to commit violent crimes than Whites; Bodenhausen, 1998; Jones & Kaplan, 2003). Mock jurors are more likely to convict White defendants accused of "white collar" crimes (e.g., extortion, fraud) than those accused of "blue collar" crimes (e.g., armed robbery, theft; Jones & Kaplan, 2003). However, numerous studies have failed to detect relationships between defendant ethnicity and juror judgments (see Mazella & Feingold, 1994, for a review).

Less attention has been paid to the influences of *victim* characteristics on jurors' decisions. Mock jurors are more punitive toward defendants accused of sexual assault/domestic violence when the victim is female (Burt & Demello, 2002; Seelau, Seelau, & Poorman, 2003) and heterosexual (White & Kurpius, 2002). Others have found no effects of victim ethnicity on mock jurors' decisions across multiple case types (Bagby, Parker, Rector, & Kalemba, 1994; see Mazella & Feingold, 1994, for a review).

Though the influence of victim weight on juror decisions is most pertinent to the current research, only one published study to date has explored this topic (Reichert et al., 2011, Study 2). Specifically, Reichert and colleagues examined the effects of plaintiff weight (obese vs. normal) on mock jurors' judgments of responsibility and liability in a hypothetical malpractice case involving allegations of a surgical error. No significant effects emerged for plaintiff weight on verdicts; this may be because the researchers intentionally presented weight as unrelated to

the reason for surgery. However, gastric bypass patients in Study 1 (Reichert et al.) were held more responsible for the surgical error than any other group (i.e., nasal reconstruction, breast reduction, and corrective eye surgery patients). Study 1 did not manipulate plaintiff's weight, but participants may have inferred that the patient was obese based on the surgery type, which in turn biased judgments of patient responsibility. Thus, obese patients whose weight is interpreted as a causal factor in their illness and/or surgery may have a stronger effect on jurors' decisions.

Despite the lack of effects of plaintiff weight on verdicts, Reichert et al. (2011) did document some influence of this variable on jurors' perception of plaintiff responsibility for the negative medical outcome. However, this effect was in the unexpected direction, and only emerged for certain types of jurors. Student mock jurors' perceptions of responsibility were unaffected by plaintiff weight, whereas actual jurors (recruited from a Michigan court) were significantly less likely to attribute responsibility to the obese plaintiff than to the normal weight plaintiff. Reichert and colleagues proposed several explanations for this surprising finding, most notably that actual jurors are more likely to be overweight than student jurors and thus more inclined to sympathize with the obese patient and perhaps engage in defensive attributional processes (see Shaver, 1970).

Though findings are inconclusive, they suggest that characteristics of trial participants can influence juror decisions. In examining the influence of plaintiff weight on juror decisions and attributional processes, the current research aims to address some of these gaps and to further clarify Reichert et al.'s (2011) findings. Jurors' individual differences often moderate the effects of case-specific extra-legal factors, as discussed next.

### **Characteristics of the Juror: Individual Differences**

Most research examining the relationships between individual difference variables and juror decisions has been conducted using criminal trials, though some studies have focused on civil jurors' verdicts (Greene & Bornstein, 2003). In both types of cases, individual differences account for a small proportion of variance (e.g., 2% - 10%, even with several individual difference variables combined) in verdicts (see Greene & Bornstein, 2003, and Lieberman & Olson, 2009, for a review). Yet, some individual differences are more powerful predictors than others. Specific attitudes and beliefs are generally better predictors than personality variables, whereas personality variables are generally better predictors than demographic characteristics (Greene & Bornstein, 2003; Lieberman & Olson, 2009). Again, a comprehensive review of the relationships between jurors' characteristics and decisions is beyond the scope of this chapter. This section describes the individual differences most relevant to the current research to demonstrate the complexity of relationships between extra-legal factors and juror judgments.

**Juror gender.** As with most demographic characteristics, gender effects on juror decisions are often contingent upon the type of case and offense, as well as on characteristics of the victim and/or defendant (see Lieberman & Olson, 2009, for a review). Yet, some research has highlighted a general tendency for punitiveness among men. In examining a large database of criminal jurors' verdicts, Eisenberg and colleagues (2005) observed that juries composed of mostly men were more likely to deliver guilty verdicts than those that were not. Men are also more likely than women to favor the death penalty, and may be more inclined to sentence a defendant to death than women with similar death penalty attitudes (Miller & Hayward, 2008; Stack, 2000). Though this gender difference is essentially case-specific (e.g., to death penalty cases), it should be noted that stronger death penalty attitudes are associated with punitiveness

in general; those strongly supporting the death penalty are overall more likely to convict defendants than those expressing weaker support (Lynch, 2009). There are some instances, however, in which women may be more punitive than men. For instance, women are significantly more conviction prone in cases involving sexual assault (Grubb & Harrower, 2009), domestic violence (Seelau, Seelau, & Poorman, 2003), child abuse, insanity pleas, and drug-trafficking charges (see Lieberman & Olson, 2009, for a review).

The few studies exploring relationships between gender and civil jurors' decisions have yielded conflicting findings. Snyder (1970) found that male-only juries were significantly more likely to award the amount of damages requested by the plaintiff than mixed-gender juries, though others have found that female mock jurors award higher damages than males (Kahneman, Schkade, & Sunstein, 1998). Female jurors in medical malpractice cases may be more inclined to side with the defendant and to award fewer damages when rendering a liable verdict. It should be noted, however, that this tendency was primarily documented in case studies rather than in empirical investigations (Vidmar, 1995).

**Perceived similarity to trial participants.** Disentangling the relationships between of juror gender and trial outcomes is indeed challenging, particularly because many studies have yielded minimal or no effects of these demographics on juror decisions (see Greene & Bornstein, 2003; Lieberman & Olson, 2009). Among studies that have documented effects, however, a common theme emerges: Jurors generally are lenient towards defendants who share their gender, ethnic background, and other physical characteristics (e.g., attractiveness; Abwender & Hough, 2001; Mitchell et al., 2005). Jurors also may be more punitive towards defendants in cases involving victims who they perceive as similar to themselves (see Burt & DeMello, 2002; Grubb & Harrower, 2009; Seelau, Seelau, & Poorman, 2003). This tendency has been explained

via the *similarity-leniency* hypothesis, which purports that individuals side with trial participants most similar to them primarily because they are more inclined to like them (consistent with the *liking-similarity effect*; see Greene & Bornstein, 2003). It should be noted that the *black sheep hypothesis* predicts that the similarity-leniency hypothesis will only persevere when trial participants (most notably the defendant) are perceived in accordance with the norms of the particular group to which they and the respective jurors belong (Marques, Yzerbyt, & Leyens, 1988). The *black sheep effect* occurs when jurors are *more* likely to convict a defendant who is viewed as deviant and a poor representation of their shared group (Kerr et al., 1995). This effect only has been documented in deliberation contexts, and will be discussed further in the next chapter.

Alternatively, jurors' preference for trial participants who are similar to themselves may be accounted for by defensive attribution theory (DAT; Shaver, 1970). DAT proposes that individuals are naturally motivated to blame victims of negative outcomes. In doing so, perceivers are reassured that they are not at risk for experiencing a similar misfortune. However, individuals are often unable to maintain psychological distance from victims they perceive as highly similar to themselves; they fear that they too will be blamed should a similar outcome befall them. As a result, perceived similarity can actually attenuate blame towards victims, whether these victims are conceptualized as the targets or alleged perpetrators of crime (Herzog, 2008; Shaver, 1970). Belief in a Just World (BJW) and other related personality variables can also affect jurors' propensity to blame trial participants.

**Personality Variables.** A variety of personality variables have been studied with respect to juror decision making, including BJW, locus of control, authoritarianism, dogmatism, political orientation, and Need for Cognition (NFC). In general, criminal jurors with an internal locus of



control, conservatives, and those high in authoritarianism and dogmatism are more conviction-prone than their counterparts (see Lieberman & Olson, 2009, for a review), whereas those high in NFC are less conviction-prone and less likely to recommend the death penalty than those lower in NFC (Butler & Moran, 2007).

BJW is similar (though not identical) to all of the aforementioned constructs with the exception of NFC (Christopher, Zabel, Jones, & Marek, 2008). Those high in BJW tend to believe that the world is a fair and just place and that people get what they deserve; ultimately, BJW helps people make sense of unfortunate events (Lerner & Miller, 1978). As with most demographic variables, however, such research has generally yielded weak and contradictory effects (Lieberman & Olson, 2009).

BJW is a complicated variable with respect to juror decisions because it may motivate blame towards both alleged victims and perpetrators. On one hand, those high in BJW should be particularly inclined to punish defendants, who have purportedly exercised choice in the decision to transgress against an innocent other. Indeed, mock jurors higher in BJW are typically more likely to find defendants guilty and impose more severe sentences than those lower in BJW (see Freeman, 2006; Lieberman & Olson, 2009). On the other hand, those high in BJW may be motivated to consider the victims' role in their misfortune (on the basis that people get what they deserve), leading to more leniency toward the defendant if victims can be perceived as responsible for their situation. To illustrate, Visher (1987) found that those high in BJW were more lenient towards defendants accused of sexual assault when the victim was characterized negatively (i.e., as having extra-marital affairs and engaging in "risky" behaviors prior to the alleged assault) than when she was characterized more positively. Mock jurors with strong just world beliefs also are more punitive towards defendants of lower SES than towards defendants

of higher SES, presumably because low SES indicates negative character within the BJW framework (Freeman, 2006). Conversely, Correia and colleagues (2001) found no interactions between BJW and manipulations of the victim's innocence on victim blame, though those with stronger just world beliefs were more likely to hold the victim responsible for her situation than were those with weaker beliefs.

Very few studies have explored relationships between civil jurors' personality characteristics and their decisions. In a study examining mock jurors' decisions in four different hypothetical trials, BJW predicted verdicts in only one case, such that jurors higher in BJW were more likely to find an insurance company liable in a lawsuit involving a corporate defendant than were those lower in BJW (Vinson et al., 2008). Reichert et al. (2011, Study 2) found that participants high in BJW as well as authoritarianism were more likely to return liable verdicts in a malpractice case than were participants lower in BJW and authoritarianism. These results cohere with literature suggesting that criminal jurors high in BJW, authoritarianism, and related constructs (e.g., BPWE, conservatism, see Lieberman & Olson, 2009) are particularly inclined to punish defendants; however, much more research is needed.

**Attitudes and beliefs.** Attitudes and beliefs are typically better predictors of decision making and behavior than are other individual difference variables, both within and outside of the courtroom (Ajzen & Fishbein, 2005; Feigenson, 2000). Generally, as the relevance of an attitude or belief to a particular case increases, so does its influence on juror decisions (Brodsky, 2009; Feigenson, 2000). However, some case-specific attitudes may predict juror decisions across a broader spectrum of trials.

A wide variety of case-specific attitudes and beliefs have been studied within the criminal realm. Not surprisingly, death qualified jurors (those who support capital punishment in

certain circumstances) are more inclined to render guilty verdicts in capital cases and to sentence convicted defendants to death than are jurors who are not death-qualified (see Lynch, 2009). Further, supporters of the death penalty are more conviction prone *in general* than opponents (Lynch, 2009).

Other case-specific attitudes and beliefs examined within the criminal context include those regarding rape victims and sexual assault allegations, drug use, lawyers, psychiatrists, and the insanity defense (see Lieberman & Olson, 2009, for a review). When effects are documented, these variables typically operate as expected. Negative attitudes towards rape victims translate into a pro-defendant bias (Grubb & Harrower, 2003); negative attitudes towards drug users are predictive of guilty verdicts on drug-related charges (Moran, Cutler, & Loftus, 1990); and those who are skeptical of psychiatrists and the insanity defense in general are particularly inclined to find defendants who plead insanity guilty (Cutler, Moran & Narby, 1992; Poulson, Brondino, Brown, & Braithwaite, 1998).

One specific belief that has been relatively well-studied in the civil arena is the belief in a litigation crisis, which is the notion that there are too many frivolous lawsuits perpetrated by greedy plaintiffs, and that civil litigation and jury awards are “spiraling out of control” (Vidmar, 1995). Thus, those with stronger beliefs in a litigation crisis are generally more lenient towards civil defendants and award lower damages than those with weaker beliefs (Hans & Lofquist, 1994). Belief in a litigation crisis has predicted mock juror decisions (pro-defendant) in high-stakes civil cases (Vinson et al., 2008) and in medical malpractice cases (Reichert et al., 2011). Jurors with stronger beliefs in a litigation crisis award fewer damages in civil negligence cases (Hans & Lofquist, 1992) and are less likely to find defendants liable for punitive damages (see Greene & Bornstein, 2003; Hastie et al., 1999). Interestingly, Vinson and colleagues (2008) found

that individuals with stronger just world beliefs were *less* likely to believe in a litigation crisis than those with weaker just world beliefs. Additional research is needed substantiate this relationship between BJW and belief in a litigation crisis and to illuminate the effects of BJW on civil jurors' decisions in general.

Research suggests that beliefs and attitudes about physicians play a role in the outcomes of medical malpractice trials (Feigenson, 2000; Vidmar, 1995). Most Americans have positive perceptions of physicians and other medical practitioners, which may partially account for the low success rate of malpractice plaintiffs relative to other types of plaintiffs. Some qualitative research (juror interviews, observations of deliberations) has indeed linked beliefs about physicians and their responsibilities to verdicts (Feigenson, 2000; Vidmar, 1995). In addition, participants expressing more negative attitudes toward physicians were significantly more likely than those with more positive attitudes to find the (physician) defendant liable (Reichert et al., 2011).

As this review demonstrates, multiple juror characteristics may affect decision making in both criminal and civil trials. However, such effects are usually minimal and may not be powerful enough to influence actual verdicts (though they may influence perceptions of responsibility and damage awards; Greene & Bornstein, 2003). Again, potential influences of jurors' individual differences must be considered within the context of case features. Effects of demographic characteristics such as gender are often contingent upon the offense in question, and may be further complicated by jurors' personality traits and perceived similarity to the victim or defendant. Not surprisingly, case-specific attitudes and beliefs are stronger predictors of juror decision making, though these variables also may interact with other case aspects (most notably, the strength of the evidence and case facts; Vidmar, 1995) and juror characteristics.

The next section describes how case features (primarily plaintiff weight) and juror individual differences may operate in the proposed research.

### **Influence of Extra-Legal Factors in the Current Study**

Consistent with most medical malpractice cases tried before a jury (Vidamar, 2005), the hypothetical case presented to participants will be fairly “close” and ambiguous, with multiple evidence components favoring each opposing side. The descriptions of opposing evidence and testimony included in the trial summary should foster jurors’ incorporation of extra-legal factors in their decision making according to the liberation hypothesis (Kalven & Zeisel, 1966). Plaintiff weight is the key extra-legal factor expected to influence juror decisions in the current research. Considering the substantial evidence of widespread prejudice and discrimination against the overweight and obese in America (see Crandall, 1994, 1995; Puhl & Heuer, 2009; Puhl et al., 2008), it is conceivable that mock jurors will be less inclined to find the defendant (physician) liable in a malpractice case involving an obese plaintiff than in an identical case involving a normal weight plaintiff. If plaintiff weight does not directly impact verdicts, it may likely affect participants’ perceptions of plaintiff and physician responsibility and the amount of damages awarded to a successful plaintiff. Though Reichert et al. (2011) found no effects of plaintiff weight on juror decisions, this relationship merits re-examination in light of the increasing prevalence and strength of anti-fat bias.

Juror individual differences also are expected to impact decision making in the current research, primarily via their interactions with plaintiff weight. As case-specific attitudes are the most reliable predictors of juror judgments (Lieberman & Olson, 2009), those with stronger anti-fat attitudes should be more inclined to blame the obese plaintiff for her situation than those with weaker anti-fat attitudes. Several ideological differences may moderate the effects of

plaintiff weight on juror decisions, such as authoritarianism, social dominance orientation, conservatism, BJW, and BPWE. These variables are closely related yet conceptually distinct (Christopher et al., 2008). The current study focuses on BJW and BPWE, as these ideologies in particular are implicated in the development, maintenance, and justification of weight-related prejudice (Crandall, 1994; Crandall & Eshleman, 2003). Endorsement of BJW and BPWE should foster more negative perceptions of the obese plaintiff, which may in turn increase jurors' tendency to "blame the victim."

As described earlier, gender is generally a weak and inconsistent predictor of juror decisions (Greene & Bornstein, 2003; Lieberman & Olson, 2009). However, the influence of gender may be more pronounced in certain types of cases and further depend upon victim and/or defendant characteristics (Abwender & Hough, 2001; Cutler, Moran, & Narby, 1992). Men are more prone to anti-fat bias than women and may be more likely to act in accordance with such bias (Bannon et al., 2008; Graziano et al., 2007; Puhl & Heuer, 2009; Schvey et al., 2013). Thus, it is anticipated that males will hold the obese plaintiff more responsible for her negative medical outcomes than will females. Further, males may have difficulty identifying with the obese plaintiff, as they are less likely to have struggled with their weight and to have been targets of weight-related prejudice than females (Bannon et al., 2008; Crandall, 1995).

Jurors' own weight may play a role in their judgments of obese plaintiffs. Schvey and colleagues (2013) found that participants' weight only mattered among males, with leaner males expressing more negative beliefs about the defendant than heavier males. These negative beliefs, however, did not appear to affect guilt judgments. Reichert and colleagues (2011) proposed that jurors' weight (or experience with weight-related issues) may have been responsible for their unexpected finding that community members demonstrated a *pro-plaintiff*

bias towards overweight targets, whereas younger student jurors were unaffected by plaintiff weight. As participant weight was not assessed, however, this effect could be related to geographic differences (student jurors were from Nevada; actual jurors were from a liberal Michigan town) or other disparities between the two participant groups.

Juror BMI will be ascertained in the current study to determine the extent to which participants are overweight or obese. According to Reichert et al.'s (2011) analysis, in a medical malpractice case, jurors with higher BMIs should be less inclined to blame the obese plaintiff for her negative outcome than jurors with lower BMIs. This may be because overweight jurors have a unique understanding of weight-related issues and are thus more likely to sympathize with an obese plaintiff than are normal weight jurors. Yet, it is important to note that overweight individuals generally exhibit similar levels of anti-fat bias as their normal weight counterparts and do not identify with their "ingroup" (i.e., that comprised of other overweight persons; Crocker et al., 1993; Crocker & Major, 1994). This lack of ingroup identification could function to minimize or eradicate any influences of jurors' weight on their decisions in the current research.

The current research also will explore the relationships between individual differences and juror decisions in an identical case involving a normal weight plaintiff (i.e., the control condition). Such analyses are warranted considering the limited understanding of how jurors' individual differences operate in civil trials and in medical malpractice cases in particular. Predicting the potential effects of individual differences variables on jurors' decisions in the control condition is challenging due to the lack of research in this area. There is limited evidence that endorsement of just world beliefs increases jurors' tendency to render liable verdicts in malpractice cases (Reichert et al., 2011). This coheres with findings that those higher in BJW are less likely to believe in a litigation crisis than those lower in BJW (Hans & Loftquist, 1992), and

correspondingly should be more inclined to side with the plaintiff in malpractice cases. Thus, although endorsement of just world beliefs is expected to increase blaming of the obese plaintiff, it may decrease blaming of the normal weight plaintiff. BPWE may operate in a similar manner. Gender effects are especially unpredictable in the control condition. Vidmar's (1995) observations suggest that women may be more likely to find the defendant liable than men, but the liking-similarity hypothesis yields the opposite prediction (because the plaintiff in the current research is female; Greene & Bornstein, 2003).

Though some specific hypotheses will be advanced regarding the relationships between individual differences and juror decisions, this aspect of the current research remains somewhat exploratory. The current study will examine both main and interactive effects (i.e., with plaintiff weight) of individual differences on juror decisions to further build a foundation for the study of the influence of extra-legal factors on civil trial outcomes. It is critical to recognize, however, that jurors' propensity to consider extra-legal factors often is affected by deliberations (e.g., Miller et al., 2011; Patry, 2008; Sommers, 2006). The next chapter describes the ways in which ~~in~~ ~~which~~ deliberations can attenuate *and* exacerbate juror judgment errors and biases.



### Chapter 5: Effects of Deliberations on Juror Decisions and Susceptibility to Bias

The notion that groups produce more sound judgments than individuals is a hallmark of the American jury system (Monahan & Walker, 2006). Jury members are instructed to discuss case evidence and testimony (and their respective interpretations) with the objective of reaching a collective agreement on defendant guilt/liability and damage awards (Feigenson, 2000). Yet, much of the jury decision making literature focuses on the decisions of individual *jurors*, rather than those of *juries* (Bornstein, 1999). Using individuals rather than groups as the unit of analysis in jury decision making research often may be attributable to practical and methodological concerns (e.g., limited participant samples, statistical challenges); yet, this practice has been subject to much criticism (Bornstein, 1999).

Individual and group decision making processes often differ; yet, group decisions are not always more valid than individual ones (see Moskowitz, 2005). The same principle applies to comparing the judgments of individual *jurors* with those of *juries*. Individual juror and jury judgments cohere in the majority of cases (75 - 90% of the time; Eisenberg et al., 2005; Hastie et al., 1999). In many of these instances, both jurors and juries likely arrived at rational conclusions based on the case facts and evidence. Yet, consensus among jurors and juries does not necessarily imply correctness. A substantial body of literature demonstrates that juries are susceptible to the same cognitive errors and biases in decision making as are individual jurors (e.g., Feigenson, 2000; Greene, Johns, & Bowman, 1999; Smith & Greene, 2005).

Research has generally supported the notion that deliberations can help attenuate the effects of juror biases and judgment errors on jury decisions (London & Nunez, 2000; Miller et al., 2011; Patry, 2008). Under certain circumstances, however, deliberations may actually exacerbate the effects of juror biases on jury decisions (Kerr, Niedermeier, & Kaplan, 1999;

MacCoun, 1990). Many psychological processes combined likely influence jury deliberations (Sommers, 2006), but informational and normative processes in particular play a key role in both the attenuation and exacerbation of bias in juries. This chapter first discusses how these two processes can influence jury decision making in different contexts (e.g., with respect to jury composition and evidence strength). Next, it explores potential normative and informational influences on jury decisions in the current study.

### **Informational Influences**

One of the primary ways deliberation is believed to attenuate juror biases is through the sharing of multiple case-related perspectives and information. In “close” cases with substantial evidence favoring both parties, jurors may be especially likely to rely on pre-existing biases to help them make a difficult decision (Kalven & Zeisel, 1966; see MacCoun & Kerr, 1988). However, individual jurors vary in their perspectives, experiences, and cognitive abilities. During deliberations, such differences can promote information sharing, recall of case-related facts, and the development of alternative explanations of a crime (Kaplan, 1984). When engaged in such discussions, jurors may be less prone to cognitive errors and biases. Further, the enhanced recall and consideration of case-relevant information increases the likelihood that the jury will render a verdict in line with the facts.

A heightened tendency towards acquittal among criminal jurors (as compared with the verdicts of individual jurors and judges) is perhaps the most widely documented outcome of deliberations (Kalven & Zeisel, 1966; see MacCoun & Kerr, 1988, for a review). This “leniency effect” is most commonly attributed to informational influences (MacCoun, 1990), whereby pro-acquittal jurors present arguments for reasonable doubt that likely were not previously considered by pro-conviction jurors. It should be noted that the leniency effect may not emerge

in civil cases, which rest upon preponderance of evidence rather than reasonable doubt (MacCoun & Kerr, 1988).

As it is challenging to observe and measure information sharing during deliberations, many researchers have simply hypothesized that informational influences may be responsible for the attenuating effects of deliberations in their studies (e.g., Kaplan & Miller, 1978; London & Nunez, 2000; Miller et al., 2011). However, some studies have shown that deliberations do indeed enhance jurors' reasoning skills, leading to less extreme (and presumably more "correct") case-related judgments. For instance, McCoy and colleagues (1999) found that deliberating jurors made more counterarguments and were more likely to consider alternative theories of a crime than individual jurors; deliberating jurors' verdicts also were less variable and more consistent with case evidence. Further, Kaplan and Miller found that deliberating jurors were both less susceptible to situational biases and more likely to make evidence-consistent judgments than were individual jurors.

Importantly, deliberations may not only increase information sharing, but may also affect individual jurors' processing of case-related evidence. Numerous researchers (e.g., London & Nunez, 2000; McCoy et al., 1999; Sommers, 2006) have proposed that the anticipation of deliberations increases jurors' sense of accountability; that is, jurors who expect that they will have to justify their position to others will be more inclined to attend to case evidence and facts. Such accountability may elicit a more rational or central mode of information processing in deliberating jurors, whereby they process evidence carefully and deliberately, arriving at more reasonable conclusions (see Epstein, Lipson, Holstein, & Huh, 1992). Conversely, individual jurors only accountable to themselves may use a more experiential or peripheral mode of processing, whereby they evaluate the evidence more rapidly and based on their "gut instincts,"

which allows for the incorporation of bias into their judgments. Though no published studies have compared the processing modes of individual and deliberating jurors, it is likely that differential information processing *prior* to deliberations helps eliminate bias in juries.

Though deliberations should typically enhance recall and discussion of alternative perspectives, this is not always the case. The level of information sharing during deliberations may largely depend on jury composition. In general, it is assumed that heterogeneous juries will be more likely to consider multiple perspectives than homogenous juries (Stasser & Titus, 1985). Indeed, Sommers (2006) found that diverse juries (composed of four White members and two Black members) deliberated longer and cited more case-related facts than juries composed of all White members. Diverse juries also were more likely to discuss the defendant's race. This informational influence was mainly attributable to White jurors, who were more inclined to discuss case aspects as well as the potential for race-related biases.

In some cases, informational influences can *exacerbate* bias in juries. Exacerbation should be most common in homogenous juries, when case evidence is strong, or when the majority of pre-deliberation verdicts (i.e., 2/3) indicate the same verdict preference (Kerr et al., 1999; Stasser & Titus, 1985). If individual jurors harbor similar motivations, they may be equally likely to process evidence in the same biased manner. Thus, evidence favoring the majority of jurors' preferred conclusions may be given disproportionate attention during deliberations. This can result in group polarization or the "risky shift" phenomenon, whereby the average of group (i.e., jury) members' individual responses becomes more extreme in the same direction following a group discussion of those responses (Kaplan, 1984). In manipulating decision criteria for a civil negligence case, Sommer and colleagues (2001) found that deliberations in cases with a contributory negligence rule were dominated by discussions of pro-plaintiff evidence; this did

not occur in cases with comparative or strict negligence rules. Presumably, jurors were more motivated to find for the plaintiff in the contributory negligence case so that the plaintiff could receive some kind of compensation for her injuries. Because this motivation was common, jurors engaged in similar biased evidence-seeking processes, which maximized the likelihood of a pro-plaintiff verdict.

Arguably, Sommer et al.'s (2001) findings represent an instance of *jury nullification*, which occurs when a jury disregards their instructions and/or case evidence to render a verdict inconsistent with the applicable law (Finkel, 1995). Legal scholars believe that nullification is most often motivated by jurors' disagreement with a particular law or special circumstances surrounding a law's application (Noah, 2001). For example, Finkel (1995) notes that Northern juries often nullified in trials related to the 1850 Fugitive Slave Act, returning not guilty verdicts for abolitionists accused of helping slaves escape. More recently, nullification has been documented in experimental studies involving euthanasia (Meissner, Brigham, & Pfeifer, 2003) and suggested as a factor in acquittals of marijuana charges by various media outlets (e.g., Cubbison, 2013; Hanson, 2012). In civil trials, nullification is believed to most commonly occur when jurors believe that the plaintiff should recover some damages, but this recovery would be prohibited by specific decision rules if the jury were to adhere to their instructions and case evidence (Noah, 2001). For instance, when the contributory negligence standard is applied, plaintiffs cannot recover any damages if the jury determines that they have contributed to their injuries in any way (Sommer et al., 2001). Most U.S. states currently use the modified negligence rule, whereby plaintiffs can only recover damages if the jury determines the defendant to be at least 51% at fault for the incident, which is exemplified by the "preponderance of evidence" standard for civil trials (Best & Donohue, 2012).

The extent of jury nullification is difficult to ascertain, though both field and experimental studies suggest that it is quite rare (see Finkel, 1995; Noah, 2001). As the charges advanced in the current study are not a recent “hot topic” of debate and the plaintiff is not requesting an exorbitant amount in damages, it is unlikely that mock jurors will nullify on such bases. The possibility exists, however, that mock jurors’ decisions will be impacted by their desire to have the plaintiff recover some damages in this hypothetical case which invokes the modified negligence rule. Though there is little empirical evidence documenting the *processes* of jury nullification, it has been suggested that a jury can nullify through informational influences (e.g., sharing biased interpretations of the instructions and case evidence) as well as through normative influences (e.g., one or more jurors convincing other jury members that a particular law or a law’s application is unjust; Finkel, 1995).

### **Normative Influences**

Deliberations also introduce the potential for normative influences. Normative influences may encompass jurors’ desire for acceptance, motivations to appear unbiased, or group pressures to conform to the majority (Kaplan, 1984). Many group decision making phenomena commonly attributed to informational influence also can be explained by normative influence. For instance, group polarization has been widely documented in the jury decision making research (see Feigenson, 2000; Kaplan, 1984; Kaplan & Miller, 1978). Though informational influence is typically cited as the basis for this effect, group polarization also may result from individual jurors’ desire for social acceptance or from the simple heuristic that consensus implies correctness.

Uncovering direct evidence for normative influence is even more challenging than assessing the effects of informational influence on jury decisions. Some former jurors have

stated that their final vote resulted from majority pressure and intimidation (see Bowers, Steiner, & Sandys, 2001). Yet, jurors rarely concede that their vote was motivated by a desire for social acceptance or to appear non-prejudiced. Instead, normative influence may often operate at a more covert level, and jurors may unconsciously suppress their pre-existing biases in their efforts at conformity. Extrapolations from related research suggest that normative influence during deliberations can impact verdicts.

The effects of normative influence on jury decisions are perhaps best illustrated by a “boomerang effect.” This is evidenced when juries are more punitive toward a socially desirable defendant or victim than toward one who is socially undesirable (or, correspondingly, when they are more lenient toward a socially undesirable defendant/victim). For example, Patry (2008) found that mock jurors were more likely to acquit an attractive defendant than a plain-looking defendant. The opposite effect emerged for deliberating jurors: they were more likely to *convict* the attractive defendant than the plain defendant. This effect cannot be explained by informational influence alone; deliberating jurors were likely aware of the potential biasing influences of the defendant’s attractiveness and overcompensated in an effort to appear unbiased. Though such overcompensation is not typical, investigators have proposed that this mechanism may be partially responsible for the attenuating effects of deliberations in their research (e.g., Miller et al., 2011; Sommers, 2006).

Studies examining the effects of the *expectancy* of deliberations also support the notion that self-presentational concerns can mitigate juror bias. Mock jurors in Sommers’ study (2006) were introduced to their fellow “jury” members prior to receiving the trial summary. Members of heterogeneous juries (comprised of two Black members and four White members) showed more leniency toward a Black defendant on *pre-deliberation* measures than did members of

juries comprised of all White members. Presumably, the knowledge that they would be deliberating with Black jurors increased White jurors' motivations to suppress any related prejudices, leading to more lenient judgments of a Black defendant. However, the knowledge of their jury composition also may have increased accountability among members of heterogeneous juries, causing them to interpret the evidence in a more careful and rational manner. Kerr and colleagues (1995) demonstrated that anticipation of deliberations could actually lead to a black sheep effect whereby jurors show more bias toward a defendant who is similar to them. Specifically, these researchers found that mock jurors were more lenient toward a defendant who shared their minority status (i.e., Jewish religious affiliation). However, minority jurors (i.e., African-American) who were led to believe that they would engage in deliberations with Caucasian jury members were actually more punitive toward an African-American defendant than toward a Caucasian defendant. Kerr et al. (1995) attribute this effect to minority jurors' desire to appear unbiased in the presence of majority members. However, an archival analysis of 419 criminal cases examining the relationships between defendant ethnicity, jury ethnic composition, and strength of evidence failed to uncover any evidence of the black sheep effect (Taylor & Hosch, 2004).

As this review demonstrates, normative and informational processes may attenuate or exacerbate juror bias during deliberations. Though attenuation is a more common result of deliberations, exacerbation may occur when jurors are exposed to the similar biased perspectives of fellow jury members or overcompensate for their biases in an effort at political correctness. Most jury decisions are likely the product of numerous psychological phenomena, and it is often difficult to ascertain the contributions of specific processes. Prediction of the



effects of deliberations, however, may be improved upon considering jury composition, the strength of case evidence, and a variety of other case-related factors.

### **Influence of Deliberations in the Current Study**

The current study will examine the decisions of both individual and deliberating jurors. Such an investigation is warranted for several reasons. First, incorporating deliberations should enhance ecological validity and generalizability of the study's findings. Second, few studies have compared individual jurors' and juries' decisions in civil trials (but see Greene et al., 1999; Hastie et al., 1999). Additional research is needed to determine whether the "leniency effect" is specific to criminal cases, or if it also may emerge in civil cases despite less stringent decision rules (Macoun & Kerr, 1988). Third, no published studies to date have compared individual and deliberating jurors' decisions in a malpractice case. Finally, this research can help determine whether anti-fat bias, like racial or religious biases, may be attenuated by deliberations.

Extant research supports the notion that deliberations will attenuate anti-fat bias if such biases do indeed affect individual jurors' decisions. Though weight-related prejudice is not socially prohibited to the same extent as racial and religious prejudices (Crandall, 1994), its *expression* is not as socially acceptable as some researchers have assumed (Crandall et al., 2002). Further, there is substantial evidence of the suppression of weight-related prejudice in both public and private contexts (Graziano et al., 2007; King et al., 2006; Teachman et al., 2003). Jurors may simply "self-censor" to a greater extent during deliberations in an effort to appear unbiased, or they could actually overcompensate for anti-fat bias by showing more leniency toward the obese plaintiff. Deliberating jurors also may actively work to suppress their prejudices immediately following exposure to the obese plaintiff, which should lead to more

rational and balanced consideration of the case evidence and facts. The presence of one or more overweight jury members may further increase the likelihood of attenuation effects.

Despite these arguments, anti-fat bias may persevere regardless of deliberations. Mock juries in the current study will likely be more homogenous than typical juries, as they will be largely comprised of college undergraduates. Moreover, anti-fat attitudes are often stronger among college-aged individuals than in older adults (Teachman et al., 2003). If student jurors perceive their fellow jury members as similar to themselves, they may not make substantial efforts to suppress their weight-related prejudices when interpreting and discussing case evidence. Exacerbation effects may even emerge among homogenous juries in which all members hold strong anti-fat attitudes.

Deliberations may have little or no impact on case-related judgments in the normal weight condition, as the primary expected source of bias is removed. Extant jury nullification research suggests that juries may be more likely to find the defendant liable than warranted by juror instructions and/or the case facts and evidence so that the plaintiff may recover some damages (Noah, 2001; Sommer et al., 2001). Though the case utilized in the current study invokes the modified negligence rule, the potential for juries to find the defendant liable despite applicable law in order for the plaintiff to recover damages should be considered; this partial nullification could occur among non-deliberating jurors as well. For reasons discussed earlier, however, it remains important to explore the potential influences of deliberations in civil trials in general and in malpractice trials in particular. Whether a salient source of bias (e.g., socially undesirable trial participants, pre-trial publicity, etc.) is present or absent, deliberations can affect individuals' attributional processes and subsequent attributions of blame and responsibility for a negative medical outcome. The next chapter discusses juror attributions and

attributional processes in more detail, specifically focusing on the applicability of the Culpable Control Model (CCM) to jury decision making in general and to accounting for juror biases in particular.

## **Chapter 6: Juror Bias and Attribution Theory: The Culpable Control Model**

During the past 60 years, social psychologists have advanced numerous theories aimed at explaining attributions and attributional processes (Shaver, 1985). Classic attribution theorists (e.g., Heider, Kelley) focused on individuals' judgments regarding the *cause* of events and behaviors (see Moskowitz, 2005, for a review). More recent theories (Alicke, 2000; Shaver, 1985; Weiner, 2006) expanded the definition of attributions to encompass not only perceivers' assessments of causality, but also their judgments of responsibility and blameworthiness for an event. From this more contemporary perspective, attribution and its underlying processes are critical in understanding juror decisions. Specific decision rules vary according to trial type, but civil jurors are ultimately tasked with assigning blame for a negative event (Feigenson, 2000).

Despite its relevance, attribution theory is seldom evoked in the jury decision making literature. This may be because many extant attribution theories are not well-suited to empirical examination in general and to studies of juror decisions in particular. This chapter advances Alicke's (2000) Culpable Control Model (CCM) as the most appropriate grounding theory for the current research and for understanding the effects of juror bias on case-related judgments in general.

### **Applicability of Prior Attributional Frameworks to Jury Decision Making**

Many studies of jury decision making are more practical than theoretical. This may account for the lack of discourse on the suitability of extant attributional frameworks to jury decision making research and the need to advance more relevant theories. A model applicable to jury decisions must include, at minimum, three components. Juror and jury decisions are susceptible to bias, and understanding how such biases operate is a primary objective of jury decision making research (Feigenson, 2000). Thus, an attributional framework suitable to the

study of jury decision making must incorporate or account for sources of juror bias, such as motivations, emotions, and various social cognitive processes. Such a framework also must allow perceivers to apportion blame among multiple actors, as jurors are required to consider the behaviors and intent of at least two parties. Finally, an appropriate model must be empirically testable in applied realms.

The shortcomings of extant attributional theories in explaining jury decision making are readily apparent. Classic theories such as Heider's (1958) Naïve Analysis of Action, Jones and Davis' (1965) Theory of Correspondent Inference and Kelly's (1973) "Cube" and ANOVA models only consider the behaviors of a single actor. Moreover, these theories solely focus on perceivers' perceptions of the *cause* of an event or behavior, which are dichotomized as dispositional (originating within the actor) or situational (attributable to the actor's environment). Jurors do typically make attributions regarding the cause of a negative event, but these causal attributions do not necessarily equate to judgments of guilt or liability. For instance, a physician's actions may be the primary cause of a patient's injuries. Yet, if the physician followed the reasonable standard of care, they cannot be held legally responsible for a negative medical outcome (Feigenson, 2000). Thus, jurors' judgments in general and in malpractice cases in particular are more akin to ascriptions of responsibility and blame than to causality.

Building on these classic decision-stage models, Shaver (1985) differentiates between attributions of causality, responsibility, and blame, outlining the mechanisms whereby perceivers make judgments about each of these constructs. Shaver's theory also allows for the analysis of multiple actors' contributions to an event. Yet, due to the detail of Shaver's theory in elucidating the multiple, sequential steps perceivers purportedly follow in making attributions, it

is not applicable to real-world settings. This limitation is evidenced by the lack of empirical research testing the model. More importantly, Shaver's model and all of its predecessors assume that humans are rational decision-makers. They ignore any effects of emotion, motivation, or other cognitive biases on attributions and attributional processes, rendering them unsuitable frameworks for the analysis of jury decision making.

Weiner's (2006) motivational model of attribution (see Chapter 2), is a significant departure from philosophical decision-stage theories. Emotional reactions play a central role in this framework, which is commonly applied to "real world" situations to explain attitudinal and behavioral responses towards an actor experiencing a negative outcome (Martinko & Thompson, 1988; Weiner, 2006). Yet, Weiner's framework offers little insight into the ways in which generalized negative reactions toward an obese plaintiff may further affect jurors' case decisions. In addition, the model cannot account for the contributing role of multiple actors to a negative outcome or explain perceivers' judgments about complex events. Thus, despite its incorporation of emotion and motivation, Weiner's theory is not well-suited to investigations of the effects of extra-legal factors on juror decisions.

Ultimately, none of the theories mentioned above include all three basic criteria necessary for examining juror attributions and attributional processes. However, a relatively recent framework, the CCM, does incorporate these criteria (see Alicke, 2000). The remainder of this chapter focuses on the CCM: its tenets, studies testing the framework, and its applicability to the current research.

### **Principles of the Culpable Control Model**

The CCM adopts many of its key features from extant attribution theories. Like Weiner's (2006) theory, the CCM posits that blame attributions stem from perceptions of an actors'

personal control over an event. Consistent with Shaver's (1985) theory, the CCM maintains that perceivers consciously and deliberately assess criteria related to intention, causation, and foresight in ascribing blame. However, the CCM differs from extant theories in two key respects. First, unlike classic decision-stage models, the CCM assigns a central role to perceivers' motivation, emotion, and judgmental biases in attribution (Alicke, 2000; Lagnado & Channon, 2008). Second, in contrast with Weiner's model, the CCM elucidates the processes whereby such phenomena may affect cognitive processes and blame ascriptions.

The CCM posits that blame attributions are predicated by affective reactions to a negative event and the actors involved (Alicke, 2000). Alicke refers to these responses as "spontaneous evaluations," (SEs) and argues that they may be elicited by extra-legal factors such as an actor's physical or social attractiveness as well as perceptions of an actor's intentions, behaviors, and an event's outcomes. According to the CCM, perceivers are motivated to blame the actor in any given situation who arouses the most negative affect. Occasionally, these affective responses or SEs may directly impact blame ascriptions (e.g., a juror assumes that a socially unattractive defendant is guilty without considering the evidence or case facts). In most cases, however, SEs color perceivers' structural linkage assessments (SLAs; the criteria perceivers consider when assigning or justifying blame). Appendix A includes the abbreviations and the definitions for the components of the CCM pertaining to this study, as well as full terms and definitions for other abbreviations used commonly throughout this manuscript.

Perceivers may consider three types of structural linkages when ascribing blame. The "mind to behavior" link includes information about volitional behavioral control, or intentionality. Actors who behave purposefully and knowingly should be perceived as more blameworthy than those behaving accidentally or whose behavior is dictated by external forces.

Accordingly, volitional behavioral control may be diminished by perceptions of capacity or situational constraints. For instance, beliefs that actors “did the best they could” or behaved as expected given the circumstances should absolve them of blame for a negative outcome. Whether such mitigation occurs depends on perceivers’ SEs (Alicke, 2000). Perceivers should be more likely to excuse the actions of a socially attractive actor than the actions of a socially unattractive actor who elicits negative affective responses, even if both actors’ behaviors and the event are identical (Alicke & Zell, 2009).

The “behavior to consequence” link refers to perceptions of causal control (i.e., causality), that is, whether an actor’s behavior produced a harmful outcome. Clear and proximal connections between an individual’s actions and event outcomes should heighten ascriptions of blame, whereas the presence of multiple or distal potential causes should attenuate blame (Alicke, 2000). Assessments of causality also involve considerations of alternatives to a harmful outcome, or effective causal control (Alicke, 2000). Effective causal control is minimized when a harmful outcome would have occurred despite an actor’s intervention. The notion of effective causal control is relevant to the use of counterfactuals in ascribing blame. If mentally “undoing” an individual’s actions has no impact on the outcomes of an event, the actor should not be blamed. Individuals may be blamed, however, if undoing their actions would have prevented the negative outcome; blame should increase when these actions are perceived as unique and proximal causes of the outcome (Alicke, Buckingham, Zell, & Davis, 2008). The CCM maintains that SEs can bias assessments of causal control in several different ways. Perceivers may be (unconsciously) motivated to focus on an unlikeable actor’s causal contributions to an outcome or to discount a likeable actor’s contributions in a situation involving two actors who are in fact



equally responsible. Negative SEs also may increase reliance on counterfactuals even if they are not proximal or unique to an event's outcome (Alicke et al., 2008).

Finally, the "mind to consequence" link includes information about volitional outcome control, or foresight. Perceivers who believe that an actor desired or anticipated harmful outcomes should find the actor more blameworthy than those who believe that an actor had little knowledge of the potential consequences of their behaviors. Actors also may be blamed if perceivers believe that they *should* have anticipated negative outcomes. Again, SEs can influence beliefs about an actor's foresight (Alicke, 2000). An actor with undesirable traits or an event with a particularly disturbing or severe outcome may promote reliance on hindsight bias, facilitating the belief that the actor "should have known better" (Mazzocco, Alicke, & Davis, 2004).

Ultimately, the CCM proposes that perceivers process and evaluate attributional information according to their preferred conclusions, which are based on initial and often unconscious reactions to an event and its participants. In addition to biased interpretations of specific SLAs, this may be more generally accomplished by lowering evidential standards for blame (e.g., requiring less evidence to convict a defendant; Bright & Goodman-Delahunty, 2008) or by engaging in biased information searches. In some cases, perceivers' SLAs may be relatively logical; in others, they may be heavily construed and prone to judgment errors. Alicke (2000) maintains that immediate reactions to an event and the actors involved nearly always color attributional processes, even if this influence is minimal. Thus, the CCM allows for gradations in structural linkage and blame assessments (i.e., perceivers may assign varying degrees of blame rather than making an "all or nothing" judgment about blame criteria and responsibility). Blame

is maximized when all three structural linkages are fulfilled; yet, blame may still be ascribed in the absence of some or even all of these criteria (Alicke, 2000).

The CCM is unique in that it elucidates different attributional pathways perceivers may follow in assigning blame (Alicke, 2000; see **Figure 1**). Indirect SE effects (Path 2) occur when SLAs (i.e., consideration of the criteria used in assigning blame) fully mediate the relationship between SEs and blame. Alternatively, both direct and indirect SE effects may occur, such that SEs affect both blame ascriptions and SLAs directly, but SLAs remain a partial mediator between SEs and blame (Path 3). In some cases, SEs may directly impact blame, with consideration of structural linkages occurring *after* the blame ascriptions as a means of justifying a preferred conclusion (Path 1B). However, the CCM fails to specify factors that may promote the use of one attributional pathway over another; it merely proposes that such pathways are possible. In addition, the CCM offers little insight into if and how attributional processes and blame ascriptions may differ in individual (juror) and group (jury) decision making contexts. Further limitations of research grounded in the CCM are discussed next.

### **Support for the Culpable Control Model**

To date, only a handful of studies have tested elements of the CCM. This may be partially due to the recent development of the CCM, but also is likely attributable to its complexity. The CCM is characterized by broad constructs that may be difficult to measure, and elucidating precise attributional pathways poses further challenges. Despite these disadvantages, the CCM is indeed testable, and much more applicable to real-world settings than most of extant attributional frameworks. This section highlights findings supporting the CCM, as well as the limitations of such research. The CCM assumes that humans are not rational decision-makers, which is supported by partial tests of the model. Specifically, research

demonstrates that: 1) Perceivers' perceptions of the actors involved in an event can indeed influence blame ascriptions; and 2) Perceivers' perceptions of actors sometimes (but not always) exert this influence on blame via interpretation of attributional information, or SLAs.

Prior to the formal advancement of the CCM, Alicke (1994) conducted two studies to examine the effects of an actor's disposition on judgments of causation and blame for an unfortunate event. Results indicated that participants were significantly less likely to blame "socially attractive" actors (e.g., actors characterized as a responsible "good person") than "socially unattractive" actors (e.g., those characterized as irresponsible, reckless, or unsympathetic) for a negative outcome, though the details of the event and outcome remained constant. In Study 1, characterization of the actor influenced blame but not judgments of causality, indicative of a relatively direct attributional pathway as illustrated in Figure 1 (1A). Characterizations of the actor affected both causal and blame judgments in Study 2, however, and casual judgments partially mediated the relationship between the characterization manipulation and blame ascriptions. Thus, Study 2 supports the attributional pathway illustrated in Figure 1 (Path 3).

Mazzocco and colleagues (2004) demonstrated that the characterization of *victims* can affect blame assigned to an alleged perpetrator. Participants read a vignette in which a homeowner shot and fatally wounded a purported intruder, who was either described as a career criminal *or* as an innocent victim (the homeowner's daughter's boyfriend). Blame ratings, perceived negligence, and recommended sentence severity were significantly higher for the homeowner who mistakenly killed an innocent victim. Moreover, perceived negligence partially mediated the relationship between victim characterization and blame ratings. This further supports the notion that reactions to an event's actors can lead to differential SLAs; perceptions

of negligence most closely correspond to judgments of volitional causal control or intent (e.g., whether the actor behaved as a reasonable person would under identical circumstances; Alicke, 2000).

To account for the partial (rather than full) mediating effect of perceived negligence, Mazzocco et al. (2004) conducted a follow-up study exploring the relationship between BJW, perceived negligence, and blame ascriptions. BJW did not significantly impact blame ratings or perceived negligence in either condition. Interestingly, however, perceptions of negligence only mediated the relationship between victim characterization and blame ascription among those low in BJW. Thus, those with strong and weak just world beliefs were equally likely to modify perceptions of negligence on the basis of actor characterization, but only those with weak beliefs actually used this information in rendering a final judgment of blame. This remains the only published study exploring individual differences within the context of the CCM. Though not explicitly stated by the authors, this study also offers some rationale for differences in attributional pathways. Those low in BJW appear to have followed pathways 2 or 3 in Figure 1, whereas those high in BJW may have followed pathways more akin to 1A (whereby SLAs were not considered) or 1B (whereby SLAs were modified in *response* to a desired blame ascription).

As evidenced by this review, most research supporting the CCM has been conducted by Alicke (1994) and colleagues (Alicke et al., 2008; Alicke et al., 1994; Alicke & Zell, 2009; Mazzocco et al., 2004), and employs the same general methodology. Nadelhoffer (2006) emphasized the applicability of the CCM to explaining juror bias; yet, only one published study to date actually applied the CCM to juror decision making (Bright & Goodman-Delahunty, 2008). These researchers examined the effects of gruesome photographic evidence (hypothesized to elicit negative SEs) on jurors' interpretation of case evidence and case decisions. All participants

read a trial summary describing a murder case and were presented with either gruesome photographs, neutral photographs, or no photographs. Those exposed to gruesome photographs were more likely to find the defendant guilty and to rate the prosecution's evidence as sufficient than were those exposed to no photographs; they also scored higher on a measure of negative affective response than participants in the other two groups. Mediation analyses revealed that attributional processes in the gruesome photographs condition were consistent with the main tenets of the CCM. That is, gruesome photographs elicited negative affective response (anger), leading to biased evidence processing (lowering evidential standards for blame) which in turn increased guilty verdicts (see Figure 1, Path 3). Interestingly, although jurors in the neutral photograph condition were more likely to convict the defendant than those in the no photograph condition, this relationship was not mediated by emotional response or ratings of evidence sufficiency.

In sum, results from several studies support the main tenets of the CCM. However, many aspects of the model have been overlooked in prior research. Alicke (2000) conceptualizes SEs as emotional responses to event stimuli, but these only have been measured in one published study to date (Bright & Goodman-Delahunty, 2008). SEs may be elicited by multiple features of an event and an events' actors (including actors' physical characteristics such as race and attractiveness; Alicke, 1994), yet CCM researchers have primarily focused on attributions stemming from character manipulations. Extant research also has largely ignored the effects of SEs on specific SLAs and the factors that may influence attributional pathways. In applying the CCM to juror decision making in a malpractice case, the current research will address some of these gaps and provide a more comprehensive test of the model.

Figure 1. *Potential Attributional Pathways as Specified by the CCM***Path 1: Direct Spontaneous Evaluation Effects:**

A) Spontaneous evaluations (SEs) elicited by the plaintiff and/or other case features impact blame ascriptions without influencing structural linkage assessments (SLAs).

Plaintiff and Case Features → SEs → Blame (Case-related Judgments)

*Example: A juror experiences anger and disgust when she sees that the plaintiff is severely obese. These negative emotions (SEs) motivate the juror to directly blame the plaintiff for her negative outcome without considering case evidence and testimony and how they pertain to elements of intention, causality, and foresight (SLAs).*

B) SEs directly impact blame ascriptions, leading to modifications in SLAs to justify blame (blame is a full mediator between SEs and SLAs).

Plaintiff and Case Features → SEs → Blame → SLAs

*Example: A juror responds to the obese plaintiff with anger and disgust. These emotions motivate the juror to directly blame the plaintiff for her negative outcome. After the juror has decided that the plaintiff is to blame, he or she evaluates case evidence/testimony and SLAs in a based manner in order to support this attribution.*

**Path 2: Indirect Spontaneous Evaluation Effects:** Spontaneous evaluations (SEs) of the plaintiff and case features impact structural linkage assessments (SLAs), which then lead to blame ascriptions.

Plaintiff and Case Features → SEs → SLAs → Blame

*Example: A juror responds to the obese plaintiff with anger and disgust. These emotions in turn motivate the juror to interpret case evidence/testimony and SLAs in a manner consistent with their preferred conclusion, which is to find the plaintiff responsible and blameworthy for the negative outcome.*

**Path 3: Direct and Indirect Spontaneous Evaluation Effects:** SEs both directly and indirectly impacts blame ascriptions through SLAs (SLAs partially mediate the relationship between SEs and blame).

Plaintiff and Case Features → SEs → Blame  
 SEs → SLAs → Blame

*Example: A juror responds to the obese plaintiff with anger and disgust. These emotions motivate the juror to blame the patient directly, but also motivate biased interpretations of evidence/testimony and SLAs which further increase ascriptions of plaintiff responsibility and blame*

### **Applicability of the Culpable Control Model to the Current Research**

As the above review demonstrates, the CCM is the most appropriate attributional framework for understanding the influences of extra-legal factors on juror decision making. It is the only model that considers perceivers' motivational biases, emotions, and social cognitive processes while allowing for graded judgments of responsibility for multiple actors. Despite its limitations, the CCM is flexible enough for use in applied settings and may explain how reactions towards stigmatized targets can further color attributions in other contexts (e.g., how initial reactions to a plaintiff's weight can subsequently affect judgments in a malpractice case).

The CCM may be particularly useful in illuminating how anti-fat bias may construe juror judgments in a malpractice case involving an obese plaintiff. There are numerous reasons to believe that an obese plaintiff will elicit negative SEs, causing jurors to attribute more responsibility to the plaintiff and less responsibility to the physician for a negative outcome. First, obese targets often evoke anger among perceivers, who assume that the obese are responsible for their condition (Wiener et al., 1988). Second, obese individuals are commonly perceived as unlikeable and associated with a host of other negative characteristics (Puhl et al., 2008). Third, there is likely a motivational component to anti-fat bias, as Crandall (1994) argued that prejudice against the overweight functions to re-affirm cultural worldviews based on belief in the Protestant Ethic. Not only do obese individuals elicit negative emotions and attitudes, but perceivers may be motivated to blame them for a negative medical outcome, even if the plaintiff's weight is legally irrelevant. This contention is further supported by the JSM, which suggests that individuals are motivated to express genuine prejudices, or negative affective reactions to devalued group members, through various justifications (Crandall & Eshleman,

2003). Genuine prejudices may be likened to negative SEs in the CCM, and justifications often take the form of attributions for responsibility and blame (Crandall & Eshleman, 2003).

Negative SEs may affect jurors' attributional processes in a variety of ways. CCM research suggests that negative SEs elicited by an obese plaintiff may lead jurors to assess structural linkages in a manner supportive of anti-plaintiff judgments. This may be accomplished through biased processing of linkages related to the plaintiff's behaviors, the defendant's (physician's) behaviors, or both. For example, jurors may be more likely to view the physician's actions as compelled (e.g., the physician performed a risky surgery because he had no other choice) than freely chosen (e.g., the physician performed a risky surgery because he would be viewed favorably in the medical community if successful). More generally, jurors may exaggerate exculpatory evidence and dismiss inculpatory evidence, or heighten or lower evidential standards for blaming the defendant to support their preferred conclusion (Alicke, 2000). Referring to Figure 1, these processes correspond to pathway 2 or pathway 3 (for cases in which SEs directly impact both SLAs and blame ascriptions).

Alternatively, if jurors' anti-fat bias is particularly strong, they may immediately blame the obese plaintiff without any consideration of SLAs (see Figure 1, Path 1A). That is, they may automatically render an anti-plaintiff judgment on the basis of her weight while effectively ignoring the evidence and case facts. Finally, according to the CCM, some jurors may render immediate case judgments on the basis of plaintiff weight, and then modify their SLAs to cohere with these judgments (Path 3). This latter scenario is most consistent with the JSM, which posits that individuals release prejudices by blaming victims or members of disadvantaged groups for their situation and subsequently develop and express additional justifications to account for this blame (Crandall & Eshleman, 2003).



Ultimately, the CCM can be used to both account for juror bias and explain how such bias operates. Many studies have documented the influence of various extra-legal factors on juror decisions, but studies illuminating the *processes* responsible for this influence are less common (but see, e.g., Bodenhausen, 1988; Bright & Goodman-Delahunty, 2008; Horowitz, Bordens, Victor, Bourgeois, & ForsterLee, 2001). As the CCM proposes that *all* attributions are subject to emotional, motivational, and cognitive biases, it can be used to enhance the understanding of juror decisions in a variety of cases, which may not necessarily involve a salient source of bias (e.g., the current study's control condition involving a normal weight plaintiff). Such an understanding may not only help advance theory, but also may be valuable to legal practitioners in their efforts to reduce juror bias.

## Chapter 7: Overview of Study, Hypotheses, and Research Questions

The effects of anti-fat attitudes on behaviors and decision making concerning obese targets are well-documented (Crandall, 1995; Graziano et al., 2007; King et al., 2006; Puhl & Heuer, 2009). Thus, it is conceivable that jurors' reactions to an overweight plaintiff may impact the outcome of a medical malpractice trial. Such influence may occur despite judicial admonitions to consider only case facts and evidence (see Chapter 4). Like other extra-legal factors, the impact of anti-fat bias on juror decision making may be relatively complex. The primary purpose of this research is to illuminate both the effects of plaintiff weight on juror decisions *and* the mechanisms (i.e., attributional processes) underlying these decisions. This investigation is appropriately grounded in the CCM and will be among the first to provide a full test of the model. In addition, this research will explore the impact of deliberations and juror characteristics on attributions and attributional processes in malpractice cases involving both obese and normal weight plaintiffs.

The design for this study will be a 2 (Plaintiff Weight: obese vs. normal) x 2 (Decision Context: individual vs. deliberating) factorial. All mock jurors will review a trial summary concerning allegations of medical malpractice during an ophthalmic surgery- specifically, a LASIK surgery intended to correct the plaintiff's nearsightedness. Plaintiff weight will be manipulated by a photograph (purportedly of the plaintiff) on the trial summary cover sheet. Mock jurors in the "individual" condition will subsequently complete questionnaires designed to assess each component of the CCM. SEs will be measured by affective responses to the case and general perceptions of the plaintiff and defendant; SLAs will be measured via ratings of plaintiff and defendant foresight, causality, and intention, as well as by ratings of witness credibility. Case-related measures such as responsibility of the plaintiff and defendant, verdict, and damage

assessments will serve as a proxy for blame. It is expected that individual jurors in the obese plaintiff condition will render more anti-plaintiff judgments (as evidenced by attributions of responsibility to the plaintiff and defendant, verdicts, and damages awarded) than will those in the normal weight plaintiff condition. The CCM measures will be used in identifying the attributional pathways jurors follow in arriving at case conclusions. For instance, mediation analyses can help determine whether negative SEs elicited by the plaintiff or other case features affect interpretation of the evidence and other SLAs, which may in turn influence blame ascriptions (see **Figure 1**).

Participants assigned to the deliberating condition will review the trial summary independently, and then deliberate the case in groups of 4-6. Each jury will provide a group verdict and award damages if the defendant is found liable. Next, deliberating jurors will *independently* complete the same questionnaires as those in the individual condition to assess the effects of deliberation on individual attributional processes and case judgments. It is expected such that deliberations will attenuate (but perhaps not ameliorate) any effects of plaintiff weight on case-related judgments emerging among individual jurors; these attenuating effects may be present in both the group and independent judgments of deliberating jury members.

Finally, this study will explore the potential moderating effects of several individual differences on mock juror's decisions and attributional processes. According to prior research (see Chapter 2), mock jurors scoring higher on measures on BJW, BPWE, and Anti-Fat Attitudes (AFAs) should be particularly inclined to render anti-plaintiff judgments in the obese condition. Such effects will likely be most pronounced in the individual juror condition, as these participants will experience less pressure to conform to social norms prohibiting the expression

of anti-fat bias and need not justify their decisions to their peers. However, personality variables may influence independent case judgments among deliberating jurors, and may even impact group verdicts if several jury members have similar scores on measures of BJW, BPWE, and AFAs. As males tend to have stronger anti-fat attitudes than women and behave in accordance with those attitudes (Bannon et al., 2008; Graziano et al., 2007) it also is expected that men will render more anti-plaintiff judgments in the obese condition than will women.

Studies indicate that anti-fat attitudes among the overweight and obese are similar to those of their thinner counterparts (Quinn & Crocker, 1999; Teachman et al., 2003). Yet, it is unknown if such attitudes among this population translate into actual behaviors or even impact decision making. In rendering a critical decision impacting the life of an overweight plaintiff, overweight or obese jurors may be motivated to sympathize with the similarly overweight plaintiff despite their pre-existing AFAs. Recent research supports this possibility, finding that adult jurors (who presumably had higher BMIs or had struggled with their weight) were more likely to support an overweight plaintiff than were student jurors (who presumably had lower BMIs and had not experienced as many weight-related problems; Reichert et al., 2011). Thus, in the current research, it is anticipated that individual jurors with higher BMIs in the obese condition will render more pro-plaintiff judgments than will jurors with lower BMIs.

The effects of mock jurors' BMIs on case judgments may be more complex in the deliberating condition. Deliberating jurors' susceptibility to bias often depends on the composition of their jury, especially if fellow jury members are similar to the target of potential bias (e.g., in the same ethnic or religious minority group; Kerr, Hymes, Anderson, & Weathers, 1995; Sommers, 2006). Based on this research and the principles of the JSM (Crandall & Eshleman, 2003), members of juries comprised of one or more significantly overweight

individuals should be more cognizant of anti-fat bias as it pertains to the case, leading to suppression of anti-fat attitudes during deliberation. This in turn will result in more pro-plaintiff judgments among such juries, which also may persevere in deliberating jurors' independently rendered case judgments. Importantly, the effects of plaintiff weight still may be attenuated in juries comprised of normal weight individuals, as it is typically not socially permissible to openly express anti-fat bias (Crandall et al., 2002).

### **Hypotheses and Research Questions Regarding Non-Deliberating Jurors**

**H1:** There will be a main effect for the weight manipulation on measures of SEs, SLAs, and case judgments. Compared to participants in the normal weight condition, those in the obese condition will:

- 1A)** Score higher on affective measures of negative SEs.
- 1B)** Express more positive overall perceptions of the defendant and less positive overall perceptions of the plaintiff (measurements of general SEs).
- 1C)** Score lower on "pro-plaintiff" SLA measures higher on "pro-defendant" SLA measures. That is, they will be less likely to believe that the defendant intended, caused, and foresaw the negative outcomes of the ophthalmic surgery, and more likely to believe that the plaintiff intended, caused, and foresaw these negative outcomes (as evidenced by the general SLA measures). Further, those in the obese condition will rate the defense witnesses' testimony as more convincing and the plaintiff witnesses' testimony as less convincing.
- 1D)** Attribute more responsibility to the plaintiff and less responsibility to the defendant for the plaintiff's situation.
- 1E)** Be less likely to find the defendant liable for medical malpractice.

**1F)** Award fewer economic and non-economic damages if finding the defendant liable than those in the normal condition.

**H2:** There will be an interaction between the weight manipulation and individual personality differences on measures of SEs, SLAs, and case judgments. Specifically, *in the obese condition*, increased scores on measures of BJW, BPWE and Anti-Fat Attitudes will result in:

**2A)** Higher scores on affective measures of negative SEs.

**2B)** More positive overall perceptions of the defendant and less positive overall perceptions of the plaintiff.

**2C)** Lower “pro-plaintiff” and higher “pro-defendant” scores on SLA measures.

**2D)** Increased attributions of responsibility to the plaintiff and decreased attributions of responsibility to the defendant for the plaintiff’s situation.

**2E)** Decreased likelihood of finding the defendant liable for medical malpractice.

**2F)** Decreased economic and non-economic damage awards if the defendant is found liable.

**H3:** There will be an interaction between the weight manipulation and gender on measures of SEs, SLAs, and case judgments. *In the obese condition*, compared to women, men will:

**3A)** Score higher on affective measures of negative SEs.

**3B)** Express more positive overall perceptions of the defendant and less positive overall perceptions of the plaintiff.

**3C)** Score lower on “pro-plaintiff” and higher on “pro-defendant” SLA measures.

**3D)** Attribute more responsibility to the plaintiff and less responsibility to the defendant for the plaintiff’s situation.

**3E)** Be less likely to find the defendant liable for medical malpractice.

**3F)** Award fewer economic and non-economic damages if finding the defendant liable.

**H4:** There will be an interaction between the weight manipulation and BMI on measures of SEs, SLAs, and case judgments. Specifically, increased participant BMI *in the obese condition* will result in:

**4A)** Lower scores on affective measures of negative SEs.

**4B)** Less positive overall perceptions of the defendant and more positive overall perceptions of the plaintiff.

**4C)** Higher “pro-plaintiff” and lower “pro-defendant” scores on SLA measures.

**4D)** Decreased attributions of responsibility to the plaintiff and increased attributions of responsibility to the defendant for the plaintiff’s situation.

**4E)** Increased likelihood of finding the defendant liable for medical malpractice.

**4F)** Increased non-economic damage awards if the defendant is found liable.

**RQ 1:** Does the weight manipulation moderate the attributional pathways followed in assigning blame?

**RQ 2:** Do individual differences (scores on measures of BJW, BPWE, and AFAs; gender, BMI) affect measures of SEs, SLAs, and case judgments in the normal weight condition?

**RQ 3:** Do individual differences moderate the effects of the weight manipulation on attributional pathways followed in assigning blame?

### **Hypotheses and Research Questions Comparing Deliberating and Non-Deliberating Jurors and Juries**

**H1:** There will be an interaction between the weight manipulation and decision context: In the *obese condition*, deliberating jurors will render more pro-plaintiff case judgments than non-

deliberating jurors at both the group and individual level.

**1A)** Deliberating juries will be more likely to find the defendant liable (as indicated by group-level verdicts) than will non-deliberating jurors.

**1B)** Deliberating juries rendering liable verdicts will award higher economic and non-economic damages than will non-deliberating jurors.

**1C)** Deliberating jurors will be more likely to find the defendant liable (as indicated by individual-level verdicts obtained following submission of the group level verdict) than will non-deliberating jurors.

**1D)** Deliberating jurors rendering liable verdicts will award higher economic and non-economic damages than will non-deliberating jurors.

**1E)** Compared to non-deliberating jurors, deliberating jurors will attribute more responsibility to the defendant and less responsibility to the plaintiff for the plaintiff's situation.

**RQ 1)** Do group level and individual level case judgments (i.e., verdicts and damage awards) differ among deliberating jurors?

**RQ 2)** In the normal weight condition, are there differences between deliberating and non-deliberating jurors on measures of SEs, SLAs, and case judgments?

**RQ 3)** Do attributional pathways followed in assigning blame differ among deliberating and non-deliberating jurors?



## Chapter 8: Method

### Participants

A total of 460 undergraduate students (61.8% female; mean age = 21.13 years,  $SD = 7.53$ ) participated in this study. As is required of actual jurors, students had to be at least 18 years of age to participate. Participants were enrolled in courses offering credit for participation in social science research at one of four colleges: University of Nevada, Reno (UNR) Truckee Meadows Community College (TMCC), Western Nevada Community College (WNC), and University of South Florida (USF). Nearly half of the total sample was comprised of UNR students (48.5%,  $n = 223$ ), followed by students at TMCC (32.2%,  $n = 148$ ); USF (11.7%;  $n = 54$ ); and WNC (7.6%,  $n = 35$ ). Participants' ethnic background was reported as follows: White/Non-Hispanic (58.2%); Hispanic/Latino(a) (15.3%); Black/African-American (9.4%); Multi-Ethnic (8.3%); Asian/Asian-American (4.8%); Native American (1.5%); Other (1.3%); and Pacific Islander (1.1%). A breakdown of demographic and condition assignment frequencies by participant college is displayed in **Table 1**.

According to G\*Power, a power analysis program that can be used to calculate adequate sample sizes (<http://www.psych.uni-duesseldorf.de/aap/projects/gpower/>), a minimum of 36 juries comprised of an average of 4.5 members is required to detect a medium effect for the proposed analyses (i.e., a series of regressions with up to three predictors). Thus, a minimum of 324 participants total (162 per Decision Context: individual vs. deliberating conditions) were needed to meet the basic objectives of the current research. More intensive statistical procedures such as mediation and path analyses may require a larger sample; thus, data from 460 participants were collected to account for this.

A total of 203 participants were assigned to the non-deliberating condition, with 52.2% ( $n = 106$ ) receiving the normal weight plaintiff manipulation and 48.7% ( $n = 97$ ) receiving the obese plaintiff manipulation. The remaining 257 participants were assigned to the deliberating condition, which included a total of 53 jury groups, with 28 juries receiving the normal weight plaintiff manipulation and 25 receiving the obese plaintiff manipulation. The mean number of

Table 1. *Plaintiff Weight Condition Assignment and Demographics of Non-Deliberating and Deliberating Participants*

Variable	n/% of Non-Deliberating sample	n/% of Deliberating sample	Total N/%
<b>Weight Condition</b>			
Normal	106/52.2%	134/52.1%	240/52.2%
Obese	97/47.8%	123/47.9%	220/47.8%
<b>College</b>			
UNR	120/59.1%	103/40.1%	223/48.5%
TMCC	53/26.1%	95/37.0%	148/32.2%
WNC	0/0%	35/13.6%	35/07.6%
USF	30/14.8%	24/09.3%	54/11.7%
<b>Gender</b>			
Female	123/60.9%	160/62.5%	283/61.8%
Male	79/39.1%	96/37.5%	175/38.2%
<b>Ethnicity</b>			
White/Caucasian	116/57.4%	150/58.8%	266/58.2%
Hispanic/Latino(a)	25/12.4%	45/17.6%	70/15.3%
Black/African American	25/12.4%	18/07.0%	43/09.4%
Asian/Asian American	9/04.5%	13/05.1%	22/04.8%
Multi-Ethnic	19/09.4%	19/07.5%	38/08.3%
Other	8/04.0%	10/04.0%	18/02.9%

**Note.** Total  $N = 460$ . Adding figures from non-deliberating and deliberating samples reported for demographic variables may be fewer than 460 due to missing data. Total sample age  $M = 23.13$  years,  $SD = 7.53$ . Non-deliberating sample age  $M = 23.97$ ,  $SD = 8.13$ . Deliberating sample age  $M = 22.48$ ,  $SD = 6.70$ .

participants on each jury was 4.85 ( $SD = .82$ ), with 22 four-member juries, 17 five-member juries, and 14 six-member juries. Table 2 displays demographic and weight condition assignment frequencies by decision context (i.e., deliberating vs. non-deliberating participants).

### **Procedure**

**Recruitment and condition assignment.** Participant recruitment procedures varied across colleges. All UNR participants were either recruited electronically or in-person by the primary researcher. Electronic recruitment occurred via a UNR sponsored website (the SONA system) which informs UNR undergraduates of various research participation opportunities. Individuals accessing this site were given a brief description of the study's purpose, procedures, and compensation. Those choosing to participate scheduled a one hour session at a secure lab on campus via the SONA system. Upon obtaining permission from instructors, the primary researcher also visited select UNR undergraduate classes to inform students of this research participation opportunity. UNR participants recruited in-person either scheduled a session at the researchers' laboratory or chose to participate in their classroom (which was reserved for privacy) following their class.

Recruitment procedures for TMCC participants were similar to the UNR procedures, except that TMCC students cannot participate in SONA electronic recruitment. Instead, TMCC instructors forwarded an email invitation to participate to their students, who then contacted the primary researcher to schedule a participation session at the secure laboratory on the UNR campus. Upon obtaining permission from administration and instructors, the primary researcher also visited select TMCC classes to offer students the opportunity to participate in the study immediately following their class in a reserved, private classroom on the TMCC campus.

The primary researcher sought permission to conduct the study from one WNC and one USF instructor, who then informed their students of the opportunity to participate in exchange for extra credit during an upcoming scheduled class period. Students electing to participate reported to their classroom at the normal scheduled class time for their session. WNC sessions were conducted by the primary researcher, and USF sessions were conducted by a CITI certified research assistant supervised by the USF course instructor. Telephone training sessions were held between the primary researcher and the USF course instructor and research assistant to ensure that study protocol and procedures were followed during the USF sessions. Permission was sought and obtained from the University of Nevada, Reno Institutional Review Board (IRB) to conduct the study at all four locations, and no separate approval was required from the USF IRB. Across institutions, all students were assured that their participation was completely voluntary and were offered an alternate opportunity to earn course credit (e.g., reading and summarizing a research article) if they decided not to participate in this study. Students were informed that the study would last between 45-60 minutes. As conducted, all study sessions lasted between 30-60 minutes.

Due to recruitment challenges, random assignment to non-deliberating and deliberating conditions was not possible. In general, participants were assigned to the deliberating condition when an adequate amount of participants were present to form deliberating groups, and were assigned to the non-deliberating condition when fewer than four participants arrived at each scheduled session. There were some exceptions to this rule. In study sessions conducted at TMCC, for example, some large sessions (e.g., > 20 participants) were assigned to the non-deliberating condition and completed all measures individually whereas other groups of similar size were assigned to the deliberating condition and were further broken down into several

juries. This was done in an effort to ensure representativeness of both non-deliberating and deliberating participants in the community college sample. Yet, most deliberating jurors participated with several others in a private classroom setting, and most non-deliberating jurors participated in the UNR laboratory simply due to convenience and recruitment issues.

After assignment to the “decision context” condition (i.e., non-deliberating vs. deliberating), individual participants or juries were randomly assigned to either the obese/normal plaintiff condition using the Research Randomizer (<http://www.randomizer.org/>), an online tool that assists researchers in preparing research materials for random assignment based on the particular study design and estimated number of participants. Juror questionnaire packets were pre-assembled in a specific order based on research randomizer output and were coded as “ND/N, ND/O, D/N, and D/O” according to condition (ND = Non-deliberating, D = Deliberating, O = Obese Plaintiff, N = Normal weight plaintiff) and then distributed to participants in the randomized order. Deliberating packets also included a letter code (e.g., Jury A, Jury K) that represented a jury group. All deliberating packets with the same letter code also included the same weight manipulation, so that all members of a particular jury either viewed the normal weight or obese plaintiff. During large classroom deliberating sessions, the deliberating packets were shuffled and distributed so that members of a jury group were spread throughout the classroom, rather than composed of students who chose to sit next to each other.

**Study sessions.** All participants first received an information sheet targeting individual (see Appendix B) or deliberating jurors (see Appendix C), depending on their condition. These information sheets are largely identical in describing the purpose, procedures, and compensation related to the study; however, the information sheet for deliberating jurors

further explains that participants will be asked to discuss the case and render a verdict in a small group. Participants were given a few minutes to review the information sheet, ask questions, and withdraw their participation if they desired (no participants withdrew over the course of this study). After reviewing the information sheet, each participant received their juror questionnaire packet, which included all individual questionnaires, the weight manipulation, and the trial summary. An adhesive “Juror ID” tag was attached to the top of each packet. These tags displayed an individualized code used for questionnaire identification and matching purposes. Tags for non-deliberating participants displayed a numeric code (e.g., Juror # 101, Juror # 102), whereas tags for deliberating participants included a letter code corresponding to their jury group as well as a unique numeric identifier (e.g., Juror # J-102). Participants were instructed to wear these tags during their study session because actual jurors often wear identification tags. The tags also helped deliberating participants identify other members of their jury group in larger sessions. The final page of the juror packet questionnaire instructed participants to remove their adhesive tag and affix it to that page so that each packet was marked with a unique but anonymous participant and jury group identifier.

The Juror ID Tags also were used by the investigators to match respondents’ observed body type with their questionnaire responses. Though participants were asked to report their height and weight in a demographics questionnaire, self-estimates of height and weight in particular may not be accurate. Thus, when possible, the experimenters surreptitiously recorded participants’ body shape using a figural scale that corresponds with individuals’ actual BMI (Bulik et al., 2001; see Appendix D). At any point during a study session, the experimenter entered the code displayed on the participants’ Juror ID Tag followed by the figural scale code that most closely matched a specific participants’ observed body shape in a “Body Type Codebook.” This

figural scale code could then be matched to participants' reported height and weight to determine whether self-reported BMI data adhered to experimenter observations. It should be noted that the experimenters were only able to code and record participant body shape during certain sessions, which were most often conducted in the UNR laboratory with no more than six participants. Surreptitiously coding and recording body shape proved to be too difficult for most classroom sessions.

Participants were told not to "look ahead" in their juror questionnaire packets and to wait for experimenter instructions before continuing with any particular section. The first part of the packet was comprised of two questionnaires designed to assess "their beliefs about people and the world in general" (i.e., the BJW and BPWE measures, see Appendix E). These assessments were obtained first in accordance with MacKinnon's (2008) recommendation that potential moderating variables be measured prior to anticipated main effects if possible.

After completing the BJW and BPWE measures, all participants were asked to carefully read a trial summary detailing allegations of medical malpractice prior to, during, and following LASIK eye surgery. The summaries included different instructions for non-deliberating (see Appendix F) and deliberating (see Appendix G) jurors. All participants were permitted to take notes regarding the information presented, as is commonly allowed during civil trials (American Judicature Society, 2009). Photographs of the plaintiff and defendant appeared on the cover of the trial summary; the plaintiff's photograph was digitally altered so that she either appeared to be obese (see Appendix H) or at a normal weight (see Appendix I).

Upon reviewing the trial summary, participants in the **non-deliberating condition** were instructed to take 15 minutes to think about the case and encouraged to write down any thoughts they have prior to rendering any judgments. This individual contemplation period was

intended to ensure that any differences emerging between non-deliberating and deliberating jurors were in fact due to the deliberation process, rather than to the passage of time or less cognitive engagement among non-deliberating jurors (see McCoy et al., 1999). After this 15-minute time period elapsed, non-deliberating jurors were told to continue and complete the remaining pages in their juror packet, which included a series of questionnaires regarding their reactions to and judgments about the case. The majority of these items also were designed to assess attributional processes and attributions in accordance with the CCM. Participants first responded to items regarding their emotional reactions to the case and their overall evaluations of the plaintiff and defendant (proxies for spontaneous evaluations; see Appendix J). Next, they completed a series of items targeting their interpretation of the information provided in the trial summary and their perceptions of the degree to which the plaintiff and defendant intended, caused, or foresaw the negative medical outcome (proxies for SLAs, see Appendix K). Non-deliberating jurors then rendered case judgments (see Appendix L) regarding responsibility of the plaintiff and defendant for the negative outcome, liability, and damages awarded to the plaintiff.

After individually reviewing the trial summary, participants in the **deliberating condition** conferred with their fellow “jury members,” or other participants assigned to the same jury group. Groups were instructed to deliberate as actual jurors and discuss the available evidence and case facts until they reached a conclusion. Deliberating groups were allowed 30 minutes to agree on verdict and damages judgments. Juries unable to render a verdict after 30 minutes were given an additional 5 minutes and encouraged to reach a collective decision; if no decision was reached, they were declared a hung jury. This is similar to a “dynamite charge,” which is a common instruction given by judges and approved by the U.S. Supreme Court in *United States v.*



*Allen* (1896). Each “jury” submitted a collective verdict form assessing liability and damages awarded to the plaintiff if the defendant is found liable (see Appendix M). After submitting the collective jury verdict form, each jury member then independently responded to a series of questionnaires identical to those distributed to participants in the non-deliberating condition in order to obtain a better understanding of their individual case perspectives. Importantly, deliberating jurors received verbal and written instructions to draw on their own personal perceptions and judgments about the case when responding to these items, rather than on the perspectives of other jurors shared during deliberations or their jury’s collective case decisions.

In the last phase of the study, all participants completed the short form of the Fat Phobia Scale (Bacon, Scheltema, & Robinson, 2001; see Appendix N), a measure of anti-fat attitudes and beliefs. This individual difference measure was administered at the end rather than the beginning of the study to help minimize response bias in the CCM and case judgments measures. Finally, participants provided demographic information, including height and weight to calculate BMI (see Appendix O). They were thanked for their participation, encouraged to contact the researchers with any questions or concerns, and received a debriefing form further explaining the purpose of the study (see Appendix P).

## **Materials**

### **Independent and individual difference variables.**

***Trial summary and photographs.*** All participants reviewed the same medical malpractice trial summary involving plaintiff allegations of physician negligence prior to, during, and following LASIK eye surgery (see Appendices E-F). The trial summary was adapted from an actual claim filed against an eye surgeon, with additional details added to facilitate tests of the CCM (e.g., contradictory expert testimony). Two rounds of pre-testing were conducted to help

ensure participant comprehension and that the case was relatively balanced in favor of the plaintiff and defendant. The first pre-test included 20 participants, with 35% ( $n = 7$ ) finding the defendant liable and 65% ( $n = 13$ ) finding the defendant not liable after reading the first trial summary draft. This draft was then modified to make the defendant appear more at fault and again pre-tested on a group of 33 participants, with 54.5% ( $n = 18$ ) rendering a verdict of liable and 45.5% ( $n = 15$ ) rendering a verdict of not liable. This was considered an adequate verdict distribution and all participants indicated that they understood the information presented. Consequently, the trial summary and was not further modified.

A cover sheet was attached to each summary that displayed the case name, case number and photographs of both the plaintiff and defendant. The defendant's photograph remained constant across conditions. The plaintiff's photograph, however, was digitally altered according to condition, making her appear "normal" (see Appendix H) or obese (see Appendix G).

**BJW measure.** Participants' belief in a just world was measured using the BJW-Other scale (BJW-O; Lipkus, Dalbert, & Siegler, 1996), which was developed from Lipkus' earlier GBJW scale (1991). This scale is designed to assess individual's beliefs that *others around them* "get what they deserve and deserve what they get" (Lipkus et al., 1996, p. 665), rather than the belief that the world is just or unjust for oneself. The BJW-O scale is appropriate for the current research as it examines how just world beliefs affect jurors' attributions of trial participants' responsibility, focusing on the influence of the plaintiff's characteristics in this process. It consists of 8 items with responses occurring on a 5-point Likert scale where 1 = Strongly Disagree and 5 = Strongly Agree. Responses to all items are averaged so that higher scores indicate a stronger BJW for others. The BJW-O scale is recommended for use in decision making

research (Bennett, 2008), and is a robust measure with an average Cronbach's alpha of .84 (Lipkus, 1996).

**BPWE measure.** The Protestant Ethic Scale (PES; Katz & Hass, 1988), a shortened version of Mirels and Garrett's (1971) measure, assessed the degree to which participants endorse the protestant work ethic. Participants indicate their level of agreement with a series of 11 statements using a 7-point Likert scale where 1 = Strongly Disagree and 7 = Strongly Agree. Responses are averaged so that higher scores indicate stronger endorsement of the PWE. This scale is often employed in research examining the correlates of anti-fat bias (e.g., Crandall, 1994; Quinn & Crocker, 1999), with a reported reliability of  $\alpha = .76$  (Katz & Hass, 1988).

**Anti-fat attitudes.** Participants completed the 14-item Fat Phobia Scale (FPS; Bacon, Scheltema, & Robinson, 2001), which is designed to assess anti-fat attitudes and beliefs. This semantic differential 5-point scale presents participants with two bipolar adjective and instructs participants to place an "x" near the adjective which they feel best describes fat people. Items 1, 2, 8, 11, 13, and 14 are reverse-scored, with the total responses averaged so that higher scores indicate stronger anti-fat attitudes. The FPS is highly reliable with reported Chronbach's alphas ranging from .87 - .91 (Bacon et al., 2001) and is routinely used in investigations of anti-fat bias (e.g., McClure, Puhl, & Heuer, 2011; Puhl, Warton, & Heuer, 2009; Poon & Tarrant, 2009).

**Demographics.** This brief questionnaire asks participants to report their gender, age, ethnicity, weight, and height. In addition, it also asks participants whether they have had LASIK surgery or a similar procedure and whether they or anyone close to them has been the victim of medical malpractice. Those answering "yes" to either question are prompted to elaborate on their experience. Responses to this questionnaire were used to detect any significant individual variances (e.g, in age, ethnicity) across conditions that may potentially affect results and to

examine the impact of prior experience with eye surgery on jurors' judgments. Potential main or moderating effects of participants' BMI (a reliable measure of body fatness, obtained from reported height and weight; Centers for Disease Control and Prevention, 2011) and gender also were explored.

**Body type.** When possible, researchers visually assessed participants' body type using the Stunkard Figural Rating Scale (SFRS; Stunkard, Sorensen, & Shulsinger, 1983). This scale consists of nine numbered figures representing female body shapes and nine figures representing male body shapes, which each correspond to a BMI range. Lower numbers indicate a thinner body shape, whereas higher numbers indicate an overweight or obese body shape. For women, a rating of 1 = underweight; ratings of 2-4 = healthy weight, a rating of 5 = overweight, and ratings of 6 or greater = obese. For men, ratings of 1-4 = healthy weight, ratings of 5-6 = overweight, and ratings of 7 or greater = obese (Centers for Disease Control and Prevention, 2011). The SFRS has proven a valid and reliable means of visually assessing body shape and BMI since its inception (Lynch, Liu, Wei, Spring, Kiefe, & Greenland, 2008) with reported Cronbach's alphas ranging from .83-.90 (Bulik, Wade, Heath, Martin, Stunkard, & Eaves, 2001; Thompson & Altabe, 1991).

**Dependent variables.**

**Spontaneous evaluation measures.** Alicke (1994; 2000; 2008) asserted that spontaneous evaluations may encompass both affective responses to an event and/or the actors and involved and general perceptions of actors. To date, there are no validated, published measures of SEs within the context of the CCM. Thus, this research used participants' affective responses to the case and their overall perceptions of the plaintiff and defendant as proxies for SEs. First, participants were presented with a list of 6 emotions and asked to indicate

the extent to which they experienced each in reaction to the case using a 5-point Likert scale where 1 = very slightly or not at all and 5 = extremely. These affective descriptions and response scales were adapted from the Positive and Negative Affective Scale (Watson, Clark, & Tellegen, 1988) and the Juror Negative Affect Scale (Bright & Goodman-Delahunty, 2006). Some of these items are intended as “filler” material (i.e., “surprised,” “relaxed”), whereas items 2 (“angry”), 4 (“disgusted”) and 6 (“resentful”) describe common emotional reactions toward obese targets (Pryor et al., 2004; Weiner et al., 1988; Weiner, 2006). Next, participants indicated their overall perceptions of the plaintiff and defendant using a 7-point Likert scale where 1 = extremely negative and 7 = extremely positive (adapted from Reichert et al., 2011). Importantly, such negative emotional responses and perceptions of trial participants are common among medical malpractice jurors (Feigenson, 2000; Vidmar, 1995). These negative SEs may occur in both the obese and normal weight conditions and be used to help understand attributional processes and attributions accordingly; however, more pronounced negative SEs in the obese condition would be attributable to the weight manipulation.

***Structural Linkage Assessments (SLAs).*** Aside from basic assessments of causal attributions, there are currently no published or established measures of SLAs in terms of the CCM. Consequently, 17 items were developed to measure participants’ SLAs regarding the allegation of medical malpractice in this study. The first set of 12 items are designed to measure the three specific SLAs pertaining to the plaintiff’s and defendant’s actions (6 parallel items for each actor) related to the surgical error and resulting patient complications, with responses occurring on a 7-point (1 = Strongly Disagree, 7 = Strongly Agree) Likert scale. For both actors, items 1 and 6 correspond to participants’ perceptions of causal control, 2 and 5 correspond to perceptions of behavioral control, and 3 and 4 correspond to perceptions of outcome control.

According to Alicke (2000), SEs can affect SLAs more generally by altering perceivers' perceptions of case evidence and testimony. Thus, participants also were asked to rate the witnesses' testimony (5 items) using a 7-point Likert scale where 1 = Not Convincing and 7 = Very Convincing.

***Jury Case Judgments.*** Following deliberations, each jury rendered its collective decision regarding liability and damage awards via a "jury verdict form;" responses were approved by all members of the jury (see Appendix I). The jury indicated whether they found the defendant liable for medical malpractice (yes or no). If the defendant was found liable, the jury was asked to select the amounts awarded in economic and economic damages from a series of 18 options ranging from \$0.00 to \$450,000.00, separated by \$25,000.00 increments. Actual juries provide their own unique damage awards rather than selecting awards from a series of options, though the plaintiff's attorney will typically specify appropriate damage awards (Feigenson, 2000). For the purposes of the current study, however, juries were asked to indicate their awards using a scale to avoid the irregular data that often result from open-ended damage assessments.

***Individual Juror Case Judgments.*** All participants (deliberating and non-deliberating) provided their own personal judgments about the case, which may or may not align with their jury's case-related judgments. First, participants indicated the degree to which they believed 1) the physician and 2) the patient are responsible for the plaintiff's injuries using a 7-point Likert scale where 1= Not at all responsible and 7 = Completely responsible. These measures were included because Alicke (2000, 2008) asserted that responsibility attributions are a product of SEs, SLAs, or both, and similar but not equivalent to blame attributions. In addition, these measures allowed for more precise assessment of plaintiff/defendant responsibility attributions than can be provided by jurors' dichotomous case verdict. The additional items assessing juror

case judgments are similar to those appearing on the jury verdict form; jurors were asked to render an individual verdict (the defendant is/is not liable for medical malpractice) and, if finding the defendant liable, to award damages using the scales described above.

## Chapter 9: Scoring and Pre-Analyses

### Coding of IVs and “Nominal Groups”

Within the “weight manipulation” variable, participants in the normal weight condition were assigned a code of “0,” and participants in the obese condition were assigned a code of “1.” Similarly, those in the non-deliberating condition were assigned a code of “0” pertaining to this variable, whereas, those in the deliberating condition were assigned a code of “1.”

Deliberating participants were assigned a numeric “Jury ID” code (ranging from 1-53) representing the jury group to which they belonged. Non-deliberating participants also were assigned to “nominal groups,” or imaginary jury groups so that statistical comparisons could be made between deliberating and non-deliberating participants within a nested context. That is, each non-deliberating participant was assigned to a hypothetical jury and received a corresponding Jury ID code (ranging from 60-102). In assigning non-deliberating participants to hypothetical jury groups, participant data were first separated according to their college and weight condition so that individuals were only assigned to a jury group if fellow members were from the same institution and received the same weight manipulation. The Research Randomizer was again used to assign non-deliberating participants to nominal “jury” groups within colleges and weight conditions. Though efforts were made to replicate the same proportion of jury members per group as in the deliberating sample, this proved difficult with the restraints of creating nominal groups by college and weight condition. The mean number of non-deliberating participants in each nominal jury group was 4.83 ( $SD = .75$ ), with 19 four-member juries, 15 five-member juries, and 7 six-member juries. The non-deliberating nominal jury groups were only used in comparisons between non-deliberating and deliberating responses on certain dependent variables, as noted in Chapter 11.



### Scoring of Individual Difference Variables

Gender was simply coded as 0 = female and 1 = male. Participants' total scores on the BJW-O scale, BPWE scale, and FPS were obtained by averaging responses to all individual scale items, accounting for the reverse-coded items in the FPS. Participants with missing data for more than two items in each item scale were assigned a missing value for their total scale score and excluded from further analyses. For each measure, higher scores indicate a stronger tendency toward the personality or belief variable in question (i.e., belief in a just world, belief in the protestant ethic, anti-fat attitudes). Cronbach's alphas calculated for each measure using the current sample yielded reliability estimates as follows: BJW-O  $\alpha = .69$ ; PES  $\alpha = .77$ ; FPS  $\alpha = .86$ . All estimates fell within the acceptable range of  $\geq .70$  except for BJW-O, which was sufficiently close to the cutoff point given sample size to be included in analyses without any modifications (John & Benet-Martínez, 2000).

Participants' BMI was calculated using the following formula: Reported Height in Inches<sup>2</sup>/Reported Weight in lbs x 703 (Centers for Disease Control and Prevention, 2011). Higher BMI scores indicate increased body fat. Specific BMI categorizations are as follows:  $< 18.5 =$  Underweight,  $18.5 - 24.9 =$  Normal weight,  $25 - 29.9 =$  Overweight, and  $\leq 30.0 =$  Obese (Centers for Disease Control and Prevention, 2011). In the current study, BMI is treated as a continuous variable.

Surreptitiously coding the body type of participants using the SFRS (see Appendix D) proved to be more challenging than anticipated, especially during larger study sessions. It was difficult to view Juror ID tags from a distance in classroom, and most participants remained seated except for when they moved to deliberate with their assigned groups, which did not allow for an adequate view of their body type. When jurors in large sessions approached the

investigator to submit their questionnaire packets, their ID tags had already been removed and affixed to the packet. Because of these issues, SFRS ratings were obtained for only 40.9% ( $n = 188$ ) of the total sample. These participants received a code of 1 – 9 based on the degree to which their observed body shape matched the figural stimuli corresponding to each number. Lower ratings represent thinner figures and higher ratings represent overweight or obese body figures. SFRS ratings and BMIs were very strongly correlated,  $r(185) = .92, p < .01$ . Though SFRS ratings will not be used as an independent variable in subsequent analyses, they do help support the validity of BMI estimates based on participants' self-reported height and weight.

### **Scoring of Dependent Variables and Scale Development**

**Spontaneous evaluations.** Participants' reported levels of anger, disgust, and resentment experienced in response to the trial summary indicate the magnitude of their negative SEs elicited by case aspects and/or actors involved. Scores on these three measures were summed and averaged to create a negative SE scale,  $\alpha = .74$ , with higher scores indicating more negative SEs. Though participants' overall perceptions of the plaintiff and defendant were significantly correlated,  $r(457) = -.42, p < .01$ , these are considered as separate but related measures of SEs, with lower scores indicating more negative reactions to each trial participant, respectively.

**SLA scale development.** As described in the Measures section, a twelve item scale with two subsets of six parallel items for the plaintiff and defendant was developed to assess participants' perceptions of the criteria commonly considered when ascribing blame (SLAs). Because no one has attempted to test the specific SLAs proposed by the CCM, these items were developed based on theory and examples of each structural link provided by Alicke (2000, 2008). Thus, a series of reliability and factor analyses were conducted to determine the extent

to which this scale represented the three SLAs (behavior control, causal control and outcome control) proposed by the CCM.

First, a reliability analysis was conducted including all 12 scale items (with items reverse-coded as necessary), and item-total correlations were obtained. This initial analysis yielded a Chronbach's alpha of .78, and indicated that all items were positively correlated with one another except for item 2 in the defendant subscale, which had a negative correlation. Scale reliability increased to  $\alpha = .80$  after this item was removed and all subsequent analyses were conducted using the 11 remaining items.

Initial exploratory analyses (i.e., correlations, reliabilities calculated using various groups of items hypothesized to represent the same underlying constructs, confirmatory factor analyses examining the items by target and decision context) suggested that the scale may be unitary rather than representative of three distinct factors. Thus, a principal components analysis extracting a single factor was conducted. All factor loadings exceeded .34 with the exception of item 1 in the plaintiff subscale, with a loading of .24, suggesting a unitary measure (Floyd & Widaman, 1995).

Because the CCM suggests that all SLAs are related (Alicke, 2000) and because correlational analysis indicated that most scale items were in fact positively and significantly related, a factor analysis using principal axis factoring and promax rotation was then conducted with the 11 SLA scale items. This analysis yielded two factors with eigenvalues  $>1$ , with the first factor accounting for 38.52% of the variance and the second factor accounting for 15.78% of the variance. Factor loadings were not consistent with the theoretical proposition of unique SLA groups, because different items intended to measure the causal, behavioral, and outcome links loaded on both factors. In addition, examination of the factor correlation matrix revealed that

the factors were highly correlated at .63, and correlations  $> .51$  indicate a unitary scale (Floyd & Widaman, 1995). Thus, these 11 items were summed and averaged to create a single SLA scale ( $\alpha = .80$ ) with plaintiff items 1, 2, 5, and 6 reverse coded and defendant items 3 and 4 reverse coded. Participants answering fewer than 9 of the 11 items were not included in the SLA scale. The scale ranged from 1-7, with higher scores indicating more pro-plaintiff attributions and lower scores indicating more pro-defendant attributions.

**Ratings of witness testimony (additional SLA measures).** The three items measuring the plaintiff's witnesses' convincingness were averaged to create a Plaintiff Witness Ratings measure,  $\alpha = .84$ . Possible values range from 1-7, with higher scores indicating more positive perceptions of plaintiff witnesses and lower scores indicating more negative perceptions. Similarly, the two items measuring the defendant's witnesses' convincingness were averaged to create a defendant witness ratings measure,  $\alpha = .68$ . Though reliability for the defendant witness ratings measure was slightly below the commonly accepted cutoff point of .70, both items were positively and significantly correlated,  $r(456) = -.52, p < .01$ , which justified the combination of these two items into a single measure (John & Benet-Martínez, 2000).

**Case-related judgments.** Case-related judgments were conceptualized as measures of blame within the context of the CCM for both deliberating and non-deliberating jurors and jury groups. Individual verdicts for both deliberating and non-deliberating jurors were coded as 0 = not liable and 1 = liable. *Jury* verdicts, representing the verdict agreed upon by the entire jury and considered in analyses as a group level variable, were coded as 0 = not liable, 1 = liable, and 2 = hung. Damages awarded at the group level (agreed upon by the entire jury) and individual level (provided separately by both deliberating and non-deliberating jurors) simply reflected the

amount chosen from the options provided. It should be again noted that only juries and jurors finding the defendant liable were instructed to award damages.

Individual jurors' assessments of plaintiff and defendant responsibility, with higher scores indicating more responsibility attributed to each actor, also were used as a CCM outcome measure (a proxy for blame) per Alicke's (2000) recommendation. It was initially anticipated that these assessments might not be complementary (i.e., participants may assign substantial responsibility to both the plaintiff and defendant). However, when the plaintiff responsibility item was reverse coded, Cronbach's alpha for the two responsibility items was .82, and both items were strongly correlated,  $r(453) = .70, p < .01$ . Thus, these two items were summed and averaged to yield a total responsibility measure ranging from 1-7, with lower scores indicating more responsibility assigned to the plaintiff and higher scores indicating more responsibility assigned to the defendant.

### **Data Screening and Transformations**

Prior to exploring the hypotheses and research questions, the data were examined using SPSS to ensure that the basic assumptions of all planned statistical tests were satisfied. All dependent and individual difference variables were assessed for normality both independently and with weight condition and decision context as factors. These assessments included visual inspection (e.g., histograms, Q-Q plots), descriptives, and tests for normality (i.e., skew, kurtosis, Kolomgorov-Smirnov and Shapiro-Wilk tests). The vast majority of dependent and individual difference variables appeared to be normally distributed across all conditions, with two exceptions (participant age and BMI). Aside from these two aforementioned individual difference variables, skew and kurtosis values fell between -1 and 1, and no substantial outliers were noted. Komologrov-Smirnov and Sharpiro Wilk values were significant for some variables

(e.g., the FPS, plaintiff and defendant Witness measures, and the total responsibility measure). However, all other indicators suggested that these variables were normally distributed and no corrective procedures were applied.

Two individual difference variables clearly violated normality assumptions. Exploration of the age variable revealed a skew value of 2.98 and a kurtosis value of 10.22; moreover, the boxplot identified numerous “extreme outliers,” or cases with values more than three times the height of the box. Given the high skew value, an inverse transformation was applied to the age variable. Though the newly transformed age variable did not meet all requirements for normality, it was substantially improved with a skew value of 1.34 and kurtosis value of 1.43. Though several outliers remained, all extreme outliers were eliminated by this procedure. The newly transformed age variable was then multiplied by 100 to facilitate interpretation of results. Similarly, exploration of the BMI variable revealed substantial positive skew (1.20), a kurtosis value of 1.49, and several extreme outliers. A logarithm transformation was applied, which decreased the skew and kurtosis values to .70 and .18, respectively, and also eliminated all extreme outliers.

Multivariate normality, linearity, and homoscedasticity were assessed via examination of bivariate scatterplots and residuals plots (Mertler & Vannatta, 2005); no severe deviations were noted. For each analysis conducted, steps were taken to ensure that all appropriate assumptions were met. Unless otherwise noted, all Tolerance values exceeded .10 and all VIF values were less than 5, indicating the absence of multicollinearity (Mertler & Vannatta, 2005). Mahalanobis and Cook’s distances were saved to identify any cases that may have a disproportionate influence on results. If Mahalanobis and/or Cook’s distances exceeded acceptable values (i.e., the appropriate chi-square value and  $n/4$ , respectively) the analysis in

question was conducted a second time with the violating cases removed. Removing such cases did not substantially impact results in any case, and all reported results include all applicable cases.

### **Exploring Individual Differences across Conditions**

A series of chi-square analyses and two-way ANOVAs with plaintiff weight and decision context as factors were conducted to detect any significant differences in demographic and other individual difference variables across conditions. Chi-square analyses revealed no significant differences pertaining to gender and condition assignment ( $\chi^2 = .12, p = .73$ ). As illustrated in Table 2, all WNC participants were assigned to the deliberating condition for convenience purposes (i.e., to ensure that an adequate sample of deliberating participants was obtained to conduct the study) thus creating non-equivalence across conditions. After excluding WNC participants, chi-square analyses also revealed that TMCC participants were significantly more likely to be assigned to the deliberating condition than were UNR and USF participants,  $\chi^2 (2, N = 425) = 13.06, p = .01$ .

Due to small cell sizes, the ethnicity variable was collapsed into two categories to examine differences in condition assignment (White/Non-Hispanic vs. Other Ethnicity). Chi-square analyses indicated a significant difference in assignment to weight condition,  $\chi^2 (1, N = 457) = 6.12, p = .01$ . Within the obese plaintiff condition, 64.5% ( $n = 140$ ) of participants identified as White/Non-Hispanic, whereas 35.8% identified with other ethnic backgrounds ( $n = 78$ ). The proportion of participants in the normal weight condition was more balanced (White/Non-Hispanic = 52.7%,  $n = 126$ ; Other Ethnicity = 47.3%;  $n = 113$ ).

Table 2. *Condition Assignment and Demographics of Participants by College*

Variable	UNR <i>n</i> / <i>%</i> ( <i>N</i> = 223)	TMCC <i>n</i> / <i>%</i> ( <i>N</i> = 148)	WNC <i>n</i> / <i>%</i> ( <i>N</i> = 35)	USF <i>n</i> / <i>%</i> ( <i>N</i> = 54)
<b>Decision context</b>				
Non-Deliberating	120/53.8%	53/35.8%	35/100.0%	30/55.6%
Deliberating	103/46.2%	95/64.2%	0/0%	24/44.4%
<b>Weight Condition</b>				
Normal	122/54.7%	79/53.4%	12/34.3%	27/50.0%
Obese	102/45.3%	69/46.6%	23/65.7%	27/50.0%
<b>Gender</b>				
Female	138/62.2%	99/67.3%	22/62.9%	24/44.4%
Male	84/37.8%	48/32.7%	13/37.1%	30/55.6%
<b>Ethnicity</b>				
White/Caucasian	146/65.8%	80/54.8%	21/60.0%	19/35.2%
Hispanic/Latino(a)	26/11.7%	26/17.8%	7/20.0%	11/20.4%
Black/African American	13/05.9%	10/06.8%	1/02.9%	19/35.2%
Asian/Asian American	18/08.1%	3/02.1%	1/02.9%	0/0%
Multi-Ethnic	14/06.3%	20/13.7%	1/02.9%	3/05.6%
Other	5/02.4%	7/04.9%	4/10.7%	2/02.8%

**Note.** Adding figures reported for demographic variables may be fewer than the total *N* by college due to missing data. Total sample age  $M = 23.13$  years,  $SD = 7.53$ . UNR sample age  $M = 22.30$ ,  $SD = 6.91$ ; TMCC sample age  $M = 24.71$ ,  $SD = 9.08$ ; WNC sample age  $M = 23.78$ ,  $SD = 8.27$ ; USF sample age  $M = 21.79$ ,  $SD = 2.25$ .

Two way ANOVAs revealed no differences no significant differences in scores on the FPS and in participant BMI across conditions ( $F_s < 1.25$ ,  $p_s > .10$ ). There was a small but significant difference in BPWE scores within the weight condition ( $F [1, 458] = 4.20$ ,  $p = .04$ ,  $\eta_p^2 = .01$ ), such that participants exposed to the obese plaintiff had slightly higher BPWE scores ( $M = 4.65$ ,  $SE = .53$ ) than those exposed to the normal weight plaintiff ( $M = 4.50$ ,  $SE = .50$ ). Conversely, those exposed to the obese plaintiff had slightly lower scores on the BJW scale ( $M = 2.72$ ,  $SD = .54$ )



than those exposed to the normal weight plaintiff ( $M = 2.84$ ,  $SD = .51$ ),  $F(1, 458) = 4.50$ ,  $p = .04$ ,  $\eta_p^2 = .01$ . There was also an interaction between condition assignment and BJW-O scores, with a greater difference in scores between weight conditions for deliberating participants (Deliberating/Obese  $M = 2.66$ ,  $SD = .54$ ; Deliberating/Normal  $M = 2.87$ ,  $SD = .48$ ; Non-deliberating/Obese  $M = 2.79$ ,  $SD = .54$ ; Non-deliberating/Normal  $M = 2.79$ ,  $SD = .56$ ),  $F(1, 458) = 4.72$ ,  $p = .03$ ,  $\eta_p^2 = .01$ .

Because all participants completed the BJW and BPWE measures first, these differences cannot be a result of condition assignment and are likely due to chance. With the exception of a disproportionate number of WNC students in the deliberating condition, the variations in participant characteristics across conditions are negligible. Yet, these differences should be noted and considered in interpreting study results.

### **Verdicts**

A relatively “split” verdict distribution was needed to conduct meaningful analyses of the impacts of plaintiff weight, individual differences, and attributional processes on verdicts. Pre-tests indicated such a split distribution, with 54.5% finding the defendant liable; however, these data were obtained from a small sample ( $N = 23$ ). Verdict choices varied in the current sample depending on assignment to non-deliberating or deliberating conditions. Among those in the non-deliberating group, 63.1% ( $n = 128$ ) found the defendant liable for medical malpractice, and 36.9% ( $n = 75$ ) did not. The majority of deliberating *juries*, however, found the defendant not liable (58.5%;  $n = 31$ ). Sixteen (30.2%) deliberating *juries* found the defendant liable, and an additional six (11.3%) were unable to reach a unanimous decision after 30 minutes of deliberation and were declared hung *juries*. After deliberations, deliberating jurors were asked to render *individual* verdicts independent from those submitted by their *jury*. The majority of

these verdicts were consistent with the group jury decisions, with 62.4% ( $n = 159$ ) of the 255 deliberating jurors rendering individual verdicts of not liable, and 37.6% ( $n = 96$ ) rendering verdicts of liable. The differences in verdicts between non-deliberating and deliberating jurors will be discussed further in the following chapter. However, these basic frequencies illustrate that there was enough discrepancy in verdict responses to detect any significant impacts of independent variables or individual differences, even though they differ from pre-test results.

### **Correlations between Individual Difference Variables**

In addition to examining multicollinearity indicators, Pearson product moment correlation coefficients were obtained to explore relationships between the individual difference variables. There were no notable differences in correlations between individual difference variables in the non-deliberating and deliberating samples; thus, coefficients computed using the entire sample are reported. As **Table 3** shows, scores on the BJW-O and BPWE scales were positively and significantly correlated,  $r(455) = .334, p < .01$ . Such a relationship is consistent with prior research indicating that these constructs are related but represent nuanced personality facets (Christopher et al., 2008). There was a small but significant positive relationship between scores on the BJW-O scale and those on the FPS,  $r(442) = .107, p < .05$  and stronger positive relationship between BPWE and FPS scores,  $r(442) = .255, p < .01$ . There also was a small but significant negative correlation between participants' BMI and FPS scores,  $r(446) = -.111, p < .05$ , such that those with higher BMIs tended to score lower on the FPS (indicating less negative attitudes and beliefs towards obese persons) than those with lower BMIs. Importantly, the findings from these correlation analyses suggest that all individual difference variables as assessed in this study should be treated as separate predictors of the dependent variables, although some are indeed related. Correlations between CCM measures

used as predictor variables (e.g., negative SEs, perceptions of plaintiff and defendant) will be reported in the results section as they pertain to specific models tested.

Table 3. *Correlations between Individual Difference Variables in the Total Sample.*

<b>Variables</b>	Gender	BJW-O	BPWE	FPS	BMI
Gender	-	.047	.062	.039	.095
BJW-O	.047	-	.334**	.107*	-.025
BPWE	.062	.334**	-	.255**	-.039
FPS	.039	.107*	.255**	-	-.111*
BMI	.095	-.025	-.039	-.111	-

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

## **Chapter 10: Results Addressing Hypotheses and Research Questions Regarding Non-Deliberating Jurors**

Hypotheses regarding non-deliberating jurors involved testing the effects of the weight manipulation, individual difference variables, and interactions between the weight manipulation and individual difference variables on each dependent variable pertaining to SEs (negative SE scale, perceptions of the plaintiff, perceptions of the defendant), SLAs (SLA Scale, plaintiff witness ratings, defendant witness ratings) and case-related judgments (total responsibility scale, verdict, economic damages, non-economic damages). Research Question 2 initially sought to explore the effects of individual difference variables on the aforementioned DVs in the normal-weight condition only. Upon executing analyses, it became clear that limiting this exploration to the normal-weight condition only was unnecessary; tests of interactive effects between weight condition and individual differences could determine how individual differences operated in each weight condition and in the total sample of non-deliberating jurors. Thus, the scope of RQ 2 was expanded to explore the effects of individual differences on measures of SEs, SLAs, and case judgements in the entire non-deliberating sample. Recall that a summary of key abbreviations used throughout the results sections and their definitions is presented in Appendix A. Appendix Q briefly summarizes the findings of analyses conducted to test all hypotheses and research questions proposed in this study.

The main and interactive effects of the weight manipulation and individual difference variables on each DV were explored through a series of “comprehensive” and individual, more targeted regression models. The comprehensive models included plaintiff weight (obese vs. normal), all individual difference variables, and interaction terms between plaintiff weight and each individual difference variable as predictors. The series of targeted regressions included

only plaintiff weight, one individual difference variable, and the corresponding interaction term as predictors of each DV. This approach was taken in order to understand the individual effects of each predictors controlling for other individual difference variables while acknowledging that small but meaningful effects of a specific predictor may be obscured in a regression model involving several predictors (Cohen, Cohen, West, & Aiken, 2003). After all analyses were conducted, it became apparent that the effects emerging in both the comprehensive and the less inclusive, individual models were similar and that the comprehensive models contributed little to the understanding of the “overall picture” of how plaintiff weight and individual differences may influence attributional processes and case judgments. Therefore, only results from the simpler models are presented here.

Logistic regression was used when examining effects on verdicts, which is a dichotomous variable. Linear regression was used when examining effects of the weight manipulation and individual difference variables on all other DVs, which are continuous. It should be noted that each analysis addresses multiple hypotheses as well as RQ 2. For instance, a regression including plaintiff weight, gender, and the interaction term between plaintiff weight and gender as predictors and verdict as the DV addresses H1 F, H3 E, and RQ 2. The implications of the results for the hypotheses and research questions are summarized after each main analysis series.

### **Main and Interactive Effects of Weight Manipulation and Individual Differences on SE**

#### **Measures**

In this series of analyses, multiple linear regression models were executed for each individual difference variable (Gender, BJW-O, BPWE, FPS scores, BMI) with plaintiff weight, the individual difference variable in question, and the corresponding interaction terms as predictors

and either scores on the negative SE scale, perceptions of the plaintiff, or perceptions of the defendant as the DV.

Findings revealed no significant effects of plaintiff weight or any other predictor on the negative SE scale ( $bs < .32, ps > .23$ ). All models exploring the main and interactive effects of plaintiff weight and individual difference variables on perceptions of the plaintiff also were non-significant ( $bs < .37, p > .09$ ), with the exception of the model exploring the main and interactive effects of participant BMI (see **Table 4**). This overall model was significant,  $R^2 = .058, F(3, 195) = 4.04, p < .01$ , but participant BMI was the only significant individual predictor such that participants with higher BMIs had more positive perceptions of the plaintiff than participants with lower BMIs ( $b = 4.36, p < .01$ ).

Further, analyses revealed that only BPWE impacted perceptions of the defendant; the coefficients for plaintiff weight, other individual differences, and their interaction terms in all other models executed were non-significant ( $bs < .39, ps > .10$ ). The model with BPWE, plaintiff weight, and the corresponding interaction term as predictors with perceptions of the defendant as the DV was significant,  $R^2 = .062, F(3, 197) = 4.36, p < .01$ . As indicated in **Table 5**, BPWE did not moderate the effects of plaintiff weight. However, those with stronger BPWE had more positive perceptions of the defendant than those with weaker beliefs ( $b = .39, p < .01$ ).

**Summary of regression models with SE measures as dependent variables.** There were no significant main or interactive effects involving the weight manipulation in any of the models tested; thus, results do not support H1 A and B, which predict differences in non-deliberating participants' scores on SE measures as a function of the weight manipulation. H2 A – H2 B, H3 A – H3 B, and H4 A – H4 B also were unsupported, as there were no significant interactions between weight and any of the individual difference variables (personality variables, gender,

and BMI) in all models with SE measures as DVs. With regard to RQ 2, analyses revealed only two main effects of individual difference variables on SE measures in the total sample of non-deliberating jurors: participant BMI was positively related to perceptions of the plaintiff, and BPWE was positively related to perceptions of the defendant.

Table 4. *Regression of Weight Condition and Participant BMI on Perceptions of Plaintiff in Non-Deliberating Sample.*

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Weight condition	.14	.17	.06	.42	.80
BMI	4.36	1.53	.27	> .01	2.85
Weight condition x BMI	-1.40	2.27	-.06	.54	-.62

Table 5. *Regression of Weight Condition and BPWE on Perceptions of Defendant in Non-Deliberating Sample.*

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Weight condition	-.19	.16	-.08	.23	-2.00
BPWE scores	.36	.15	.27	> .01	2.70
Weight condition x BPWE scores	-.65	.20	-.03	.75	-.33

### **Main and Interactive Effects of Weight Manipulation and Individual Differences on SLA**

#### **Measures.**

The regression models executed for this series were identical to those executed in the prior series, except that scores on the SLA scale, plaintiff witness ratings, and defendant witness ratings were specified as the DVs. Results revealed no main or interactive effects of plaintiff weight, gender, FPS scores, and BMI on SLA scale scores (*bs* < 1.5, *ps* > .19). The model testing the main and interactive effects of plaintiff weight and BPWE on the SLA scale was significant,  $R^2$

= .116,  $F(3, 198) = 8.67$ ,  $p < .01$  (see **Table 6**). Though the plaintiff weight and interaction term coefficients were non-significant, there was a significant main effect of BPWE on SLA scores ( $b = -.32$ ,  $p < .01$ ). This effect indicates that those higher in BPWE were more likely to interpret attributional information in a manner conducive to blaming the plaintiff and excusing the defendant than were those lower in BPWE.

Table 6. *Regression of Weight Condition and BPWE on the SLA Scale in Non-Deliberating Sample.*

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Weight condition	.19	.13	.10	.14	1.49
BPWE scores	-.32	.12	-.27	> .01	-2.72
Weight condition x BPWE scores	-.15	.16	-.09	.35	-.95

The model including plaintiff weight, BJW-O scores, and the corresponding interaction term as predictors of SLA scale scores also was significant, though it accounted for a negligible portion of variance in SLA scale scores,  $R^2 = .042$ ,  $F(3, 199) = 2.91$ ,  $p = .036$ . There were no significant main effects of plaintiff weight or BJW-O scores, but there was a small but significant interaction between weight condition and BJW-O on SLA scale scores ( $b = -.48$ ,  $p = .05$ ; see **Table 7** for regression coefficients). To further explore this interaction, simple slopes were calculated at -1 and +1 standard deviations of the mean of the centered BJW-O scale. SLA scale scores were similar in the normal weight condition regardless of BJW-O scores. In the obese plaintiff condition, however, SLA scale scores among participants with lower BJW-O scores increased ( $b = .35$ ,  $p = .07$ ), and there was a slight decrease in SLA scale scores among participants with higher BJW-O scores ( $b = -.18$ ,  $p = .33$ ). These findings, depicted in **Figure 2**, indicate that participants scoring lower on the BJW-O scales were particularly inclined to form “pro-plaintiff” attributions, and correspondingly “anti-defendant” attributions, when the plaintiff was overweight. Though



the simple slopes were non-significant at the .05 level, this signifies that the slopes were not significantly different from zero and does not diminish the significance of the interaction itself (Preacher & Rucker, 2003).

Table 7. Regression of Weight Condition and BJW-O Scores on SLA Scale in Non-Deliberating Sample.

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Weight condition	.08	.13	.04	.54	.61
BJW-O	-.04	.17	-.02	-.21	.83
Weight condition x BJW-O	-.48	.25	-.19	.05	-1.98

The effects of plaintiff weight on plaintiff witness ratings was moderated by BJW-O scores. The overall model examining the main and interactive effects of plaintiff weight and BJW-O scores on plaintiff witness ratings was non-significant,  $R^2 = .025$ ,  $F(3, 198) = 1.70$ ,  $p = .17$  but yielded a significant coefficient for the interaction term between BJW-O and plaintiff weight ( $b = -.73$ ,  $p = .03$ ; see **Table 8** for regression coefficients). Simple slopes indicated that those with lower BJW-O scores rated the plaintiff witnesses as more convincing in the obese condition as compared to the normal weight condition ( $b = .41$ ,  $p = .06$ ; see **Figure 3**). The opposite pattern occurred for those with higher BJW-O scores, who rated the plaintiff's witnesses as less convincing when they were led to believe that the plaintiff was obese ( $b = -.39$ ,  $p = .13$ ). Again, the fact that simple slopes were non-significant does not necessarily invalidate this moderating relationship. There were no other notable main or interactive effects of plaintiff weight and individual difference variables on plaintiff witness ratings ( $bs < 1.8$ ,  $ps > .59$ ). Further, analyses revealed no significant main or interactive effects of plaintiff weight and any measured individual difference variables on defendant witness ratings ( $bs < 1.82$ ,  $ps > .10$ ).

Figure 2. Interaction between Weight Manipulation and BJW-O Scores on SLA Scale in Non-Deliberating Sample.

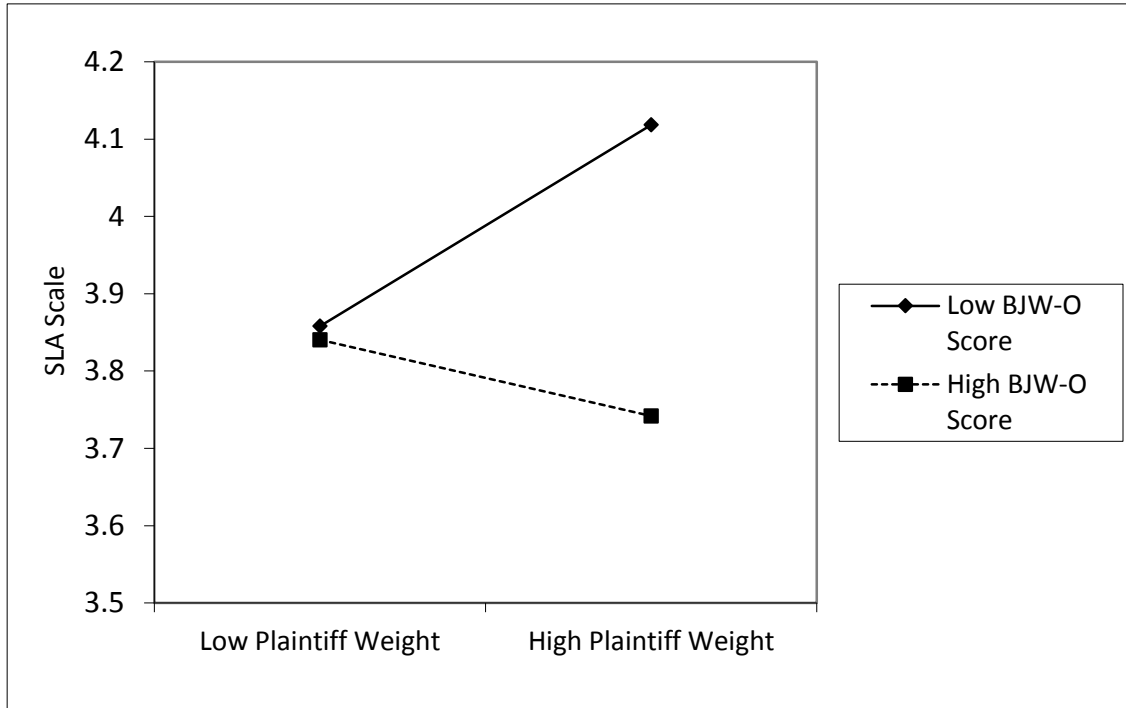
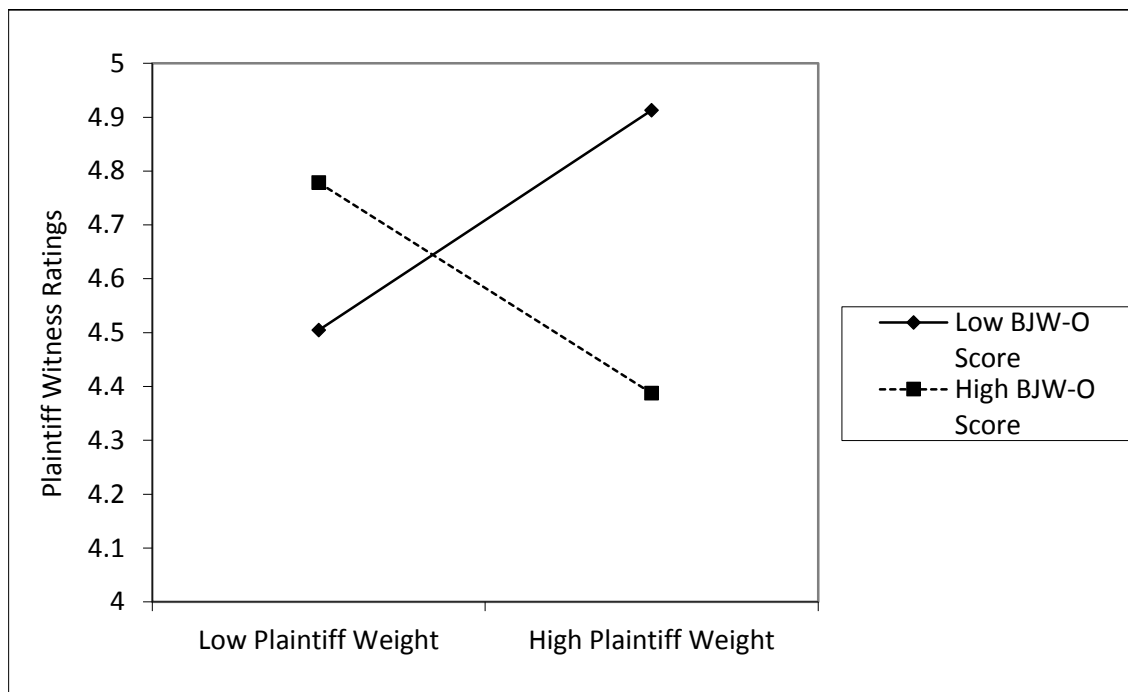


Table 8. Regression of Weight Condition and BJW-O Scores on Plaintiff Witness Ratings in Non-Deliberating Sample.

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Weight condition	.01	.18	.003	.96	.05
BJW-O	.24	.23	.10	.30	1.04
Weight condition x BJW-O	-.73	.34	-.21	.03	-2.18

Figure 3. Interaction between Weight Condition and BJW-O Scores on Plaintiff Witness Ratings in Non-Deliberating Sample.



**Summary of regression models with SLA measures as dependent variables.** This series of analyses examined the effects of plaintiff weight and individual difference variables on participants' perceptions of attributional information, or the criteria hypothesized by Alicke (2000) to be considered when assigning blame for a negative outcome. H1 C was unsupported, as there were no main effects of the weight manipulation on any of the SLA measures. H2 C predicted interactive effects between the weight manipulation and each ideological individual difference variable (BJW-O, BPWE, and FPS scores) on SLA measures. This hypothesis was partially supported by significant interactions between the weight manipulation and BJW-O scores on SLA scale and plaintiff witness measure scores. The interactive effects were similar for both dependent SLA measures, such that those with stronger BJW-O beliefs perceived attributional information as more "pro-defendant" (perceiving the defendant as less likely to have foreseen, intended, and caused the negative outcome compared to the plaintiff and

perceiving the plaintiff's witnesses as less convincing) in the obese condition than in the normal weight condition. Yet, there were no other significant interactions between plaintiff weight and the other individual difference personality variables on SLA measures. Moreover, analyses revealed no significant interactions between the weight manipulation and gender or the weight manipulation and participant BMI on SLA measures, rendering H3 C and H4 C unsupported.

With regard to RQ 2, there was one main effect of an individual difference variable that emerged across weight conditions. Specifically, participants with stronger BPWE had lower scores on the SLA scale than those with weaker beliefs, indicating that they were more likely to interpret attributional criteria in a manner consistent with assigning blame to the plaintiff. This effect is understandable given the association between BPWE and the worldview that people are responsible for their own outcomes (Christopher, Zabel, Jones, & Marek, 2008).

### **Main and Interactive Effects of Weight Manipulation and Individual Differences on Blame Measures**

Taken together, results of regression models revealed no significant main or interactive effects of plaintiff weight and individual difference variables on total responsibility scale scores ( $bs < 2.7, ps > .59$ ). Although the overall model exploring the main and interactive effects of plaintiff weight and FPS scores on verdict was non-significant, the FPS was a significant predictor of verdict ( $b = -.77, OR = .46, p = .03$ ; see **Table 9** for a summary of regression coefficients). Participants with lower FPS scores were slightly more likely to find the defendant liable than their counterparts. Hosmer and Lemeshow test results indicated an acceptable fit ( $p > .09$ ), but the percentage of cases correctly classified increased by a mere 1.1% from the baseline (62.4%) to the full model (63.5%). Moreover, Cox and Snell  $R$  square and Nagelkerke  $R$  squared coefficients indicated that this model accounted for a negligible 3.1-4.2% (respectively) in the

variance of participants' verdict decisions. All other logistic regression models examining the effects of plaintiff weight, each individual difference variable, and the corresponding interaction terms were non-significant ( $bs < 1.8$ ,  $ps > .09$ ).

Table 9. Binary Logistic Regression of Weight Condition and FPS Scores on Verdict in Non-Deliberating Sample.

Variable	<i>B</i>	<i>SE</i>	<i>Wald</i>	<i>p</i>	<i>OR</i>
Weight condition	-.22	.30	.52	.47	.81
FPS scores	-.77	.36	4.71	.03	.46
Weight condition x verdict	.50	.52	.90	.34	1.64

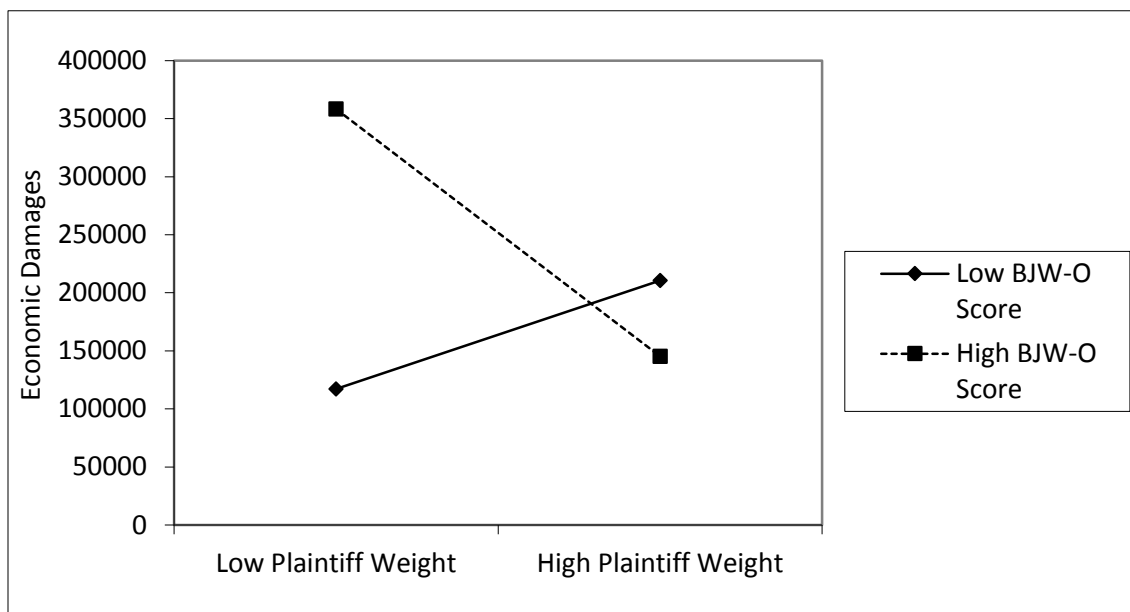
Only cases with participants finding the defendant liable for medical malpractice ( $N = 128$ ) were included in analyses examining the impacts of plaintiff weight and individual differences on damage awards, as participants were instructed to award damages only if rendering a liable verdict. The full model testing the interactive effects of plaintiff weight and BJW-O on economic damage awards was non-significant [ $R^2 = .057$ ,  $F(3, 123) = 2.46$ ,  $p = .07$ ], but yielded a significant interaction between BJW-O scores and plaintiff weight ( $b = -76618.61$ ,  $p = .03$ ). Regression coefficients for this analysis are presented in **Table 10**, and the interaction is depicted in **Figure 4**. Simple slopes indicated that there was little difference in economic damage awards as a function of plaintiff weight for those with lower BJW-O scores ( $b = 15200.16$ ,  $p = .58$ ). As expected, those with higher BJW-O scores awarded higher economic damages in the normal weight condition than in the obese condition ( $b = -71825.12$ ,  $p = .10$ ). The simple slopes were non-significant but the coefficients do illustrate an effect of interest and that aligns with hypotheses. For all other predictor variables and their corresponding interaction terms with plaintiff weight included in the models specifying economic damages as the DV,  $bs >$

224219.51 and  $ps > .10$ . All individual regression models with non-economic damage awards as the DV were non-significant ( $bs < 347713.64$ ,  $ps > .79$ ).

Table 10. *Regression of Weight Condition and BJW-O Scores on Economic Damages Awarded by Non-Deliberating Jurors*

Variable	B	SE	$\beta$	p	t
Weight condition	-29834.30	19492.22	-1.35	.13	-1.53
BJW-O	43916.32	230395.54	.22	.06	1.90
Weight condition x BJW-O	-76618.61	34539.17	-.27	.03	-2.22

Figure 4. *Interaction between Weight Manipulation and BJW-O Scores on Non-Deliberating Jurors' Economic Damage Awards.*



**Summary of regression models with blame measures as dependent variables.** Contrary to H1 D – H1 F, there were no significant effects of plaintiff weight on blame measures. H2 D and E also were unsupported, as there were no significant interactions between plaintiff weight and individual difference personality variables on the total responsibility scale or verdicts. The

significant interaction between BJW-O scores and plaintiff weight such that those with higher BJW-O scores awarded fewer economic damages in the obese condition partially supported H2 F. However, there were no other significant interactions between plaintiff weight and any of the individual difference personality variables on non-economic damage awards. Further, H3 D – H3 F and H4 D – H4 F were unsupported, as analyses revealed no significant interactions between plaintiff weight, participant gender, and participant BMI on any of the blame measures.

In addressing RQ 2, analyses revealed that the majority of individual difference variables did not impact blame measures, regardless of weight condition. Yet, there was a small but significant effect of FPS scores on verdicts, such that those with stronger anti-fat biases (i.e., negative attitudes, beliefs toward obese persons) were less likely to find the defendant liable than their counterparts *overall*. Further commentary and interpretation of this outcome will be provided in the Discussion section.

### **Summary of Results of Analyses Addressing Hypotheses 1-4 and Research Question 2**

This series of regression analyses indicated that, most of the time, mock jurors' attributions and attributional processes in the non-deliberating sample were not significantly influenced by the extra-legal factors considered in this study. Plaintiff weight, in and of itself, did not significantly impact any measures pertaining to components of the CCM and thus H1 was completely unsupported. H2 proposed interactions between plaintiff weight and the individual difference personality variables of BJW-O, BPWE, and FPS scores on the dependent measures of each component of the CCM. There were no significant interactions between plaintiff weight and BPWE and plaintiff weight and FPS scores on any of the DVs. H2 was partially supported though significant interactive effects between plaintiff weight and BJW-O scores on two SLA measures (the SLA scale and plaintiff witness measure) and on economic damage awards, a

blame measure. These three interactive effects were consistent with one another and with hypotheses. Compared to those in the normal weight condition, participants with stronger BJW-O in the obese condition were more likely to interpret attributional information in a manner conducive to blaming the plaintiff and awarded fewer economic damages to the plaintiff when finding the defendant liable; the opposite effects occurred for participants with weaker BJW-O. H3 and H4 were completely unsupported, such that gender and participant BMI scores did not interact with plaintiff weight to influence CCM measures.

In the entire non-deliberating sample, CCM measures were mostly unaffected by individual difference variables. The significant effects that did emerge were quite variable and can be summarized as follows: 1) Participants with higher BMIs had more positive perceptions of the plaintiff than did those with lower BMIs 2) Those with stronger BPWE had more positive perceptions of the defendant than did those with weaker beliefs; 3) Those with stronger BPWE interpreted attributional information in a manner more consistent with assigning blame to the plaintiff than those with weaker BPWE; and 4) Those with lower scores on the FPS were more likely than their counterparts to deliver liable verdicts.

### **Elucidating Attributional Pathways in the Non-Deliberating Sample: Analyses Addressing Research Questions 1 and 3**

One of the primary objectives of this research is to obtain a better understanding of the attributional processes underlying mock jurors' decisions. In doing so, it aims to elucidate the attributional pathways participants followed in assigning blame and determine if these pathways differ as a function of the weight manipulation or individual differences. All of the following analyses were guided by the CCM and involve assessment of the relationships between measures of the three CCM components. As advanced by Alicke (2000), the possible



attributional pathways perceivers may follow in assigning blame are depicted in **Figure 1**. Mplus Version 7 statistical software was used to conduct a series of path analyses examining these proposed relationships.

**Eliminating plaintiff weight as a moderator of attributional pathways.** Research Question 1 aimed to explore ways in which the weight manipulation may moderate the attributional pathways participants followed in assigning blame. There were no main effects of the weight manipulation on any of the dependent variables used to measure attributions or attributional pathways, suggesting that the weight manipulation was likely not a significant factor in mock jurors' attributional processes. To further confirm this assumption, chi-square difference tests were conducted to determine whether path analysis models specifying total responsibility scale scores as the DV and verdict as the DV differed for samples exposed to the obese and normal weight plaintiff. Results indicated that these models did not significantly differ between weight conditions. Thus, with regard to RQ 1, it was concluded that plaintiff weight did not moderate the attributional pathways followed by non-deliberating jurors in ascribing blame for the negative medical outcome. A more detailed explanation of the purpose and procedures for conducting chi-square difference tests to compare these models across weight conditions are presented in Appendix R, along with the specific results of the tests. It should be noted that chi-square difference testing was not used to compare models examining damage awards due to sample size limitations, as only jurors finding the defendant liable awarded damages.

**Eliminating individual difference variables as moderators of plaintiff weight on attributional pathways.** RQ 3 aimed to explore whether any of the measured individual difference variables moderated the effects of plaintiff weight on attributional pathways in the

non-deliberating sample. There were no main effects of plaintiff weight on any of the dependent variables assessed in this study, and, as described above, there were no significant differences between models of attributional pathways between samples exposed to the normal weight plaintiff and obese plaintiff. As also reported earlier, analyses revealed significant interactions between plaintiff weight and only one individual difference variable on specific SLA and blame measures. Specifically, analyses revealed small but significant interactions between plaintiff weight and BJW-O scores on SLA scale scores, ratings of the plaintiff's witnesses, and economic damage awards. Thus, it was assumed that BJW-O was the only individual difference that may potentially moderate the effects of plaintiff weight on attributional pathways.

A series of linear regressions were conducted to identify any differences in the effects of scores on the BJW-O scale on all dependent CCM variables between normal weight and obese plaintiff conditions. There were no significant relationships between BJW-O scale scores and measures of SEs, SLAs, and case-related judgments (i.e., blame measures) in either the normal weight or obese condition ( $bs < 2.01, ps > .28$ ). Based on these findings, it was concluded that individual differences did not moderate the effects of plaintiff weight on attributional pathways, and no further analyses exploring RQ 3 were conducted.

**Path analyses including the entire sample of non-deliberating jurors.** Because the weight manipulation did not appear to moderate attributional pathways, a series of path analyses exploring the relationships between the CCM components were executed using the entire sample of non-deliberating jurors. Though the weight manipulation failed to impact attributional processes, testing the main tenets of the CCM and its proposed attributional pathways remains an important objective of this research.

Prior to specifying full models exploring the relationships between the CCM components, a model assessing the relationships between the exogenous CCM variables (SE measures: negative SE scale, perceptions of the plaintiff, and perceptions of the defendant), and the variables expected to mediate the relationships between the exogenous and outcome variables (SLA measures: SLA scale, plaintiff witness ratings, and defendant witness ratings) was estimated using MLE. Findings indicated that scores on the negative SE scale did not significantly predict defendant witness ratings ( $B = -.13, p = .12$ ), and thus this path was not included in any of the path analyses examining relationships between the CCM components in the non-deliberating sample.

A total of four models were estimated, with one model estimated for each of the blame outcome variables. Each model tested the direct effects of all of the SE and SLA measures on the specified blame measure and the direct effects of each SE measure on each SLA measure. In addition, each model tested the indirect effects of each SE measure on the specified blame measure via each SLA measure. As recommended by MacKinnon (2008), confidence intervals for the indirect relationships were estimated using the bias-corrected bootstrap method, with 1,000 bootstrap samples selected. **Table 11** presents the Pearson product moment correlation coefficients for all of the SE and SLA variables, and **Table 12** displays the correlations between the blame variables and each SE and SLA variable. Because all correlations between the SLA variables were significant ( $p < .01$ ), their residuals were allowed to covary in all four models estimated.

Model fit was primarily assessed using the chi-square goodness of fit test, which indicates the amount of difference between expected and observed covariance matrices. Smaller chi-square values indicate smaller differences between the covariance matrices,

suggesting that the proposed model reflects the observed data. A non-significant chi-square value is necessary to retain the null hypothesis of equality between the expected and observed covariance matrices (Geiser, 2013). Additional goodness-of-fit measures, such as root mean square error of approximation (RMSEA) and the comparative fit index (CFI) also were considered in determining the extent to which the proposed models fit the observed data. The CFI is an “incremental fit index” which compares the fit between the target model and another model (typically the null model); values of .95 or above indicate a good fit (Geiser, 2013). The RMSEA is a measure of approximate fit, with a value less than .08 indicating an adequate-fitting model and a value less than .06 indicating a good-fitting model (Hair, Black, Babin, & Anderson, 2009). Importantly, obtaining any particular goodness of fit value that does not meet the criteria for a “good-fitting model” does not necessarily invalidate the target model. Rather, the adequacy of model fit should be more holistically considering multiple fit indicators and their assumptions (Suhr, 2008). The chi-square goodness of fit statistic has been identified as a particularly meaningful indicator of model fit if sample sizes are smaller (i.e. less than 500; Hair et al., 2006).

***Model 1: Direct and indirect effects of SE and SLA measures on total responsibility.***

Using the procedures described above, a path model was estimated using MLE with participants’ scores on the total responsibility scale as the outcome variable. Results of the chi-square goodness of fit test indicated a good model fit [ $\chi^2(1) = 2.46, p > .11$ ], as did the CFI value of .997. Though the RMSEA value of .085 exceeded the cutoff, these goodness-of-fit measures taken together suggest that the target model adequately reflects the observed data.

A path diagram of the relationships between SE measures, SLA measures, and total responsibility is displayed in **Figure 5**. For this analysis and all following analyses, standardized coefficients are reported in order to facilitate interpretation of effect sizes. As shown in **Figure 5**,

Table 11. *Correlations between SE and SLA Variables in the Non-Deliberating Sample.*

<b>Variables</b>	Negative SEs	Perceptions of Plaintiff	Perceptions of Defendant	SLA Scale	Plain. Witness Ratings	Def. Witness Ratings
Negative SEs	-	.102	-.125	.211**	.205**	-.156*
Perceptions of Plaintiff	.102	-	-.399**	.566**	.519**	-.316**
Perceptions of Defendant	-.125	-.399**	-	-.598**	-.484**	.394**
SLA Scale	.211**	.566**	-.598**	-	.666**	-.544**
Plaintiff Witness Ratings	.205**	.519**	-.484**	.666*	-	-.200**
Defendant Witness Ratings	-.156*	-.316**	.394**	-.544**	-.200**	-

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

Table 12. *Correlations between SE/SLA Variables and Blame Variables in the Non-Deliberating Sample.*

<b>Variables</b>	Negative SEs	Perceptions of Plaintiff	Perceptions of Defendant	SLA Scale	Plain. Witness Ratings	Def. Witness Ratings
Total Responsibility	.214**	.554**	-.598**	.780**	.674**	-.453**
Verdict	.155*	.368**	-.489**	.665**	.649**	-.300**
Economic Damages	.238**	.294**	-.083	.305**	.198*	-.110
Non-economic Damages	.233**	.332**	-.327**	.450**	.365**	-.128

**Note.** \* $p < .05$ ; \*\* $p < .0$

all of the estimated direct pathways between the endogenous SE variables and proposed mediator SLA variables were significant. More negative emotional reactions to the case (as evidenced by higher scores on the negative SE scale) were associated with a greater likelihood of interpreting attributional criteria in a manner favorable to the plaintiff (as evidenced by higher scores on the SLA scale) and with higher plaintiff witness ratings. More favorable perceptions of the plaintiff were positively related to SLA scale scores and plaintiff witness ratings and negatively related to defendant witness ratings; more favorable perceptions of the defendant were negatively related to SLA scale scores and plaintiff witness ratings and positively related to defendant witness ratings. In addition, higher SLA scale scores and plaintiff witness ratings led to higher ratings on the total responsibility scale, or a greater likelihood of assigning responsibility for the negative medical outcome to the defendant. The path between defendant witness ratings and total responsibility was non-significant ( $B = -.097, p > .08$ ).

Path coefficients for both direct and indirect effects of each variable included in the model are displayed in **Table 13**. Although there were no significant direct effects of the SE variables on total responsibility ( $Bs < .07, ps > .30$ ), results indicate that each SE variable impacted total responsibility indirectly through SLA variables. There were significant indirect effects on total responsibility of negative SE scale scores via SLA scale scores and plaintiff witness ratings; of perceptions of the plaintiff via SLA scale scores and plaintiff witness ratings, and of perceptions of the defendant via SLA scale scores and plaintiff witness ratings (see **Table 13** for confidence intervals used to determine statistical significance at  $p < .05$ ). Because defendant witness ratings were not significantly related to total responsibility, there also were no significant indirect effects of SE measures on total responsibility through this measure.

As **Table 12** shows, all SE measures are significantly correlated with total responsibility (negative SE scale  $r = .21$ ; perceptions of plaintiff  $r = .55$ ; perceptions of defendant  $r = -.60$ , all  $p$ s  $< .01$ ). The absence of significant direct effects of the SE measures on total responsibility in the estimated model suggest that the effects of all SE measures on total responsibility are fully mediated by the SLA scale and plaintiff witness ratings (MacKinnon, 2008). Consistent with the “core” attributional pathway proposed by the CCM (i.e., the primary theoretical pathway from which deviations can occur), the results of this path analysis indicate that SEs related to the plaintiff, defendant, and case aspects impact SLAs. In this instance, those with stronger negative emotional reactions upon reading the case summary, more positive perceptions of the plaintiff, and more negative perceptions of the defendant were more likely to interpret attributional information in a manner consistent with assigning responsibility to the defendant, which they ultimately did. Mock jurors with weaker negative emotional reactions to the case, more negative perceptions of the plaintiff, and more positive perceptions of the defendant were more likely to interpret attributional information in a manner consistent with assigning responsibility to the plaintiff. Indeed, these modified SLAs did lead to a greater likelihood of perceiving the plaintiff as responsible for her own situation.

**Model 2: Direct and indirect effects of SE and SLA measures on verdict.** A path model examining the relationships between SE variables, SLA variables, and verdict was estimated using WLSMV, which is appropriate for models with categorical outcome variables. Multiple goodness of fit indices suggested that the target model fit the observed data well,  $\chi^2(1) = 2.20$ ,  $p > .13$ ; CFI = .99; RMSEA = .08. The path diagram corresponding to this model is depicted in **Figure 6**. The effects of all SE variables on all SLA variables included in the model replicated those estimated in Model 1. The direct effects of SLA variables on verdict also replicated those

estimated in Model 1. Yet, there was one notable difference between Model 1 and Model 2. As in Model 1, there were no direct effects of scores on the negative SE scale or perceptions of the plaintiff on the outcome variable ( $Bs < .50, ps > .49$ ). There was, however, a significant direct effect of perceptions of the defendant on verdict ( $B = -.217, p < .05$ ).

Coefficients,  $p$  values, and confidence intervals pertaining to the indirect pathways from SE variables to verdict are displayed in **Table 14**. Indirect pathways from the exogenous variables to verdict mirrored the pathways estimated in Model 1 with one exception: In Model 2, the indirect pathway from negative SE scale scores to verdict via plaintiff witness ratings was non-significant. There were significant indirect effects of negative SE scale scores via SLA scale scores; perceptions of the plaintiff via SLA scale scores and plaintiff witness ratings; and perceptions of the defendant via SLA scale scores and plaintiff witness ratings. Again, the direction of these relationships adhere to the main tenets of the CCM. More negative emotional reactions to the trial summary led to more “pro-plaintiff” attributions, which in turn increased participants’ likelihood of finding the defendant liable for malpractice. As positive perceptions of the plaintiff increased, so did SLA scale scores and plaintiff witness ratings, which again led to a higher likelihood of finding the defendant liable. Both the negative SE scale and perceptions of the plaintiff were significantly correlated with verdict (negative SE scale  $r = .16, p < .05$ ; perceptions of the plaintiff  $r = .39, p < .01$ ; see **Table 12**), but their direct effects on verdict in Model 2 were non-significant. Thus, it appears that the effects of the negative SE scale and perceptions of the plaintiff were fully mediated by the SLA measures, and that the relationship between perceptions of the defendant and verdict was partially mediated by these SLA variables. As mentioned earlier, perceptions of the defendant also impacted verdict directly,



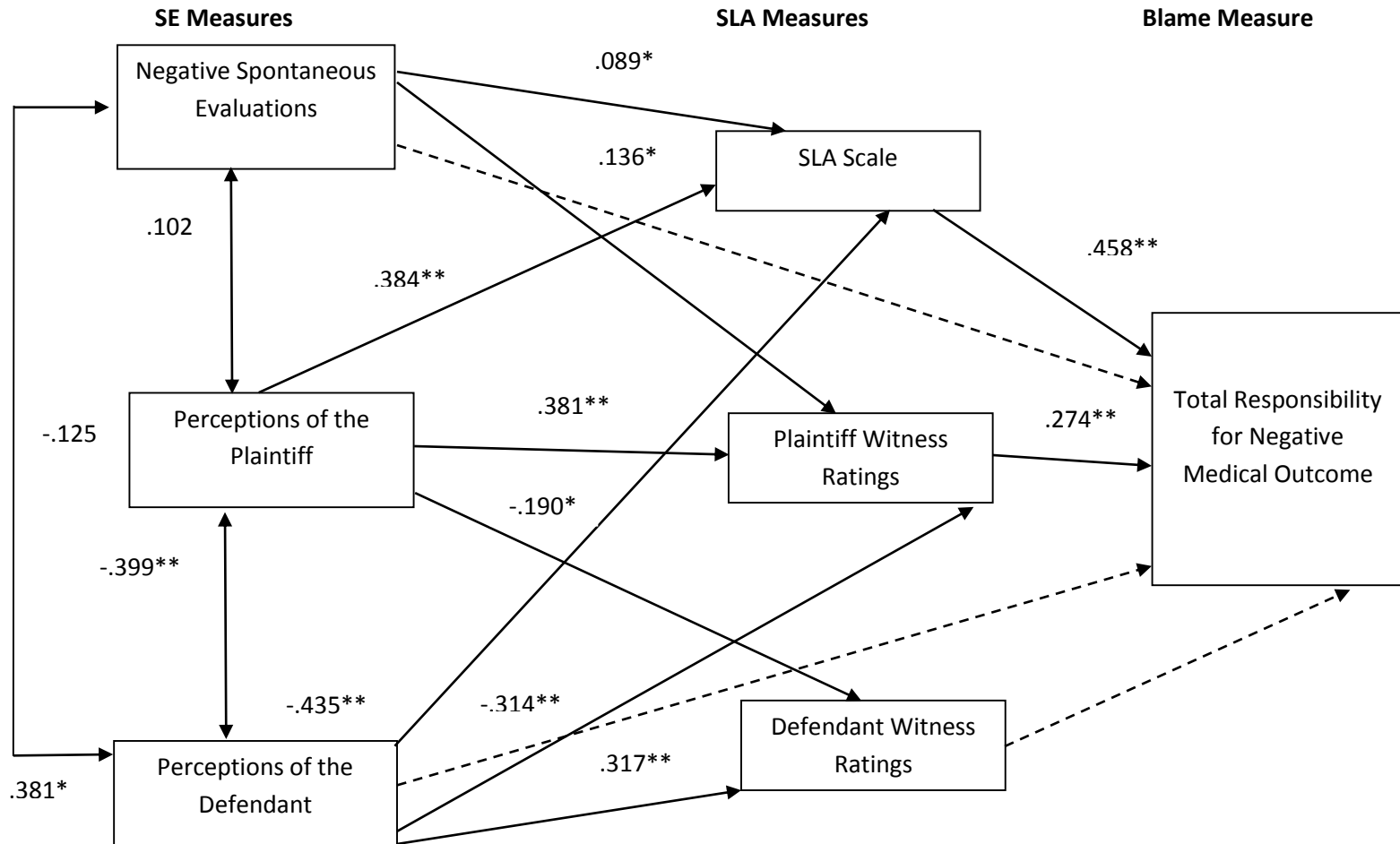
such that those with more negative perceptions of the defendant were more likely render a liable verdict than those with more positive perceptions.

**Model 3: Direct and indirect effects of SE and SLA measures on economic damage awards.** This analysis included only those participants finding the defendant liable ( $N = 128$ ). Prior to model estimation, the economic damage awards variable for all cases was divided by 10,000. This was necessary to avoid iteration problems that can occur when variables in a model use very different scales (e.g., 1-10 vs. 10,000 – 100,000; Muthén & Muthén, 2012). All goodness of fit measures indicated that Model 3 was a good fit for the observed data,  $\chi^2(1) = 1.18, p > .27$ ; CFI = .99; RMSEA = .04.

As the diagram in **Figure 7** illustrates, estimation of Model 3 resulted in fewer significant direct pathways between CCM variables as compared to Models 1 and 2. Consistent with prior models and CCM predictions, analyses revealed that negative SE scale scores and perceptions of the plaintiff were significantly and positively related to SLA scale scores and plaintiff witness ratings. There was a significant negative relationship between perceptions of the defendant and SLA scale scores and a significant positive relationship between perceptions of the defendant and defendant witness ratings. SLA scale scores were significantly and positively related to economic damages, whereas plaintiff and defendant witness ratings had no significant impacts ( $Bs < .06, ps > .50$ ). Negative SE scale scores and perceptions of the defendant failed to exert significant direct impacts on economic damage awards ( $Bs < .161, ps > .11$ ). However, the direct pathway between perceptions of the plaintiff and economic damages was significant, such that more favorable perceptions of the plaintiff were associated with higher economic damage awards.

Because perceptions of the plaintiff and defendant did not significantly impact economic damage awards, the only viable indirect pathways were from the three SE measures to economic damages via SLA scale scores. Yet, none of these indirect pathways were statistically significant (see **Table 15** for path coefficients and confidence intervals). Upon observing that no proposed indirect pathways reached significance, a modified model excluding non-significant pathways was estimated. However, the modified model proved to be a poor fit for the observed data,  $\chi^2(3) = 8.50, p < .04$ ; CFI = .96; RMSEA = .12, and did not yield any additional significant pathways.

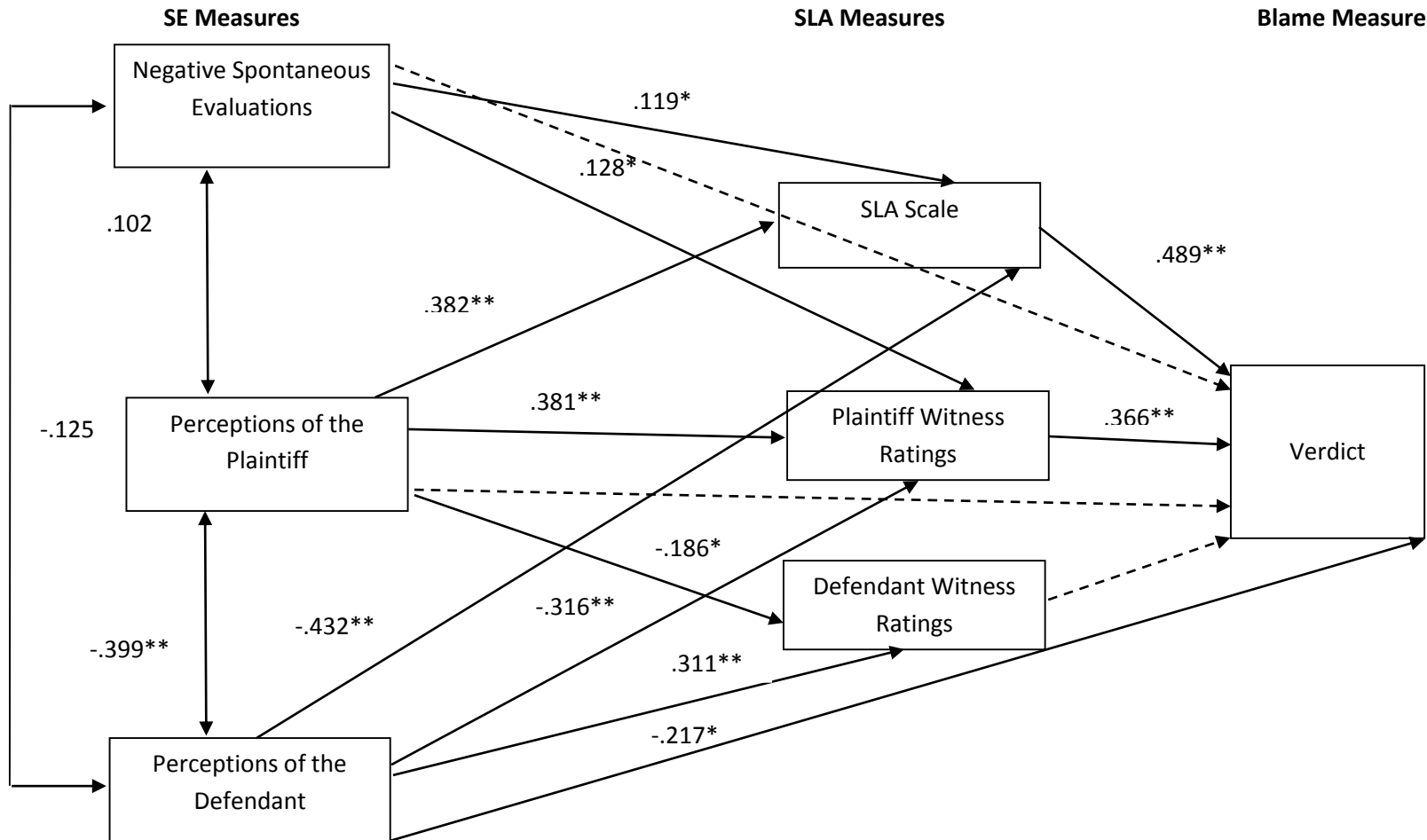
Figure 5. Diagram of Relationships between SE Measures, SLA Measures, and Total Responsibility in Non-Deliberating Sample



**Note.** \* $p < .05$ ; \*\* $p < .01$ .

↔ = Covariance, → = Direct path, ---> Non-significant path

Figure 6. Diagram of Relationships between SE Measures, SLA Measures, and Verdict in Non-Deliberating Sample



Note. \* $p < .05$ , \*\* $p < .01$

↔ = Covariance, → = Direct path, ---> Non-significant path

Table 13. *Indirect Pathways from SE Measures to Total Responsibility in Non-Deliberating Sample.*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$	95% CI	
Negative SE Scale	.089*	SLA Scale	.458**	.041*	.006	.134
Negative SE Scale	.136*	Plaintiff Witness Ratings	.274**	.037*	.002	.073
Perceptions of Plaintiff	.384**	SLA Scale	.458**	.176**	.099	.254
Perceptions of Plaintiff	.381**	Plaintiff Witness Ratings	.274**	.104**	.063	.205
Perceptions of Plaintiff	-.190*	Defendant Witness Ratings	-.097	.019	-.006	.043
Perceptions of Defendant	-.435**	SLA Scale	.458**	-.199**	-.286	-.113
Perceptions of Defendant	-.314**	Plaintiff Witness Ratings	.274**	-.086**	-.201	-.060
Perceptions of Defendant	.317**	Defendant Witness Ratings	-.097	-.031	-.112	-.001

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

Table 14. *Indirect Pathways from SE Measures to Verdict in Non-Deliberating Sample.*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$	95% CI	
Negative SE Scale	.119*	SLA Scale	.489**	.058*	.006	.110
Negative SE Scale	.128*	Plaintiff Witness Ratings	.366**	.047	-.001	.094
Perceptions of Plaintiff	.382**	SLA Scale	.489**	.187**	.083	.290
Perceptions of Plaintiff	.381**	Plaintiff Witness Ratings	.366**	.139**	.079	.268
Perceptions of Plaintiff	-.186*	Defendant Witness Ratings	.040	-.007	-.038	.023
Perceptions of Defendant	-.432**	SLA Scale	.489**	-.211**	-.314	-.109
Perceptions of Defendant	-.316**	Plaintiff Witness Ratings	.366**	-.116**	-.183	-.048
Perceptions of Defendant	.311**	Defendant Witness Ratings	.040	.012	-.036	.061

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

**Model 4: Direct and indirect effects of SE and SLA measures on non-economic damage**

**awards.** As with Model 3, only participants finding the defendant liable were included in analyses, and the non-economic damage awards variable was divided by 10,000 to avoid model iteration issues. Model 4 appeared to fit the observed data well,  $\chi^2(1) = 1.18, p > .27$ ; CFI = .99; RMSEA = .04. All estimated direct pathways between the SE and SLA measures were significant and in the expected directions (see **Figure 8**). As in Model 3, only the pathway between SLA scale scores and the outcome variable was significant- those with higher SLA scale scores awarded higher non-economic damages than those with lower scores. Plaintiff and defendant witness ratings did not significantly impact non-economic damage awards. In addition, no significant direct pathways emerged between any of the SE measures and non-economic damages ( $Bs < .14, ps > .14$ ).

Again, because only SLA scale scores had a significant direct impact on non-economic damages, the only possible indirect effects of SE measures in model 4 would occur via the SLA scale. Though no indirect pathways reached significance in Model 3, all three possible indirect pathways were significant in Model 4 (see **Table 16**). First, stronger negative emotional reactions led to higher, more “pro-plaintiff” scores on the SLA scale, which resulted in increased non-economic damage awards. Second, more positive perceptions of the plaintiff lead to higher SLA scale scores, which increased non-economic damage awards. Third, more positive perceptions of the defendant led to lower, more “pro-defendant” SLA scale scores, which in turn resulted in decreased economic damage awards. Though there were no direct effects of any of the SE measures on non-economic damages in Model 4, bivariate correlations between each SE measure and non-economic damages were significant (negative SE scale  $r = .233, p < .01$ ; perceptions of the plaintiff  $r = .332, p < .01$ ; perceptions of the defendant  $r = -.327, p < .01$  (see

**Table 12).** Thus, it is again assumed that the effects of the SE variables on non-economic damage awards were fully mediated by SLA scale scores.

**Summary of path analyses in the non-deliberating sample.** Taken together, results of the path analyses conducted to illuminate attributional pathways in the non-deliberating sample are largely consistent with Path 2 (as illustrated in **Figure 1**). Path 2 is considered as the “main” pathway that CCM proponents expect perceivers to follow in assigning blame and this pathway has received the most attention in the extant literature; however, CCM researchers also assert that blame may be ascribed via alternate pathways (Alicke, 2000; 2008; Alicke, Buckingham, Zell, & Davis, 2008). Models 1 and 2 in particular supported Path 2, which depicts SLAs as full mediators between SEs and blame variables. Model 2 does suggest that some participants also followed Path 3 in determining their verdicts, such that perceptions of the defendant (an SE measure) were only partially mediated by SLA measures.

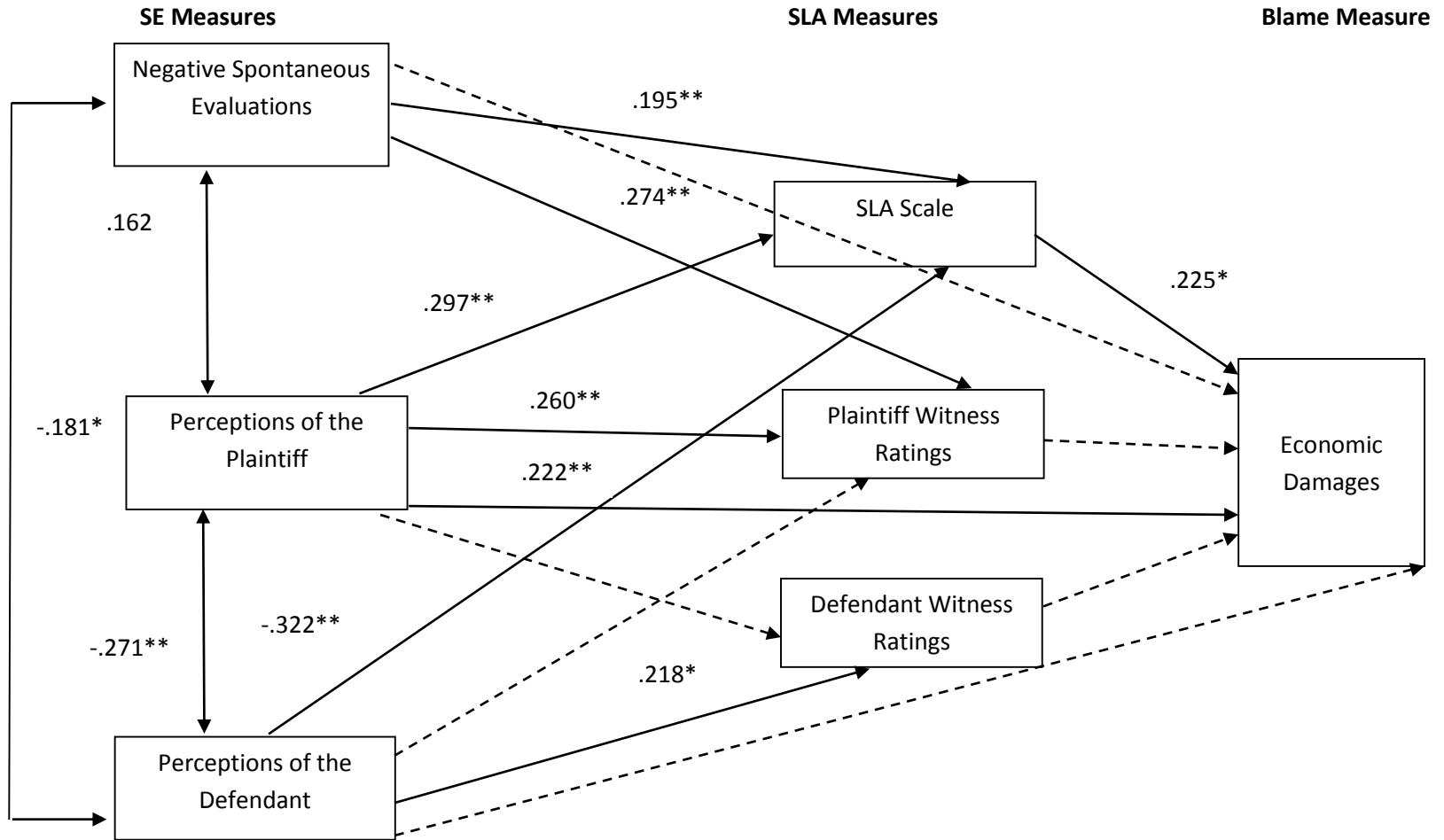
Model 3, which explored the effects of CCM measures on economic damages, yielded no significant indirect effects of any of the SE measures via SLA measures. Though all of the SE measures were significantly related to SLA scale scores, there were only significant direct effects of perceptions of the plaintiff and SLA scale scores on economic damages. The direct effect of perceptions of the plaintiff on economic damages reflects Path 1A as depicted in **Figure 1**, whereby SEs impact blame without modifying SLAs. Model 4, which explored the effects of CCM measures on non-economic damages, was again consistent with Path 2. SLA scale scores fully mediated the relationship between all of the SE measures and non-economic damage awards.

Overall, perceptions of the plaintiff and defendant were the strongest predictors of scores on the SLA scale; scores on the SLA scale in turn were the strongest predictors of blame as measured by the case outcome variables. Three of the four models indicated that the effects

of negative SEs and perceptions of the plaintiff on the blame measures were fully mediated by SLA scale scores. Explanations for model differences and further theoretical implications will be presented in the Discussion section.

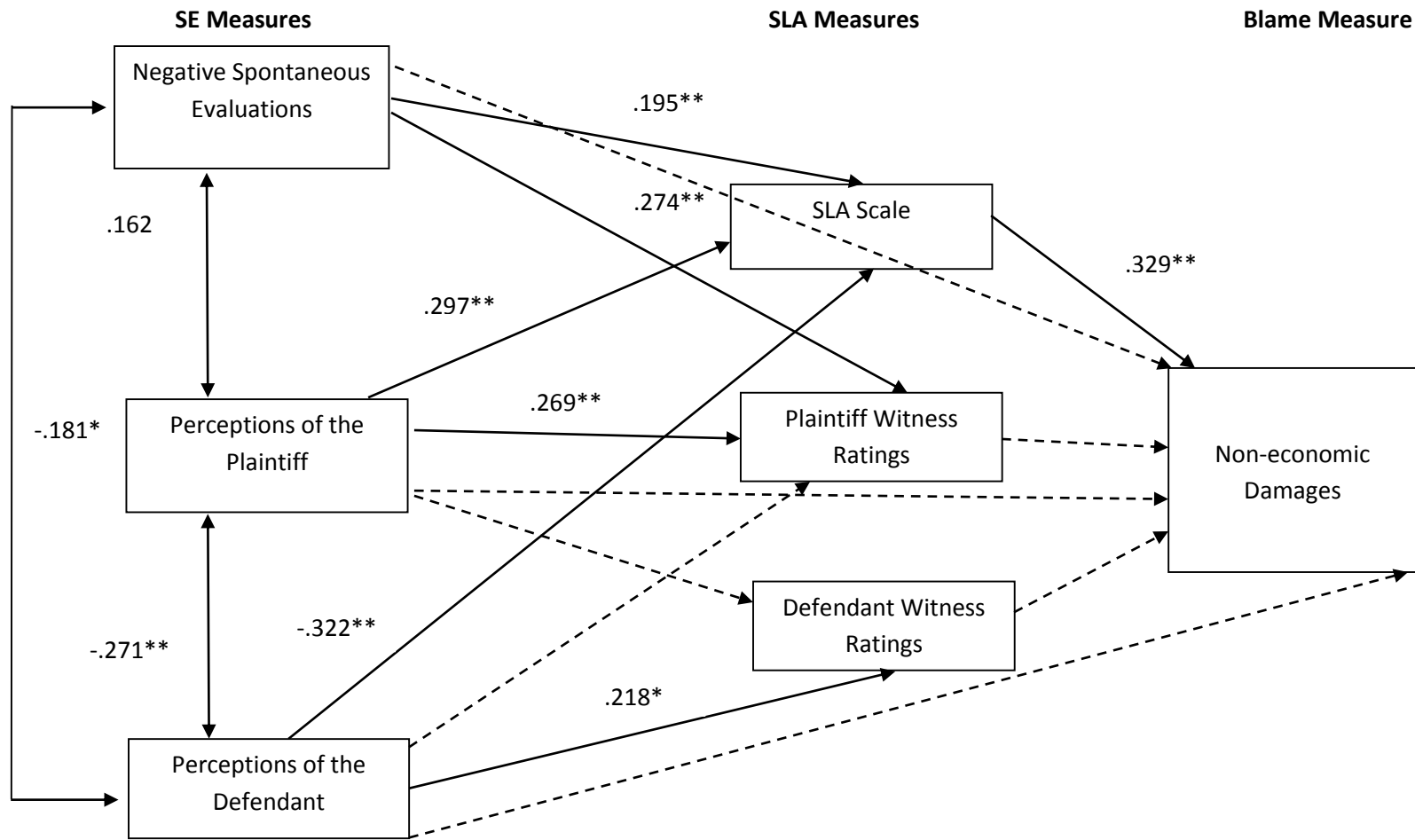


Figure 7. Diagram of Relationships between SE Measures, SLA Measures, and Economic Damages in Non-Deliberating Sample (liable verdicts only)



**Note.** \* $p < .05$ , \*\* $p < .01$   
 $\leftrightarrow$  = Covariance,  $\rightarrow$  = Direct path,  $---$  = Non-significant

Figure 8. Diagram of Relationships between SE Measures, SLA Measures, and Non-Economic Damages in Non-Deliberating Sample (liable verdicts only)



Note. \* $p < .05$ , \*\* $p < .01$

↔ = Covariance, → = Direct path, ---> Non-significant path

Table 15. *Indirect Pathways from SE Measures to Economic Damages in Non-Deliberating Sample. N = 128*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$	95% CI	
Negative SE Scale	.195**	SLA Scale	.225*	.044	-.007	.095
Negative SE Scale	.274**	Plaintiff Witness Ratings	.031	.008	-.051	.068
Perceptions of Plaintiff	.279**	SLA Scale	.225*	.063	-.008	.134
Perceptions of Plaintiff	.260**	Plaintiff Witness Ratings	.031	.008	-.045	.061
Perceptions of Plaintiff	-.159	Defendant Witness Ratings	.056	-.009	-.044	.027
Perceptions of Defendant	-.322**	SLA Scale	.225*	-.072	-.152	.007
Perceptions of Defendant	-.170	Plaintiff Witness Ratings	.031	-.005	-.045	.035
Perceptions of Defendant	.218*	Defendant Witness Ratings	.056	.012	-.033	.057

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

Table 16. *Indirect Pathways from SE Measures to Non-Economic Damages in Non-Deliberating Sample. N = 128*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$	95% CI	
Negative SE Scale	.195**	SLA Scale	.329**	.093*	.016	.167
Negative SE Scale	.274**	Plaintiff Witness Ratings	.148	.059	-.012	.102
Perceptions of Plaintiff	.297**	SLA Scale	.329**	.092*	.016	.167
Perceptions of Plaintiff	.269**	Plaintiff Witness Ratings	.148	.038	-.014	.901
Perceptions of Plaintiff	-.159	Defendant Witness Ratings	.105	-.017	-.084	.008
Perceptions of Defendant	-.322**	SLA Scale	.329**	-.106**	-.185	-.027
Perceptions of Defendant	-.170	Plaintiff Witness Ratings	.148	-.025	-.070	.020
Perceptions of Defendant	.218*	Defendant Witness Ratings	.105	.023	-.023	.069

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

## **Chapter 11: Results Addressing Hypotheses and Research Questions Comparing Deliberating and Non-Deliberating Jurors and Juries**

As proposed, this series of analyses aimed to illuminate any differences in attributional processes and case decisions between mock jurors assigned to deliberating and non-deliberating conditions. In particular, these analyses sought to determine whether deliberating and non-deliberating jurors' decisions differed as a function of plaintiff weight. Based on theory (i.e., the JSM; see Chapter 3) and prior research demonstrating that deliberations often attenuate the effects of jurors' individual biases on group decisions (see Chapter 5), it was expected that deliberating jurors would render more pro-plaintiff judgments in the obese condition than non-deliberating jurors.

Research questions focused on identifying any differences in group and individual level case judgments among deliberating jurors as well differences in attributional processes and pathways (measured at the individual level) among deliberating and non-deliberating jurors. A research question exploring the impacts of individual differences on CCM measures in the deliberating sample was not initially proposed. However, such an exploration seems prudent given that individual differences were measured in the entire sample, and analyses can help determine if individual differences operated differently in deliberating and non-deliberating conditions. Thus, interactive effects between decision context (deliberating vs. non-deliberating), plaintiff weight, and each measured individual difference variable on CCM measures are tested.

This chapter first presents the results of analyses exploring differences between judgments rendered at the jury level and at the individual level. Second, it presents results of a series of multilevel models examining the effects of decision context as a function of plaintiff

weight and individual differences on case judgments, or CCM blame variables. Because these results address specific hypotheses (H1 C – H1 E) and involve outcome variables of particular interest to the jury decision-making field, they are described in detail. Third, this chapter summarizes key findings from analyses exploring differences between deliberating and non-deliberating jurors on other CCM measures.

These analyses were conducted using SPSS Version 21. Finally, this chapter describes the results of path analyses exploring attributional pathways in the deliberating sample, which were estimated using Mplus Version 7. All other analyses were conducted using SPSS Version 21

#### **Effects of Plaintiff Weight on Jury Level Case Decisions: Analyses Addressing H1 A and H1 B**

Multilevel modeling procedures were not used in addressing these hypotheses, as the dependent variables examined were measured at the group level. Among the 53 jury groups, 31 (58.5%) delivered a collective verdict of not liable, 16 (30.2%) delivered a verdict of liable, and 6 (11.3%) were hung. The hung juries were excluded from the following analyses because the number of hung juries was not large enough to conduct meaningful statistical tests related to this third category, and because they were not asked to award damages.

First, a binary logistic regression was executed with plaintiff weight as the independent variable and jury level verdict as the dependent variable. Results indicated that plaintiff weight did not impact jury level verdicts,  $b = -.065$ ,  $p < .93$ ). Because plaintiff weight also failed to impact individual verdicts rendered by non-deliberating jurors, it is reasonable to assume that the opportunity to deliberate *did not* moderate the effects of plaintiff weight on verdicts. Thus, H1 A is unsupported.

Second, a linear regression was executed with plaintiff weight as the independent variable and jury level economic damage awards as the dependent variable. This analysis was

limited to the 16 juries finding the defendant liable for medical malpractice. There were no significant effects of plaintiff weight on juror-level economic damage awards,  $b = 121875.00$ ,  $p < .67$ . Third, jury level non-economic damages were regressed upon plaintiff weight. This simple model accounted for approximately 37% of the variance in jury level non-economic damage awards ( $R^2 = .369$ ), such that juries awarded fewer non-economic damages when the plaintiff was obese,  $b = -121875.00$ ,  $p = .013$  (see **Table 17** for a summary of regression coefficients). H1 B, which proposed that compared to non-deliberating jurors, deliberating juries would award higher economic and non-economic damages in the obese condition, was unsupported. In fact, findings in part suggest that juror bias related to plaintiff weight may have been exacerbated in the deliberating condition to the extent that they affected jury level non-economic damage awards.

Table 17. *Regression of Plaintiff Weight on Jury Level Non-Economic Damage Awards.*

Variable	<i>B</i>	<i>SE</i>	$\beta$	<i>p</i>	<i>t</i>
Plaintiff weight	-121875.00	42570.19	-.608	.013	-2.86

### **Differences between Group and Individual Level Case Judgments among Deliberating Jurors:**

#### **Analyses Addressing RQ 1**

Research Question 1 sought to determine whether deliberating jurors' individual verdicts and damage awards substantially differed from these same judgments made collectively by their jury group. As there are no statistical tests that can be used to address this question, comparisons of case judgments rendered at the group and individual level were conducted using descriptive statistics. At the individual level, 62.4% of deliberating jurors found the defendant not liable and 37.6% found the defendant liable. Among these same mock jurors, 58.0% participated in jury groups finding the defendant not liable, 30.0% participated in jury

groups finding the defendant liable, and 12.1% were part of the six hung juries. When asked to render an individual level verdict, 48.1% of the 31 individuals participating in hung juries found the defendant liable and 51.6% found the defendant not liable. Thus, it can be concluded that most verdicts rendered by deliberating jurors at the individual level were the same as those rendered by their jury groups.

Some differences were noted in damages awarded at the jury level and at the individual level. There was little difference in economic damages awarded by juries ( $M = \$164,062.50$ ,  $SD = \$99,569.39$ ) and deliberating jurors at the individual level ( $M = \$169,531.25$ ,  $SD = \$107,923.73$ ). However, individually, deliberating jurors awarded slightly higher non-economic damages ( $M = \$139,791.67$ ,  $SD = 131565.31$ ) than did jury groups ( $M = \$107,812.50$ ,  $SD = \$103,569.12$ ). Similar trends emerged when limiting the sample of deliberating jurors to those who agreed with their jury's verdict of liable at the individual level ( $n = 69$ ). On average, this sample awarded  $\$177,898.55$  ( $SD = \$110,441.65$ ) economic damages and  $\$143,768.12$  ( $SD = \$132,035.55$ ) non-economic damages at the individual level.

### **Interactive Effects of Plaintiff Weight and Decision Context on Individual Level Case Decisions:**

#### **Analyses Addressing H1 C – H1 E**

After juries delivered group level verdicts and damage awards, the individual jurors within those juries were asked to make the same case-related judgments as the non-deliberating jurors and were told that those individual level judgments could be the same or different from those made collectively by their jury group. H1 C –H1 E seek to identify any differences in individually-rendered case judgments between deliberating and non-deliberating jurors as a function of plaintiff weight. Such analyses require consideration of the nested nature

of the data, as deliberating jurors' individual level responses were likely affected by the previous discussions and judgments that occurred within a group context.

Prior to conducting this series of analyses, "null" models were executed for each continuous dependent variable to obtain the intra-class correlation coefficient (ICC) for both the deliberating and non-deliberating samples. The ICC provides an estimate of the extent to which the variance in the dependent variable (i.e., economic damages) is due to differences between groups (i.e., jury group). The results of all null models are summarized in Appendix S. In the deliberating sample, the ICC for most CCM dependent variables was significant and quite high, indicating that a substantial portion of variance in deliberating jurors' judgements could be attributed to their jury group membership.

Separate models were estimated to explore the main and interactive effects of each measured individual difference variable on individually rendered case judgments. This approach was taken because the models estimated using the entire sample incorporated several additional predictors (i.e., decision context and its related interaction terms), and adding all individual difference variables would overwhelm a single model. Thus, for each outcome variable, a series of models were executed that included decision context (deliberating vs. non-deliberating), plaintiff weight, and a decision context by plaintiff weight interaction term as fixed effects and specified jury group (both nominal and actual groups) as a random intercept or random effect. In addition, each model included one of the five measured individual difference variables, an individual difference variable by decision context interaction term, an individual difference variable by plaintiff weight interaction term, and a three-way interaction term for decision context, plaintiff weight, and the individual difference variable. All predictors were specified as fixed effects.



**Notes about presentation of results.** None of the following models yielded a significant main effect for plaintiff weight on the specified outcome variable ( $F_s < 1.72$ ,  $p_s > .19$ ) or a significant three-way interaction between plaintiff weight, decision context, and any individual difference variable on the specified outcome variable ( $F_s < 2.50$ ,  $p_s > .15$ ). These non-significant findings will not be reiterated in the presentation of results for each model.

As in all prior results reported thus far, results with any  $p$  value below .05 will be considered as statistically significant. Some models presented throughout the remainder of this chapter, however, yielded results with  $p$  values greater than .05 but less than .09. These results will be reported as “marginally significant,” whereas results with  $p$  values greater than or equal to .09 will be considered non-significant. This decision was made based on the observation that all results with  $p$  values between .05 and .089 aligned with theoretical expectations, and thus should be reported to further inform theory as well as to demonstrate consistency among current findings (i.e., to lend empirical support to other findings that did reach traditional statistical significance at the .05 level).

**Effects of plaintiff weight, decision context, and individual differences on verdict.**

Because verdict is a binary outcome variable, Generalized Linear Mixed Modeling (GLMM) was used for this series of analyses. In the GLMMs, Verdict= 1 (liable) was set as the reference category. Summary results for each model are displayed in **Table 18**.

**Model 1: Effects of gender.** H1 C proposed an interactive effect between decision context and plaintiff weight, such that in the obese condition, deliberating jurors would be more likely to find the defendant liable than would non-deliberating jurors. Model 1 results and results of all subsequent models specifying verdict as the outcome variable did not support this hypothesis, as the interaction between decision context and plaintiff weight was non-significant

Table 18. *Fixed Effects of Decision Context, Plaintiff Weight, and Individual Difference Variables on Verdict in Total Sample.*

<b>Model</b> Variable	<i>F</i>	<i>df</i>	<i>p</i>
<b>Model 1: Effects of Gender*</b>			
Decision context	13.93	1, 66	<.001
Weight condition	.00	1, 66	.986
Decision context x Weight condition	.15	1, 66	.705
Gender	15.56	1, 448	<.001
Gender x Decision context	.69	1, 448	.405
Gender x Weight condition	.14	1, 448	.704
<b>Model 2: Effects of BJW-O</b>			
BJW-O	.24	1, 449	.621
BJW-O x Decision context	3.03	1, 449	.083
BJW-O x Weight condition	8.09	1, 449	.005
<b>Model 3: Effects of BPWE</b>			
BPWE	2.86	1, 448	.092
BPWE x Decision context	4.89	1, 448	.028
BPWE x Weight condition	3.38	1, 448	.067
<b>Model 4: Effects of FPS</b>			
FPS	3.93	1, 435	.048
FPS x Decision context	.94	1, 435	.333
FPS x Weight condition	.97	1, 435	.326
<b>Model 5: Effects of BMI</b>			
BMI	3.90	1, 438	.049
BMI x Decision context	.23	1, 438	.878
BMI x Weight condition	.21	1, 438	.561

**Note.** \*For all models, the main effect of decision context was significant, all *F*s > 13.83 and all *p*s < .001. For all models, the main effect of weight condition and interaction between weight condition and decision context was non-significant, all *F*s < 1.24, all *p*s > .25.

(*F*s < .70, *p*s > .40). There was, however, a significant main effect of decision context on verdicts,  $F(1,66) = 13.93, p < .001$ . Estimated marginal means revealed that non-deliberating jurors were more likely to find the defendant liable ( $M = .69, SE = .06$ ) than deliberating jurors ( $M = .37, SE =$

.05). A significant main effect of gender on verdicts also emerged  $F(1,448) = 15.56, p < .001$ .

Women ( $M = .65, SE = .05$ ) were more likely than men ( $M = .42, SE = .05$ ) to find the defendant liable, regardless of plaintiff weight or decision context. All interactions involving participant gender, decision context, and plaintiff weight were non-significant ( $F_s < 2.39, p_s > .13$ ).

**Model 2: Effects of BJW-O.** The main effect of decision context was again significant in this model,  $F(1,448) = 16.62, p < .001$ , such that non-deliberating jurors were more likely to render liable verdicts ( $M = .68, SE = .06$ ) than deliberating jurors ( $M = .34, SE = .04$ ). This effect was replicated in all of the following models examining the effects of decision context, plaintiff weight, and individual differences on verdicts, and thus will not continue to be reported for each additional model. There was no significant main effect of BJW-O scores on verdict ( $F = .24, p = .62$ ), but analyses did reveal a significant interaction between BJW-O scores and plaintiff weight,  $F(1,449) = 8.09, p = .005$ . This interaction is depicted in **Figure 9**. Estimated marginal means indicate that when participants believed the plaintiff to be normal weight, those with higher BJW-O scores (estimated at 1 *SD* above the centered mean) were slightly more likely to render liable verdicts ( $M = .57, SE = .07$ ) than those with lower BJW-O scores (estimated at 1 *SD* below the centered mean;  $M = .46, SE = .07$ ). When participants believed the plaintiff to be obese, those with higher BJW-O scores were less likely to render liable verdicts ( $M = .41, SE = .06$ ) than those with lower BJW-O scores ( $M = .58, SE = .07$ ).

In addition, the interaction between BJW-O scores and decision context was marginally significant,  $F(1,449) = 3.03, p = .082$ . Both those with low and high BJW-O scores were more likely to find the defendant liable in the non-deliberating than in the deliberating condition, but this effect was a bit more pronounced for those with lower BJW-O scores (Non-deliberating  $M = .70, SE = .06$ ; Deliberating  $M = .29, SE = .05$ ) compared to those with higher BJW-O scores (Non-

deliberating  $M = .64$ ,  $SE = .08$ ; Deliberating  $M = .39$ ,  $SE = .06$ ). This marginally significant interaction is displayed in **Figure 10**.

Figure 9. Interaction between Weight Manipulation and BJW-O Scores on Verdicts in Total Sample.

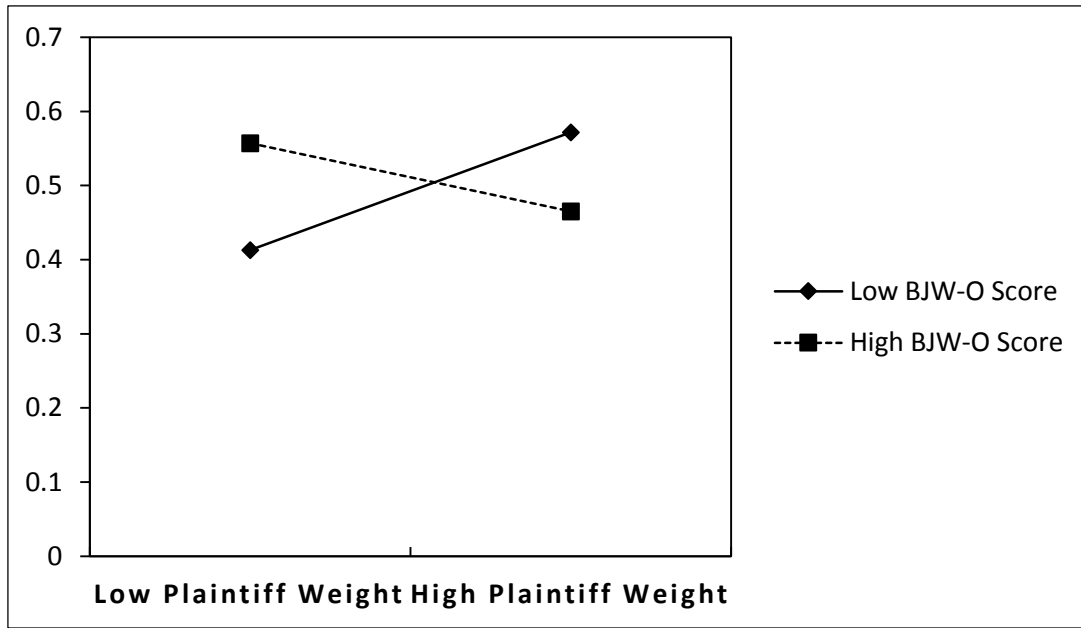
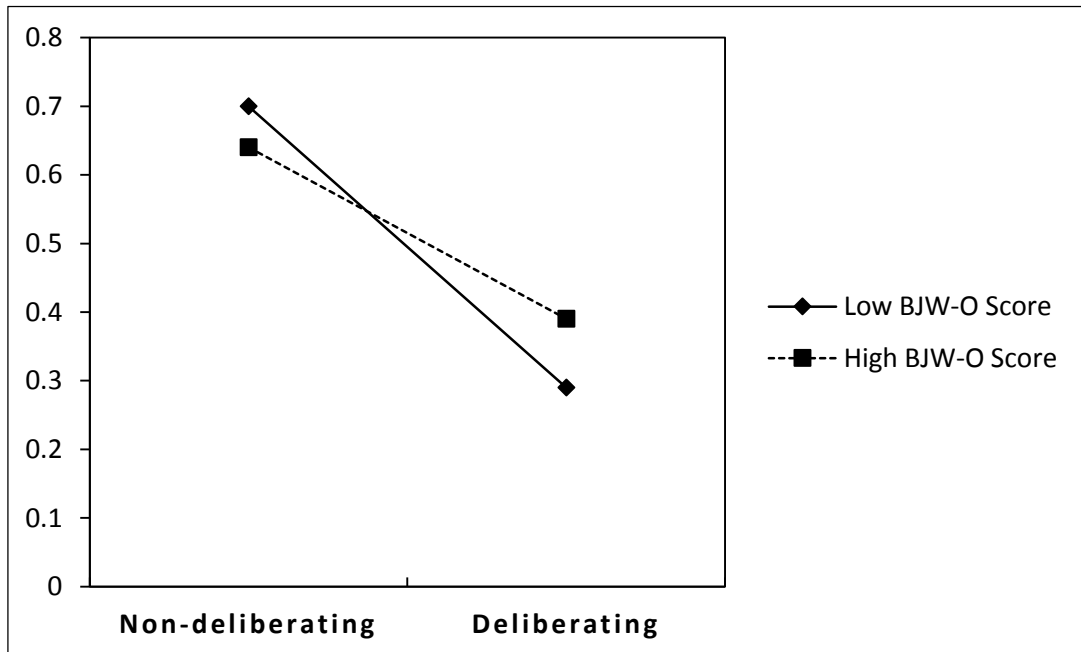


Figure 10. Interaction between Decision Context and BJW-O Scores on Verdicts in Total Sample.



**Model 3: Effects of BPWE.** The main effect of BPWE scores on verdict failed to reach statistical significance ( $F = .29, p = .09$ ). Yet, there was a significant interaction between BPWE scores and decision context on verdict,  $F(1,448) = 4.89, p = .028$  (See **Figure 11**). Both those with low and high BPWE scores were more likely to find the defendant liable in the non-deliberating condition. The increase in the likelihood of finding the defendant liable in the non-deliberating condition was greater for those with lower BPWE scores (Non-deliberating  $M = .67, SE = .07$ ; Deliberating  $M = .23, SE = .06$ ) than for those with higher BPWE scores (Non-deliberating  $M = .64, SE = .07$ ; Deliberating  $M = .42, SE = .06$ ). This same pattern of results was obtained in examining the estimated marginal means associated with the marginally significant interaction between BJW-O and decision context described above.

The interaction between plaintiff weight and BPWE was marginally significant,  $F(1,448) = 3.38, p = .067$  (See **Figure 12**). When participants believed that the plaintiff had a normal weight, there was little difference in verdicts between those with higher BPWE scores ( $M = .50, SE = .07$ ) and those with lower BPWE scores ( $M = .52, SE = .07$ ). When led to believe that the plaintiff was obese, those with lower BPWE scores were more likely to find the defendant liable ( $M = .57, SE = .08$ ) than those with higher BPWE scores ( $M = .37, SE = .08$ ).

**Model 4: Effects of FPS Scores.** All interactive effects incorporating FPS scores were non-significant ( $F_s < .50, p_s > .33$ ). There was a significant main effect of FPS scores on verdict,  $F(1,435) = 3.93, p = .048$ . This replicated the effect from the analysis conducted using only the non-deliberating sample, such that those with lower FPS scores were more likely to find the defendant liable than those with higher FPS scores. However, this effect was very small, and the fixed coefficient was non-significant ( $b = .01, p = .98$ ).

Figure 11. *Interaction between Decision Context and BPWE Scores on Verdicts in Total Sample.*

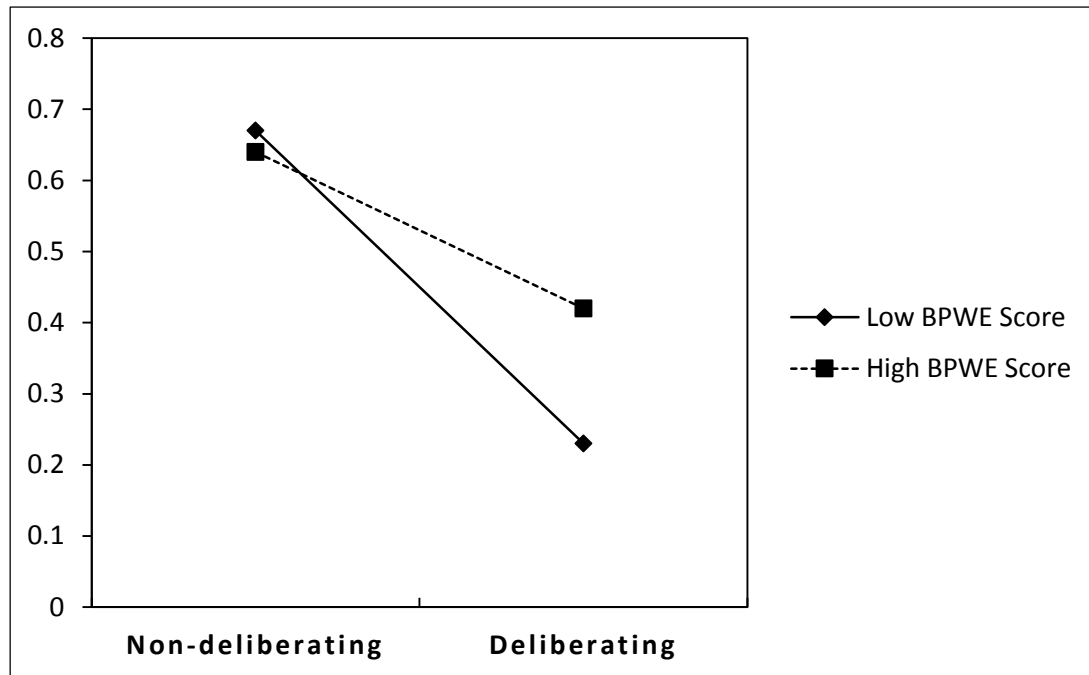
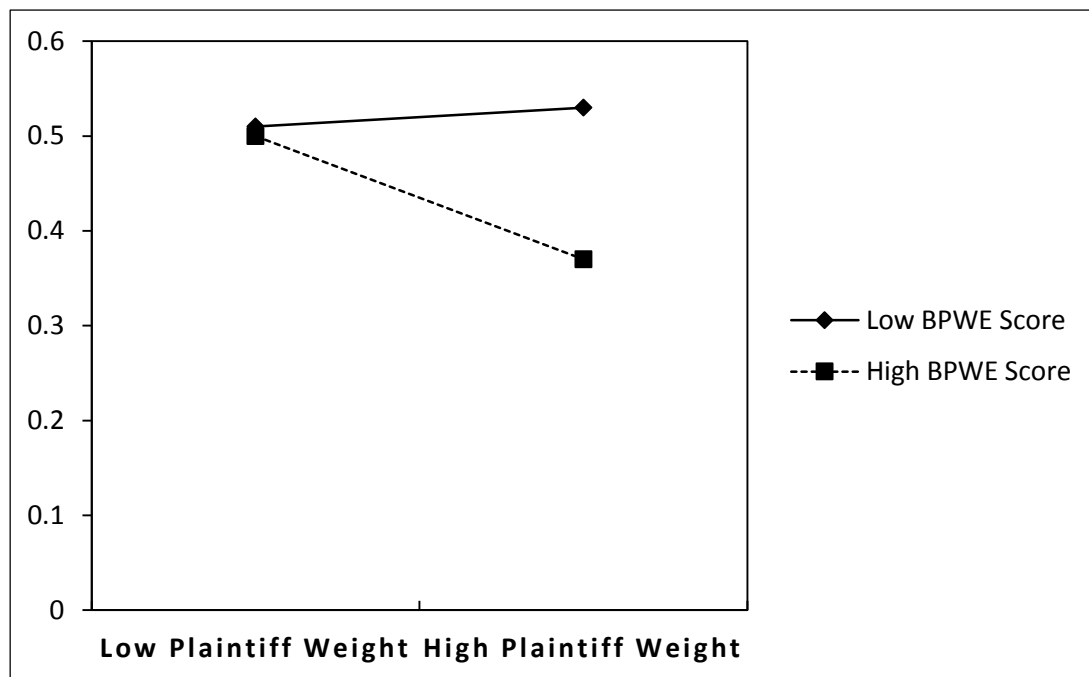


Figure 12. *Interaction between Weight Manipulation and BPWE Scores on Verdicts in Total Sample.*



**Model 5: Effects of BMI.** There were no significant interactions between participants' BMI, plaintiff weight, or decision context ( $F_s < 2.12$ ,  $p_s > .14$ ). There was a main effect of BMI on verdicts, such that the likelihood of finding the defendant liable increased as BMI increased. The fixed coefficient again indicates that this effect was small ( $b = .11$ ,  $p = .97$ ).

**Effects of plaintiff weight, decision context, and individual differences on damage awards.** Mixed modeling procedures were used to examine the effects of plaintiff weight, decision context and individual differences on damage awards while accounting for the nested nature of the data pertaining to deliberating jurors. Because including predictors and outcome variables with substantially different scale values (e.g., 1-7 vs. 25,000 – 400,000) can lead to convergence problems in estimating mixed models (Kiernan, Tao, & Gibbs, 2012), both economic and non-economic damage award values were multiplied by .0001 before inclusion in analyses. Only participants finding the defendant liable were included in the following analyses. A summary of fixed effects for models executed with both economic and non-economic damages as DVs is displayed in **Table 19**.

**Model 1A: Effects of gender on economic damages.** Model 1A examined the main and interactive effects of gender on non-economic damage awards. Results did not support H1 D, which predicted that, in the obese condition, deliberating jurors would award higher damages than non-deliberating jurors. The interaction between decision context and plaintiff weight was non-significant in this model and in the other four individual difference variable models ( $F_s < .64$ ,  $p_s > .49$ ), and thus no further results pertaining to these variables will be reported. This model did yield a marginally significant effect of decision context on damage awards,  $F(1,81.1) = 3.65$ ,  $p = .06$ , such that jurors in the non-deliberating condition gave higher economic damage awards ( $M = 2.00$ ,  $SE = .13$ ) than jurors in the deliberating condition ( $M = 1.61$ ,  $SE = .16$ ).

However, there were no significant main effects of decision context in any of the other individual difference variable models ( $F_s < 2.47$ ,  $p_s > .11$ ), and this effect was non-significant in a model with only condition weight, decision context, and the condition weight by context interaction term entered as fixed effects variables ( $F = .57$ ,  $p = .45$ ).

The interaction between gender and decision context was marginally significant,  $F(1,202) = 3.01$ ,  $p = .084$ ; see **Figure 13**). Pairwise comparisons indicate that this interaction is driven by an increased likelihood for males to award higher economic damages in the non-deliberating condition ( $M = 2.18$ ,  $SE = .19$ ) than in the deliberating condition ( $M = 1.51$ ,  $SE = .23$ ;  $p = .026$ ). Females awarded similar amounts of economic damages regardless of decision context (non-deliberating  $M = 1.82$ ,  $SE = .14$ ; deliberating  $M = 1.70$ ,  $SE = .19$ ). The main effect of gender and the interactions between gender and plaintiff weight and gender and decision context were non-significant ( $F_s < .38$ ,  $p_s > .53$ ).

**Model 2A: Effects of BJW-O on economic damages.** Results of Model 2A revealed no significant main effects or interactions for any of the included fixed effects variables ( $F_s < 2.82$ ,  $p_s > .10$ ).

**Model 3A: Effects of BPWE on economic damages.** This model yielded a significant main effect for BPWE on economic damage awards,  $F(1,199.9) = 10.54$ ,  $p = .001$ . Those with lower BPWE scores awarded significantly higher economic damages than those with higher BPWE scores,  $b = -.438$ ,  $SE = .21$ ,  $p = .037$ . Results revealed no other significant main or interactive effects ( $F_s < 2.33$ ,  $p_s > .13$ ).



Table 19. *Fixed Effects of Decision Context, Plaintiff Weight, and Individual Difference Variables on Damage Awards and Total Responsibility Judgments in Total Sample.*

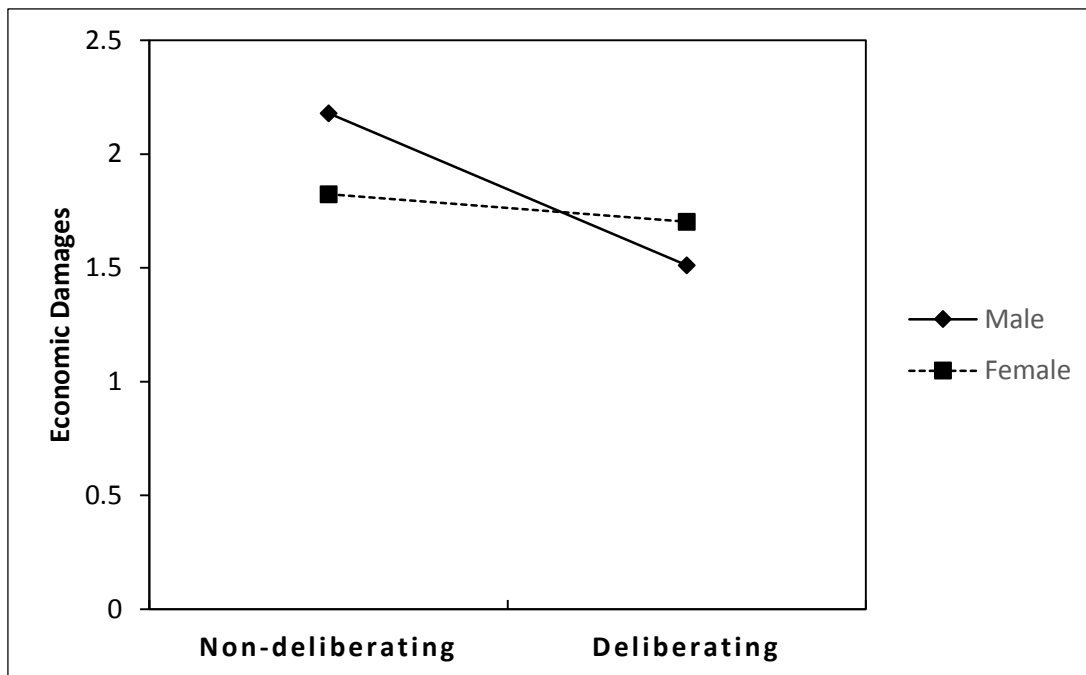
Model Variable*	A: Economic damages		B: Non-economic damages		C: Total responsibility	
	F	p	F	p	F	p
<b>Model 1: Effects of Gender</b>						
Decision context	3.65	.06	12.42	.001	15.61	>.001
Weight condition	.63	.43	1.60	.25	.22	.64
Decision context x Weight condition	.26	.61	4.84	.03	2.02	.16
Gender	.28	.60	2.44	.12	13.41	>.001
Gender x Decision context	3.01	.08	.08	.78	.01	.98
Gender x Weight condition	3.84	.54	.22	.64	1.07	.30
<b>Model 2: Effects of BJW-O</b>						
Decision context	1.92	.17	12.71	.001	17.59	>.001
Weight condition	1.06	.31	1.71	.20	.11	.74
Decision context x Weight condition	.34	.56	4.25	.04	3.74	.06
BJW-O	1.36	.25	.49	.48	2.21	.14
BJW-O x Decision context	.50	.48	.35	.55	.72	.40
BJW-O x Weight condition	.91	.34	.54	.47	5.99	.02
<b>Model 3: Effects of BPWE</b>						
Decision context	2.33	.13	13.67	>.001	18.33	>.001
Weight condition	.74	.39	1.19	.28	.01	.96
Decision context x Weight condition	.46	.50	4.21	.04	5.00	.03
BPWE	10.54	.001	3.98	.05	9.26	.002
BPWE x Decision context	.06	.94	.70	.40	11.66	.001
BPWE x Weight condition	1.37	.24	.24	.63	4.46	.04

**Note.** \*Each model also included a three-way interaction term between decision context, plaintiff weight, and the individual difference variable examined as a predictor variable. The three way interaction was non-significant in all models,  $F_s < 2.50$   $p_s > .15$

Table 19 (continued).

Model Variable	A: Economic damages		B: Non-economic damages		C: Total responsibility	
	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>
<b>Model 4: Effects of FPS</b>						
Decision context	1.67	.20	15.15	>.001	16.09	>.001
Weight condition	.50	.48	.84	.36	.21	.65
Decision context x Weight condition	.43	.49	4.07	.05	2.99	.09
FPS	3.57	.06	.96	.33	3.67	.06
FPS x Decision context	1.67	.20	.29	.59	5.38	.02
FPS x Weight condition	.50	.54	.02	.90	.01	.92
<b>Model 5: Effects of BMI</b>						
Decision context	2.45	.12	11.53	.001	16.28	>.001
Weight condition	.93	.34	1.07	.30	.18	.68
Decision context x Weight condition	.21	.65	3.54	.06	4.24	.04
BMI	.19	.66	1.24	.27	2.96	.09
BMI x Decision context	1.10	.30	4.10	.04	2.73	.10
BMI x Weight condition	.06	.80	.62	.41	.08	.78

Figure 13. *Interaction between Decision Context and Gender on Economic Damage Awards in the Total Sample.*



**Model 4A: Effects of FPS on economic damages.** There was a marginally significant main effect of FPS scores on economic damage awards,  $F(1,187.4) = 3.57, p = .06$ . Those with lower FPS scores awarded higher economic damages than those with higher FPS scores, though the fixed effect coefficient for FPS was non-significant,  $b = -.262, SE = .26, p = .31$ . There were no significant interactions between FPS scores, decision context, and plaintiff weight ( $F_s < 1.68, p_s > .18$ ).

**Model 5A: Effects of BMI on economic damages.** Results of this model yielded no significant main or interactive effects ( $F_s < 2.46, p_s > .13$ ).

**Model 1B: Effects of gender on non-economic damages.** Analyses examining the effects of decision context, plaintiff weight, and participant gender on non-economic damage awards yielded results opposite to those predicted by H1 D. First, there was a main effect of decision

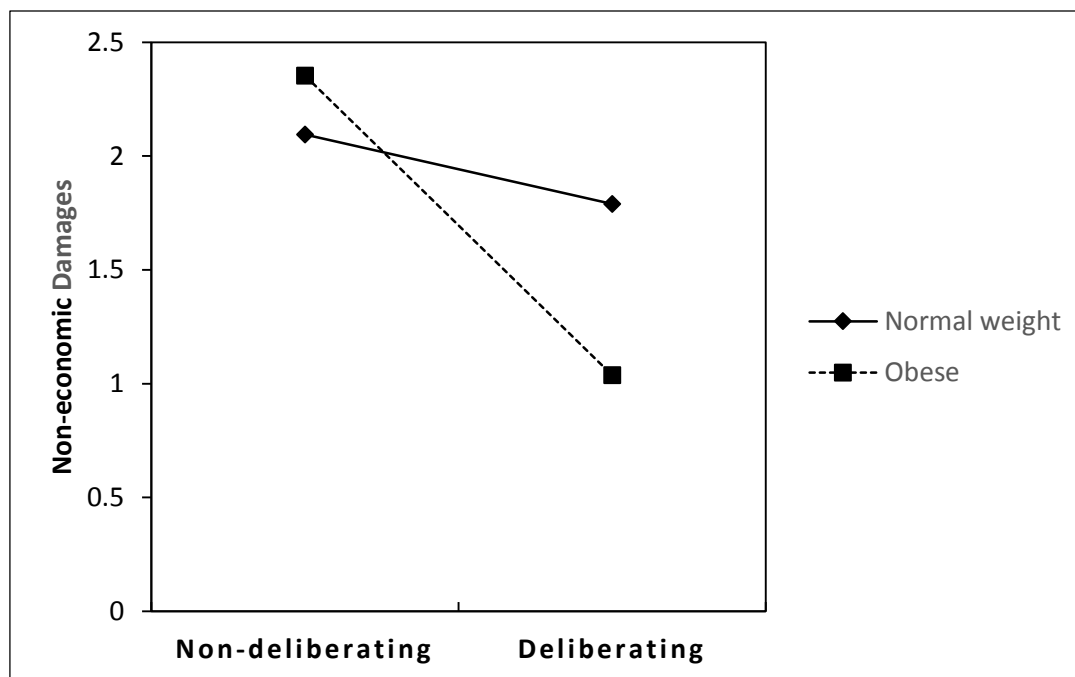
context on non-economic damage awards,  $F(1,80.1) = 12.42, p < .001$  (see **Table 19** for a summary of fixed effects). Those in the non-deliberating condition awarded significantly higher non-economic damages ( $M = 2.22, SE = .15$ ) than those in the deliberating condition ( $M = 1.41, SE = .18$ ). This effect was replicated in all models ( $F_s > 11.53, p_s < .001$ ) and thus will not be repeatedly reported in results for models 2B-5B.

Model 1B also yielded a significant interaction between plaintiff weight and decision context on non-economic damage awards  $F(1,81.2) = 4.84, p = .31$  (see **Figure 14**). An examination of estimated marginal means showed that this effect contradicts H1 D, which predicted that, in the obese condition, deliberating jurors would award higher non-economic damages than non-deliberating jurors. Instead, participants in the non-deliberating condition awarded higher non-economic damages to the obese plaintiff ( $M = 2.35, SE = .22$ ) than those in the deliberating condition ( $M = 1.04, SE = .25$ ). There was little difference between non-economic damage awards to the normal weight plaintiff between non-deliberating ( $M = 2.10, SE = .20$ ) and deliberating ( $M = 1.80, SE = .25$ ) conditions. The pairwise comparison between deliberating and non-deliberating jurors in the obese condition was significant ( $p < .001$ ), as was the comparison between normal weight and obese conditions in the deliberating condition ( $p = .036$ ). The same interactive effect emerged in all models and was significant in Models 2B-4B ( $F_s > 4.07, p_s < .05$ ), but was marginally significant in Model 5B ( $F = 4.10, p = .06$ ). Gender did not significantly impact non-economic damage awards ( $F = 2.44, p = .12$ ). In addition, there were no significant interactions between gender, plaintiff weight, and decision context ( $F_s < .39, p_s > .53$ ).

**Model 2B: Effects of BJW-O on non-economic damages.** All main and interactive effects of BJW-O scores, plaintiff weight, and decision context on non-economic damages were non-significant ( $F_s < 1.61$ ,  $p_s > .20$ ).

**Model 3B: Effects of BPWE on non-economic damages.** There was a significant main effect of BPWE scores on non-economic damages awards,  $F(1,213.9) = 3.98$ ,  $p = .04$ . The fixed coefficient for BPWE did not reach significance, but indicated those with lower BPWE scores awarded greater non-economic damages than those with higher scores ( $b = -.20$ ,  $SE = .27$ ,  $p = .47$ ). Tests of two-way interactions involving BPWE as a predictor were non-significant ( $F_s < .71$ ,  $p_s > .40$ ).

Figure 14. Interaction between Decision Context and Plaintiff Weight on Non-Economic Damage Awards in the Total Sample.



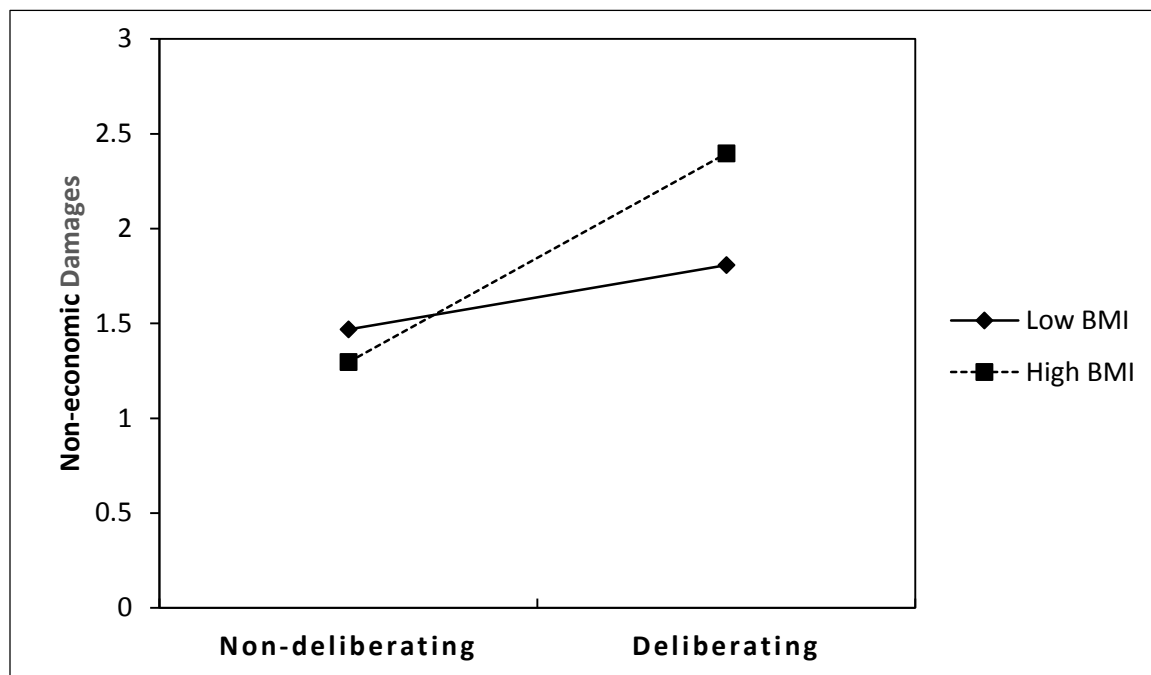
**Model 4B: Effects of FPS on non-economic damages.** FPS scores did not significantly affect non-economic damage awards ( $F = .96$ ,  $p = .33$ ). There also were no significant interactions between FPS scores, plaintiff weight, and decision context ( $F_s < .30$ ,  $p_s > .58$ ).

**Model 5B: Effects of BMI on non-economic damages.** The main effect of participant BMI on non-economic damages was non-significant, as was the interaction between BMI and plaintiff weight ( $F_s < 1.25$ ,  $p_s > .26$ ). However, a significant interaction between BMI and decision context emerged,  $F(1,209.7) = 4.10$ ,  $p = .04$  (see Figure 15). Estimated marginal means were obtained for the sample at +1 and -1 *SD* of the transformed and centered BMI variable to interpret this effect. Non-economic damage awards were similar in the non-deliberating condition, regardless of participant BMI (Low BMI  $M = 1.47$ ,  $SE = .21$ ; High BMI  $M = 1.30$ ,  $SE = .22$ ). In the deliberating condition, those with higher BMIs awarded greater non-economic damages ( $M = 2.40$ ,  $SE = .17$ ) than did those with lower BMIs ( $M = 1.80$ ,  $SE = 1.81$ ). Pairwise comparisons indicated that the difference between non-economic damages awarded by those with higher BMIs in the deliberating condition was significant ( $p < .001$ ).

Model 5B was the only model in this series (exploring effects of plaintiff weight, decision context, and individual differences on non-economic damage awards) that did not yield a significant interaction between plaintiff weight and decision context. Yet, estimated marginal means and pairwise comparisons suggested that the interactive effect between plaintiff weight and decision context was replicated in Model 5B.

**Effects of plaintiff weight, decision context, and individual differences on responsibility judgments.** The same model-building procedures incorporating individual difference variables that were used to test H1 C and H1 D were also used to test H1 E, with participant scores on the total responsibility scale as the dependent variable. **Table 19** summarizes the fixed effects for mixed models specifying total responsibility scale scores as the outcome variable.

Figure 15. *Interaction between Decision Context and Participant BMI on Non-Economic Damage Awards in the Total Sample*



**Model 1C: Effects of gender.** None of the interaction terms entered into the model yielded significant results, including the hypothesized interaction between plaintiff weight and decision context ( $F_s < 2.01, p_s > .15$ ). Decision context significantly predicted total responsibility scale scores,  $F(1,95) = 15.61, p < .001$ , such that non-deliberating jurors had higher total responsibility scale scores (indicating increased attributions of responsibility to the defendant;  $M = 4.25, SD = .15$ ) than deliberating jurors ( $M = 3.54, SE = .14$ ). This result is consistent with the decision context effects obtained in models testing H1 C and H1 D, and was obtained in the remaining models (2C – 5C) including total responsibility as the outcome variable ( $F_s > 15.61, p_s < .001$ ). Thus, results pertaining to the main effects of plaintiff weight and decision context for the other four models will not be reiterated in text.

Gender was a significant predictor of total responsibility scale scores,  $F(1,95) = 15.61, p < .001$ . Women were more likely to find the defendant responsible for the plaintiff's negative

medical outcome ( $M = 4.19$ ,  $SE = .12$ ) than were men ( $M = 3.69$ ,  $SE = .13$ ). This result is similar that that obtained in examining the impact of gender on verdict, which indicated that, overall, women were significantly more likely than men to find the defendant liable for malpractice.

**Model 2C: Effects of BJW-O.** Though the interaction between plaintiff weight and decision context did not approach significance in Model 1C, it was marginally significant in Model 2C,  $F(1,92.1) = 3.75$ ,  $p = .056$ . As **Figure 16** demonstrates, those in the non-deliberating condition attributed slightly more responsibility to the defendant when the plaintiff was depicted as normal weight ( $M = 4.27$ ,  $SE = .21$ ) than when she was depicted as obese ( $M = 4.59$ ,  $SE = .22$ ). However, in the deliberating condition, participants attributed more responsibility to the obese plaintiff ( $M = 3.34$ ,  $SE = .20$ ) compared to the normal weight plaintiff ( $M = 3.80$ ,  $SE = .19$ ). Pairwise comparisons indicated that in the obese condition, there was a significantly greater decrease in total responsibility scores among deliberating jurors compared to non-deliberating jurors ( $p < .001$ ).

The main effect of BJW-O scores on total responsibility scores was non-significant ( $F = 2.21$ ,  $p = .14$ ), but there was a significant interaction between BJW-O scores and plaintiff weight,  $F(1,92.1) = 3.75$ ,  $p = .056$  (see **Figure 17**). Estimated marginal means calculated at -1 and +1 standard deviations of the mean of the centered BJW-O scale revealed that there was little difference between deliberating and non-deliberating jurors' total responsibility scores in the normal weight condition (non-deliberating  $M = 3.97$ ,  $SE = .18$ ; deliberating  $M = 4.10$ ,  $SE = .17$ ). There was a substantial difference between the two groups in the obese condition, such that those with higher BJW-O scores were less likely to attribute responsibility to the defendant ( $M = 3.71$ ,  $SE = .18$ ) than those with lower BJW-O scores ( $M = 4.23$ ,  $SE = .17$ ). The interaction between BJW-O and decision context was non-significant ( $F = .72$ ,  $p = .40$ ).



Figure 16. *Interaction between Decision Context and Plaintiff Weight on Total Responsibility Judgments in the Total Sample.*

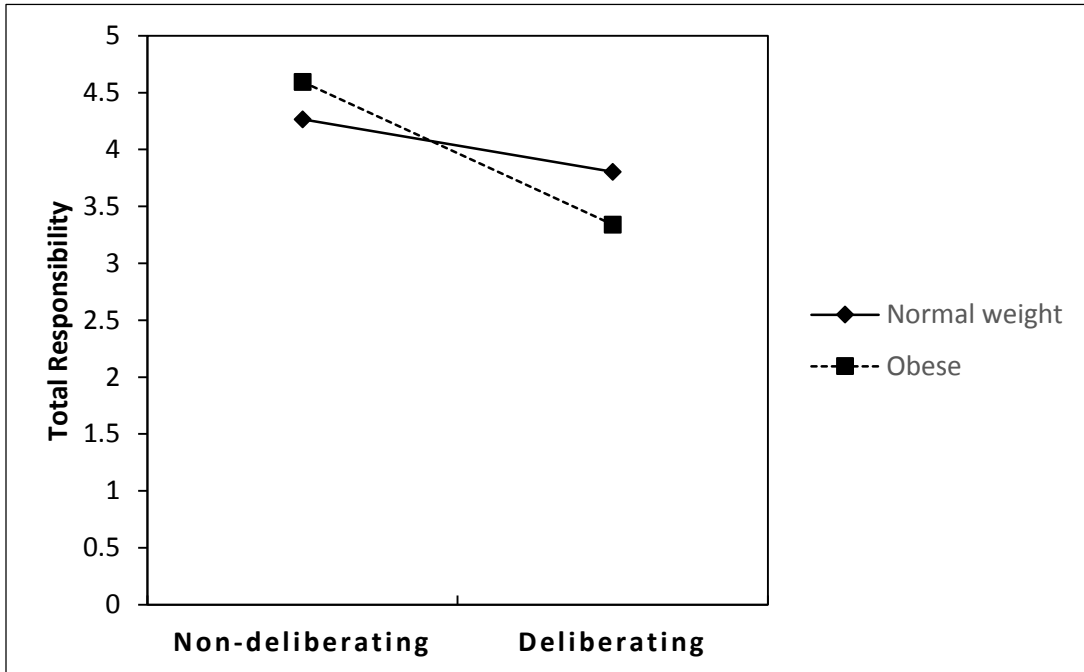
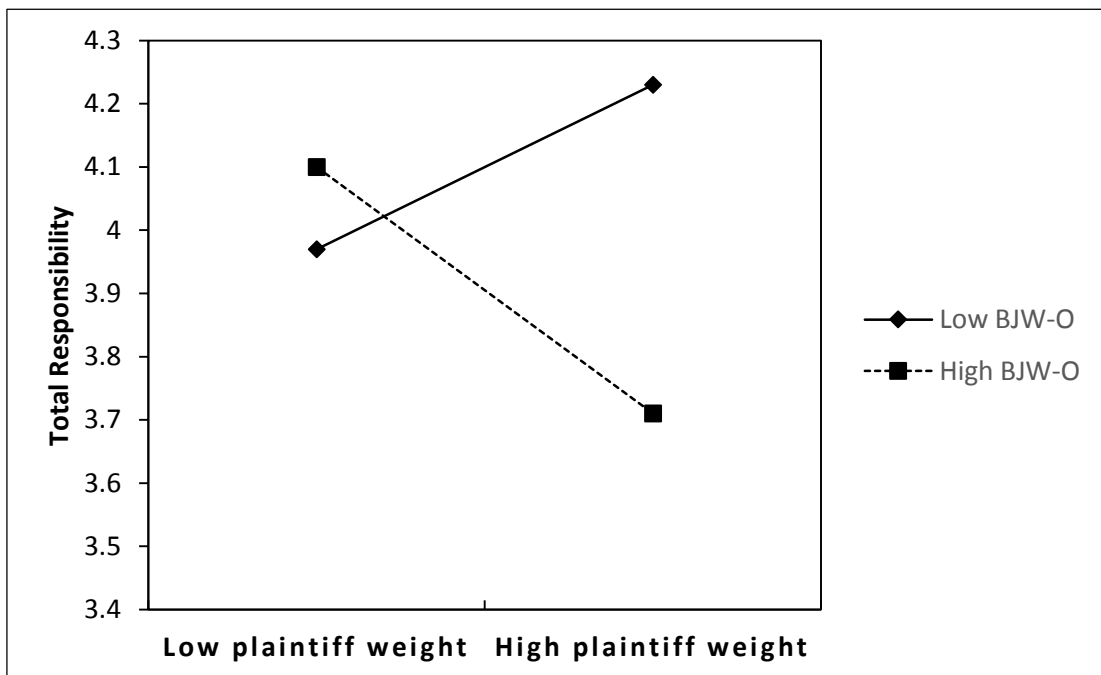


Figure 17. *Interaction between Plaintiff Weight and BJW-O Scores on Total Responsibility Judgments in the Total Sample.*



**Model 3C: Effects of BPWE.** The interaction between decision context and plaintiff weight on total responsibility scores reached statistical significance in Model 3C,  $F(1,90.6) = 4.99, p = .028$ . The interpretation of this interaction is the same as that described in model 2C results: there was a greater difference between non-deliberating and deliberating jurors' total responsibility judgments in the obese condition (non-deliberating  $M = 4.71, SE = .22$ ; deliberating  $M = 3.38, SE = .20$ ) than in the normal weight condition (non-deliberating  $M = 4.24, SE = .21$ ; deliberating  $M = 3.82, SE = .29$ ). Again, pairwise comparisons indicated that the difference between deliberating and non-deliberating jurors in the obese condition was significant ( $p < .001$ ). Contrary to expectations, deliberations did not attenuate weight-related bias, according to scores on the total responsibility scale. Instead, this bias seemed to *increase* when participants deliberated in groups.

A main effect of BPWE on total responsibility scores emerged,  $F(1,408.6) = 9.26, p = .002$ , which was similar to the effect of BPWE on verdicts in the total sample. This effect was qualified by a significant interaction between BPWE scores and decision context on total responsibility scores,  $F(1,408.4) = 11.66, p < .001$ . This interaction is depicted in **Figure 18**. Attributions of plaintiff and defendant responsibility for the negative medical outcome in the deliberating condition were not affected by BPWE (low BPWE  $M = 3.57, SE = .16$ ; high BPWE  $M = 3.62, SE = .16$ ). Scores on the total responsibility scale were higher overall in the non-deliberating condition, but were particularly high among those with lower BPWE scale scores (low BPWE  $M = 4.89, SE = .18$ , high BPWE  $M = 4.06, SE = .18$ ). Similar findings emerged when testing the interactive effect between BPWE and decision context on verdicts. Tests of pairwise comparisons indicated that total responsibility scores among those with low BPWE scores significantly differed across deliberating and non-deliberating groups ( $p < .001$ ).

Finally, there was a significant interaction between BPWE and plaintiff weight on total responsibility scale scores,  $F(1,408.4) = 4.46, p = .035$  see **Figure 19**). Again, this interactive effect was consistent with the effect between BPWE and plaintiff weight on verdicts. Scores on the total responsibility scale did not significantly differ as a function of BPWE scores in the normal weight condition (low BPWE  $M = 4.09, SE = .17$ ; high BPWE  $M = 3.97, SE = .17$ ). In the obese condition, however, those with lower BPWE scores attributed more responsibility to the defendant ( $M = 4.37, SD = .18$ ) than those with higher BPWE scores ( $M = 3.71, SE = .17$ ).

Figure 18. *Interaction between Decision Context and BPWE Scores on Total Responsibility Judgments in the Total Sample.*

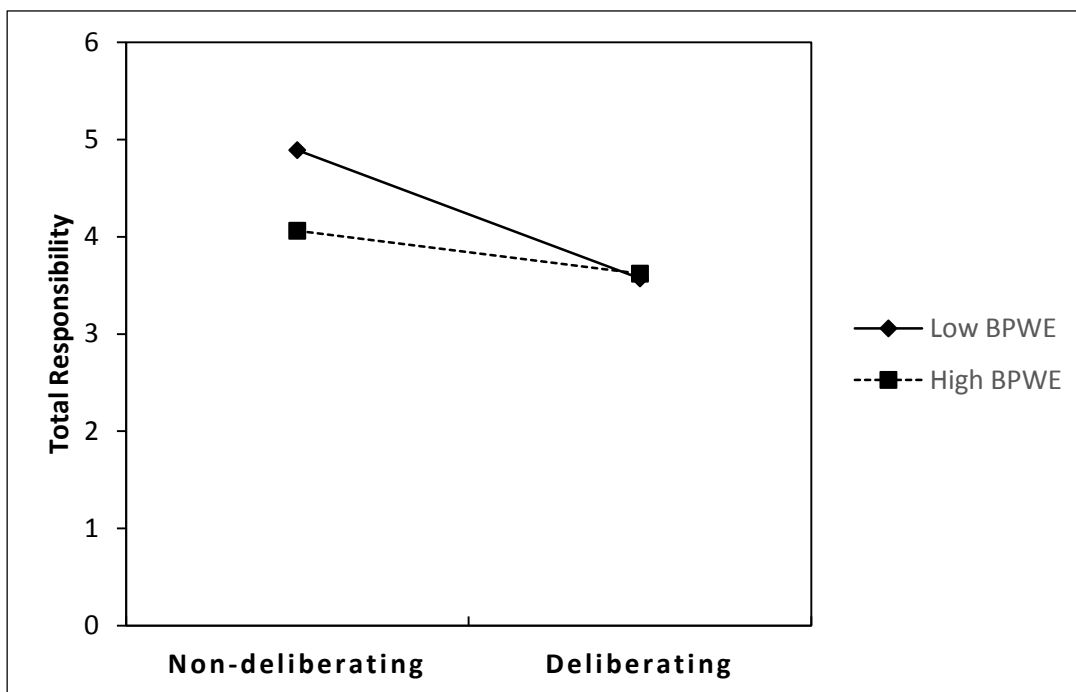
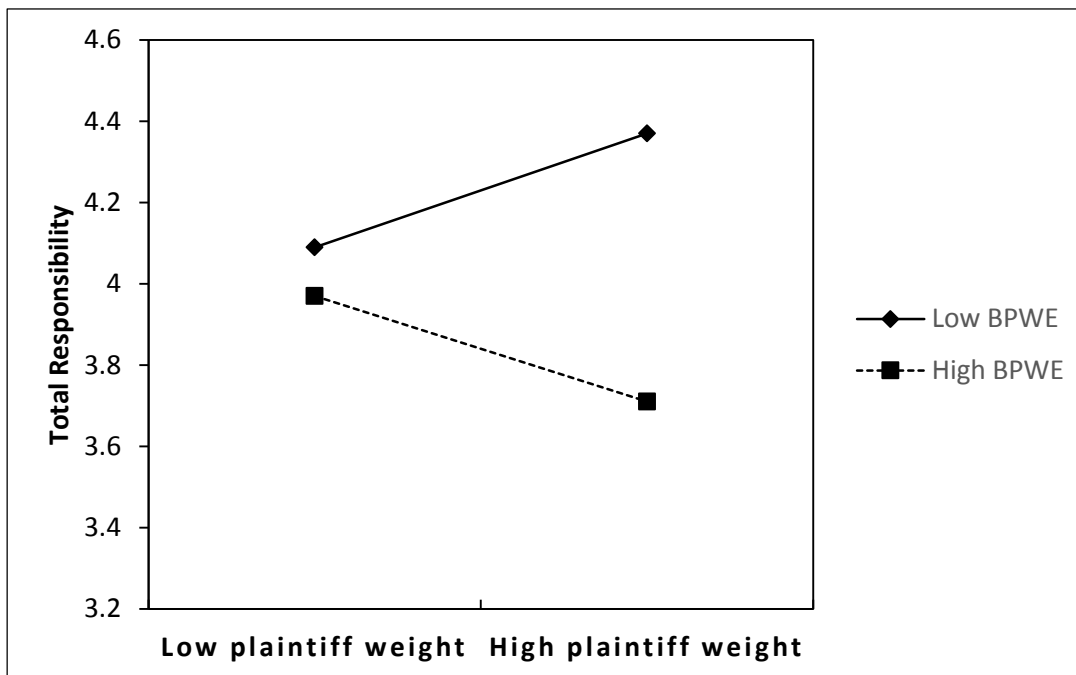


Figure 19. *Interaction between Plaintiff Weight and BPWE Scores on Total Responsibility Judgments in the Total Sample.*

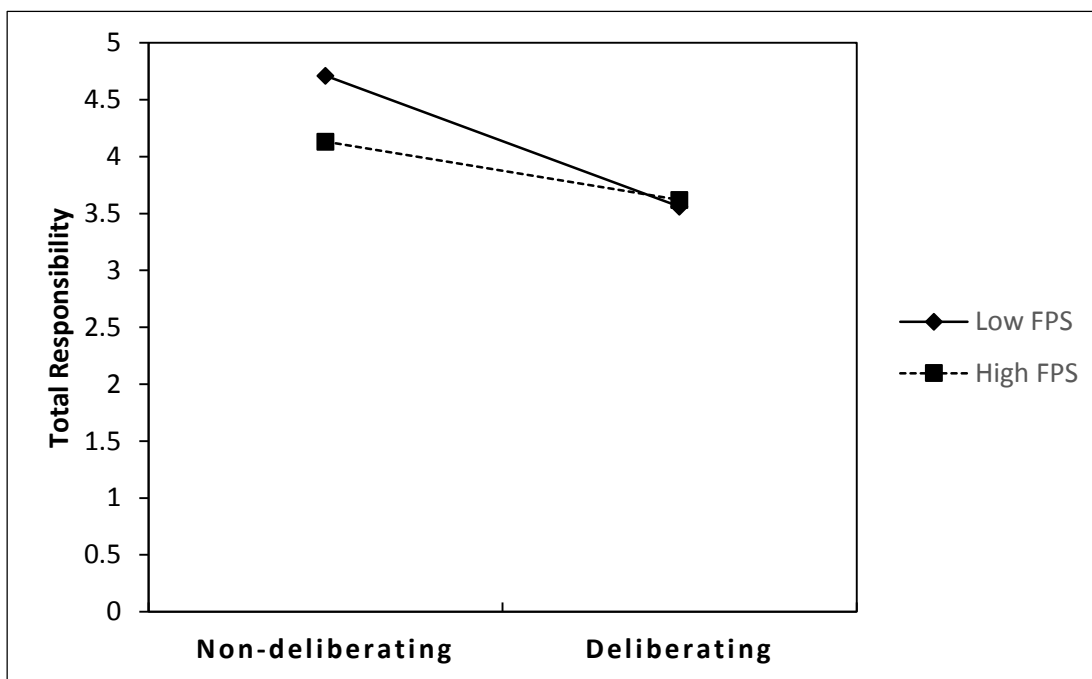


**Model 4C: Effects of FPS.** The interaction between decision context and plaintiff weight was marginally significant,  $F(1,407.4) = 2.99, p = .087$ , revealing a pattern similar to those occurring in Models 2C and 3C. The main effect of FPS scores on total responsibility judgments approached statistical significance,  $F(1,407.4) = 3.67, p = .056$ . This effect was qualified by a significant interaction between decision context and FPS scores on total responsibility judgments,  $F(1,407.4) = 5.38, p = .021$  (see **Figure 20**). As in the previously described interaction between decision context and BPWE scores, FPS scores appeared to have little impact on total responsibility judgments among deliberating jurors (low FPS  $M = 3.56, SE = .16$ ; high FPS  $M = 3.62, SE = .17$ ). In the non-deliberating condition, those with lower FPS scores were more likely to attribute responsibility to the defendant ( $M = 4.71, SE = .19$ ) than those with higher FPS scores ( $M = 4.13, SE = .18$ ), and tests of pairwise comparisons indicate that this difference is

statistically significant ( $p < .001$ ). The interaction between plaintiff weight and FPS scores was non-significant ( $F = .01, ps = .92$ ).

**Model 5C: Effects of BMI.** The interaction between decision context and plaintiff weight reached statistical significance in Model 5C,  $F(1,90.9) = 4.24, p = .042$ . This interactive effect replicated those that emerged in models 2C – 4C. There also was a marginally significant main effect of participant BMI on total responsibility scale scores,  $F(1,414.9) = 2.96, p = .086$ . Those with higher BMIs were more likely to attribute responsibility to the defendant than those with lower BMIs ( $b = -.60, SE = 1.60, p = .71$ ). Participant BMI did not interact with plaintiff weight or decision context to influence total responsibility scale scores ( $Fs < 2.73, ps > .10$ ).

Figure 20. *Interaction between Decision Context and FPS Scores on Total Responsibility Judgments in the Total Sample.*



**Summary of results of analyses addressing H1 C – H1 E.** This series of analyses yielded multiple significant or marginally significant findings. Some of these findings were consistent with expectations, whereas others actually contradicted predictions. Other findings emerged

which were not specifically hypothesized, but align with extant theory and research. “Trends” or effects emerging across several models are highlighted below.

The main effect of plaintiff weight was non-significant in all of the models tested with verdict, damage awards, and total responsibility scale scores as dependent variables. However, there was a relatively consistent main effect of decision context on verdict, non-economic damage awards, and total responsibility scale scores. Jurors who deliberated are less likely to find the defendant liable for medical malpractice and less likely to attribute responsibility to the defendant for the negative medical outcome than jurors who do not deliberate. Among jurors who did find the defendant liable, deliberating jurors awarded fewer non-economic damages than non-deliberating jurors. These results cohere with the “leniency effect” documented across multiple studies involving both actual and mock jurors in criminal cases (see MacCoun & Kerr, 1988).

H1 C – E predicted that plaintiff weight would interact with decision context such that non-deliberating jurors would be more punitive towards the obese plaintiff than the deliberating jurors. These hypotheses were unsupported, and in some cases, contradicted. There were no significant interactions between plaintiff weight and decision context on verdicts or economic damage awards. However, the interaction between plaintiff weight and decision context was a significant or marginally significant predictor of non-economic damage awards and total responsibility scale scores. Results suggest that deliberations may actually exacerbate, rather than attenuate, the effects of anti-fat bias. When the plaintiff was depicted as obese, deliberating jurors awarded fewer non-economic damages and were more likely to attribute responsibility to the plaintiff than non-deliberating jurors.

Two notable interactive effects between individual difference variables and the manipulated independent variables emerged. First, the influence of some individual difference variables on jurors' decisions appeared to be stronger in the non-deliberating condition. Specifically, both BJW-O and BPWE scale scores had a greater effect on jurors' individual level verdicts in the non-deliberating condition than in the deliberating condition, with participants scoring lower on both measures particularly inclined to find the defendant liable when they considered the case individually. Similarly, BPWE and FPS scores only affected responsibility judgments in the non-deliberating condition, with participants scoring lower on these measures especially likely to attribute responsibility to the defendant.

Second, both BJW-O and BPWE scores appeared to moderate the effect of the weight manipulation on total responsibility judgments and verdicts. In the normal weight condition, BJW-O and BPWE scores generally had little impact on verdicts and responsibility judgments; however, those with higher BJW-O scores were more likely to find the defendant liable in the normal weight condition than those with lower BJW-O scores. In the obese condition, those with higher BJW-O and BPWE scores were notably less likely to find the defendant liable and responsible for the negative medical outcome than those with lower scores on these measures.

### **Interactive Effects of Plaintiff Weight and Decision Context on Individual Level SE and SLA Measures: A Summary of Analyses Addressing RQ 2**

As initially proposed, RQ 2 aimed to examine "differences between deliberating and non-deliberating jurors on measures of SEs, SLAs, and case judgments" in the normal weight condition. After completing data collection and analyses, the decision was made to expand the scope of this research question so that it included samples in both weight conditions, as there were no main effects of plaintiff weight on any of the dependent variables in deliberating and

non-deliberating conditions. In addition, analyses addressing RQ 2 also explored potential interactive effects between individual difference variables, decision context, and plaintiff weight on SE and SLA measures. The effects of decision context, weight condition, and individual difference variables on case judgments are described in the previous section. The current section explores whether condition assignment interacts with individual differences to influence initial, emotionally-based reactions to the case (indicated by SE measures) and attributional decision-making processes (indicated by SLA measures) that are hypothesized to lead to case judgments.

All analyses addressing RQ 2 were conducted in the same manner as those in the prior section that addressed H1 C – E, with separate models estimated to examine the main and interactive effects of plaintiff weight, decision context, and each individual difference variable on each SE and SLA measure. Because RQ 2 aims to illuminate key differences in attributional responses (rather than differences in case judgements) between deliberating and non-deliberating jurors, findings are presented in summary form for brevity. Rather than describing the results of each individual model, this section summarizes the effects of 1) decision context; 2) interactions between plaintiff weight and decision context; 3) individual difference variables; 4) interactions between decision context and individual difference variables; and 5) interactions between plaintiff weight and individual difference variables on SE and SLA measures. Non-significant findings are not reported in detail in the main text. Complete results of each model executed and figures depicting all interactive effects, however, are included in Appendix T. Moreover, **Table 20** includes a summary of fixed effects for all models with SE measures as the dependent variable, and **Table 21** summarizes the fixed effects for all models with SLA measures as the dependent variable.



Results of all null models executed specifying all SE and SLA measures as the outcome variable indicated that all *ICCs* in the deliberating sample warranted the use of multilevel modeling (see Appendix S). There were no significant main effects of plaintiff weight or three-way interactions between plaintiff weight, decision context, and any measured individual difference variable on any of the SE and SLA measures ( $F_s < 3.05$ ,  $p_s > .09$ ). Thus, results pertaining to these effects will not be presented in the following summary.

**Main effects of decision context on SE measures.** SE measures included scores on the Negative SE scale, perceptions of the plaintiff, and perceptions of the defendant. Analyses revealed a main and consistent effect of decision context on Negative SE scale scores in all five models executed including each individual difference variable. Because the model including gender as the individual difference variable was the first to yield this significant effect, results pertaining to this model are reported here; similar results (including findings of all pairwise comparisons) for all other models are included in Appendix T. This approach is followed throughout this summary of results, such that the first significant effect of a particular IV on a DV emerging in this series of analyses is reported in greater detail; all similar effects of the IV on related DVs (i.e., SE and SLA measures) are simply noted and the reader may refer to Appendix T for full results.

The significant effect of decision context emerging in the model including gender as the individual difference variable and Negative SE scale scores as the dependent variable ( $F[1,100.4] = 9.90$ ,  $p = .002$ ) indicated that participants in the non-deliberating condition had stronger negative emotional reactions to the case ( $M = 2.07$ ,  $SE = .07$ ) than did those in the deliberating condition ( $M = 1.77$ ,  $SE = .063$ ). Similarly, analyses revealed that non-deliberating participants had more positive perceptions of the plaintiff than did non-deliberating participants, and this

Table 20. *Fixed Effects of Decision Context, Plaintiff Weight, and Individual Difference Variables on SE Measures in Total Sample.*

Model Variable*	D: Negative SEs		E: Perceptions of plaintiff		F: Perceptions of defendant	
	F	p	F	p	F	p
<b>Model 1: Effects of Gender</b>						
Decision context	9.68	>.01	9.77	>.01	2.27	.14
Weight condition	.07	.79	.62	.43	1.75	.19
Decision context x Weight condition	1.32	.25	3.15	.08	1.10	.30
Gender	.50	.48	1.76	.19	8.26	>.01
Gender x Decision context	.01	.95	.79	.38	.60	.44
Gender x Weight condition	.02	.31	.35	.56	5.01	.02
<b>Model 2: Effects of BJW-O</b>						
Decision context	10.50	>.01	10.74	.001	4.91	.03
Weight condition	.07	.79	.71	.20	.93	.34
Decision context x Weight condition	2.12	.15	4.10	.05	2.82	.10
BJW-O	.19	.67	1.73	.19	10.28	.001
BJW-O x Decision context	.04	.85	.76	.38	.09	.77
BJW-O x Weight condition	.41	.52	2.32	.13	4.42	.04
<b>Model 3: Effects of BPWE</b>						
Decision context	8.90	>.01	10.81	.001	4.47	.04
Weight condition	.35	.56	.14	.71	.07	.79
Decision context x Weight condition	1.88	.17	5.04	.03	2.18	.08
BPWE	1.64	.20	8.49	>.01	23.18	>.001
BPWE x Decision context	.01	.97	1.56	.21	.84	.36
BPWE x Weight condition	1.37	.24	.23	.63	.64	.42

**Note.** \*Each model also included a three-way interaction term between decision context, plaintiff weight, and the individual difference variable examined as a predictor variable. The three way interaction was non-significant in all models,  $F_s < 1.79$   $p_s > .18$

Table 20 (continued).

Model Variable	D: Negative SEs		E: Perceptions of plaintiff		F: Perceptions of defendant	
	F	p	F	p	F	p
<b>Model 4: Effects of FPS</b>						
Decision context	11.67	.001	11.42	.001	3.62	.06
Weight condition	.13	.72	.62	.43	.52	.47
Decision context x Weight condition	1.57	.21	3.61	.06	2.07	.15
FPS	.78	.38	12.02	.001	3.44	.06
FPS x Decision context	.01	.95	.43	.51	.79	.38
FPS x Weight condition	.95	.33	.20	.65	.77	.38
<b>Model 5: Effects of BMI</b>						
Decision context	10.09	>.01	9.59	>.01	3.73	.06
Weight condition	.20	.66	.99	.32	1.04	.31
Decision context x Weight condition	2.94	.10	4.63	.03	2.02	.16
BMI	1.12	.27	14.17	>.001	5.71	.02
BMI x Decision context	.71	.40	1.76	.19	.25	.62
BMI x Weight condition	.01	.92	.52	.47	.12	.73

Table 21. *Fixed Effects of Decision Context, Plaintiff Weight, and Individual Difference Variables on SLA Measures in Total Sample.*

Model Variable*	G: SLA Scale		H: Plaintiff witness ratings		I: Defendant witness ratings	
	F	p	F	p	F	p
<b>Model 1: Effects of Gender</b>						
Decision context	11.15	>.01	14.90	>.001	1.89	.17
Weight condition	2.07	.14	2.61	.43	.36	.55
Decision context x Weight condition	2.70	.10	.82	.37	2.94	.90
Gender	14.92	>.001	19.05	>.001	.07	.79
Gender x Decision context	.08	.78	.39	.53	3.18	.09
Gender x Weight condition	.43	.51	.30	.59	1.43	.23
<b>Model 2: Effects of BJW-O</b>						
Decision context	13.46	>.001	17.53	>.001	.95	.33
Weight condition	2.37	.13	2.03	.16	.03	.87
Decision context x Weight condition	5.68	.02	2.22	.14	5.02	.03
BJW-O	6.35	.01	.36	.55	12.02	.001
BJW-O x Decision context	1.20	.27	.98	.32	.06	.81
BJW-O x Weight condition	8.58	>.01	4.48	.04	2.93	.08
<b>Model 3: Effects of BPWE</b>						
Decision context	13.61	>.001	18.40	>.001	1.07	.31
Weight condition	.84	.36	1.47	.23	.35	.56
Decision context x Weight condition	7.45	>.01	3.06	.08	5.56	.02
BPWE	24.15	>.001	4.79	.03	13.68	>.001
BPWE x Decision context	7.79	>.01	1.35	.25	.30	.58
BPWE x Weight condition	2.45	.12	1.08	.30	6.89	>.01

**Note.** \*Each model also included a three-way interaction term between decision context, plaintiff weight, and the individual difference variable examined as a predictor variable. The three way interaction was non-significant in all models,  $F_s < 2.02$   $p_s > .15$

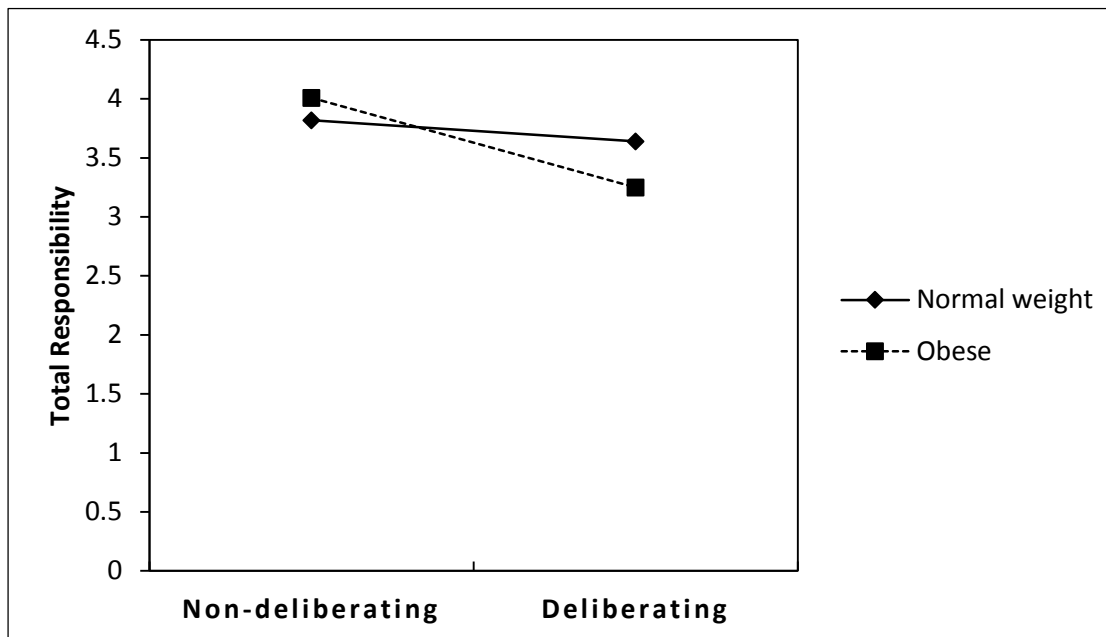
Table 21 (continued).

Model Variable	G: SLA Scale		H: Plaintiff witness ratings		I: Defendant witness ratings	
	F	p	F	p	F	p
<b><u>Model 4: Effects of FPS</u></b>						
Decision context	11.44	.001	16.96	>.001	.97	.06
Weight condition	2.54	.12	2.74	.10	.15	.47
Decision context x Weight condition	5.10	.03	2.60	.11	2.79	.10
FPS	13.13	>.001	7.65	>.01	10.52	.001
FPS x Decision context	.38	.54	.04	.84	5.89	.02
FPS x Weight condition	2.01	.15	.20	.65	3.42	.07
<b><u>Model 5: Effects of BMI</u></b>						
Decision context	10.82	.001	17.27	>.001	.48	.49
Weight condition	3.05	.09	2.96	.32	.01	.31
Decision context x Weight condition	6.41	.01	3.07	.08	3.74	.06
BMI	5.34	.02	.52	.47	10.84	.001
BMI x Decision context	1.06	.30	.07	.80	.18	.67
BMI x Weight condition	.85	.36	.27	.60	.36	.55

difference was significant in all five models executed with perceptions of the plaintiff as the DV ( $p < .004$ ). Finally, non-deliberating participants had more negative perceptions of the defendant than deliberating participants in four of the five models executed with perceptions of the defendant as the DV, and these differences all reached or approached significance ( $p < .06$ ).

**Interactive effects of plaintiff weight and decision context on SE measures.** Decision context did not moderate the effects of plaintiff weight on participants' Negative SE scale scores or perceptions of the defendant. However, the interactive effect of decision context and plaintiff weight was significant or marginally significant in four of the five models testing the main and interactive effects of individual difference variables on perceptions of the plaintiff ( $p < .06$ ). The model including BJW-O as the individual difference variable was the first to yield a significant interactive effect,  $F(1,92.3) = 4.10, p = .046$ , which is depicted in **Figure 21**. In the normal weight condition, the perceptions of the plaintiff among non-deliberating ( $M = 3.82, SD = .15$ ) and deliberating jurors ( $M = 3.64, SE = .13$ ) were similar. When the plaintiff was depicted as obese, those in the deliberating condition had more negative perceptions ( $M = 3.25, SE = .14$ ) than those in the non-deliberating condition ( $M = 4.01, SE = .15$ ). Pairwise comparisons indicate that the difference in perceptions of the plaintiff in the obese condition between deliberating and non-deliberating conditions is significant ( $p < .001$ ), as is the difference in perceptions of the plaintiff in the deliberating sample between obese and normal weight conditions ( $p = .044$ ).

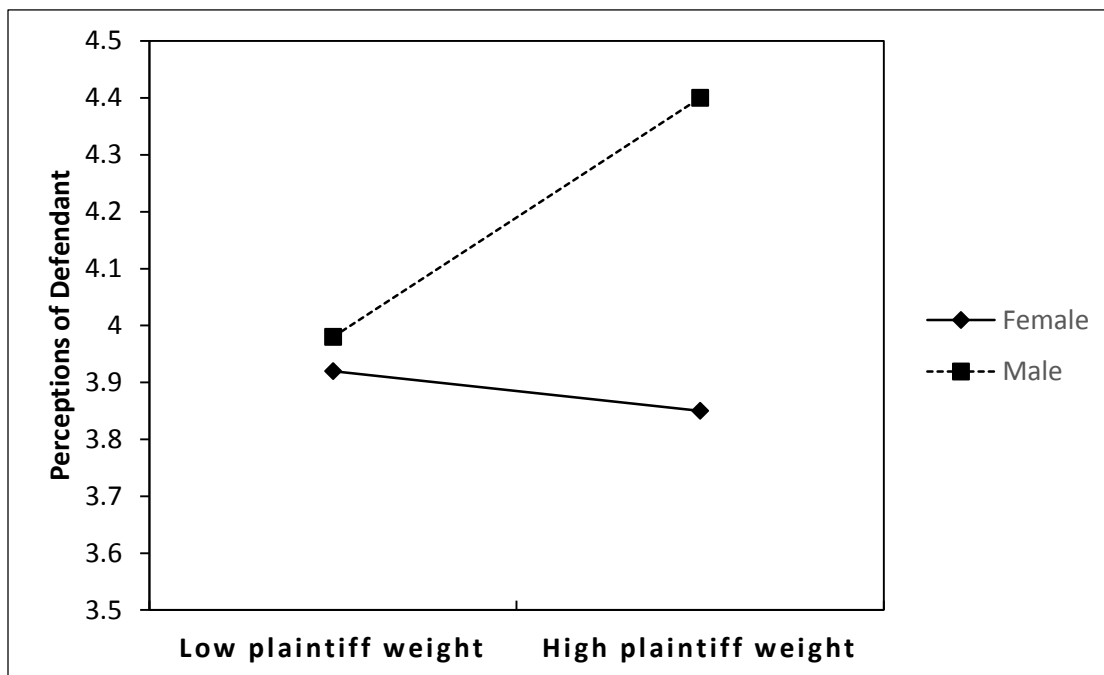
Figure 21. *Interaction between Decision Context and Plaintiff Weight on Perceptions of the Plaintiff in the Total Sample.*



**Main and interactive effects involving individual difference variables on SE measures.**

**Gender.** Gender only impacted perceptions of the defendant,  $F(1,440) = 8.26, p = .004$ , such that males had more positive perceptions of the defendant than females ( $b = -.42, SE = .25, p = .04$ ). This main effect was qualified by a significant interaction between participant gender and plaintiff weight,  $F(1,440) = 5.51, p = .019$ , which is displayed in **Figure 22**. In the normal weight condition, perceptions of the defendant were similar among female ( $M = 3.92, SE = .11$ ) and male ( $M = 3.98, SE = .13$ ) participants. In the obese condition, however, males had more positive perceptions of the defendant ( $M = 4.40, SE = .14$ ) than did females ( $M = 3.85, SE = .11$ ). Tests of pairwise comparisons indicate that, for males, the difference in perceptions of the defendant between normal weight and obese plaintiff conditions was significant ( $p < .001$ ).

Figure 22. Interaction between Plaintiff Weight and Participant Gender on Perceptions of the Defendant in the Total Sample.

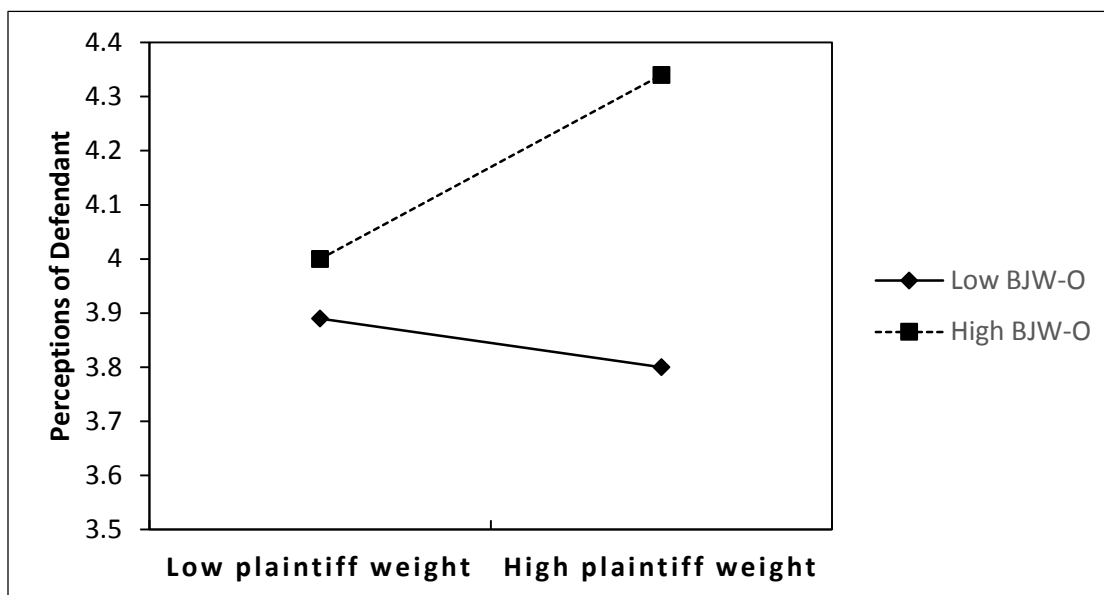


**BJW-O.** As with gender, BJW-O scores only significantly predicted perceptions of the defendant. There was a significant main effect,  $F(1,434.6) = 10.28, p = .001$ , such that those with higher BJW-O scores had more positive perceptions than those with lower BJW-O scores ( $b = .55, SE = .18, p = .002$ ). In addition, BJW-O moderated the effects of plaintiff weight on perceptions of the defendant,  $F(1,434.6) = 4.42, p = .036$  (see **Figure 23**). Estimated marginal means calculated at +1 and -1 standard deviations of scores on the BJW-O scale revealed that perceptions of the defendant did not substantially differ among those low in BJW-O, regardless of whether the plaintiff was depicted as normal weight ( $M = 3.89, SE = .12$ ) or obese ( $M = 3.80, SE = .12$ ). Those high in BJW-O had more positive perceptions of the defendant when the plaintiff was depicted as obese ( $M = 4.34, SE = .12$ ) compared to when she was depicted as normal weight ( $M = 4.00, SE = .11$ ). Tests of pairwise comparisons indicate that the difference in



perceptions of the defendant between normal weight and obese plaintiff condition among those higher in BJW-O was significant ( $p = .044$ ).

Figure 23. *Interaction between Plaintiff Weight and BJW-O on Perceptions of the Defendant in the Total Sample.*



**BPWE.** BPWE did not moderate the effects of decision context or plaintiff weight on any of the SE measures. There was a main effect of BPWE scale scores on perceptions of the plaintiff,  $F(1,433.9) = 8.49, p = .004$ . Though the fixed effect estimate for BPWE was non-significant, it indicated that those lower in BPWE had more positive perceptions of the plaintiff than those higher in BPWE ( $b = -.19, SE = .13, p = .17$ ). Correspondingly, there was a significant main effect of scores on the BPWE measure on perceptions of the defendant ( $p < .001$ ), such that those higher in BPWE had more positive perceptions of the defendant than those lower in BPWE.

**FPS.** There was a significant main effect of FPS scores on perceptions of the plaintiff,  $F(1,430) = 12.02, p = .001$ . Estimates of fixed effects indicate that those with lower FPS scores had more positive perceptions of the plaintiff than those with higher scores ( $b = -.38, SE = .18, p$

= .036). The main effect of FPS scores on perceptions of the defendant approached significance ( $p = .064$ ); those with higher FPS scores had more positive perceptions of the defendant than those with lower FPS scores.

**BMI.** Participant BMI was a significant predictor of perceptions of the plaintiff,  $F(1,434.6) = 14.18, p > .001$ . The fixed effects estimate was non-significant but indicated that those with higher BMIs had more positive perceptions of the plaintiff than those with lower BMIs ( $b = 1.48, SE = 1.37, p = .28$ ). Similarly, participants with higher BMIs had more negative perceptions of the defendant than those with lower BMIs ( $p = .017$ ).

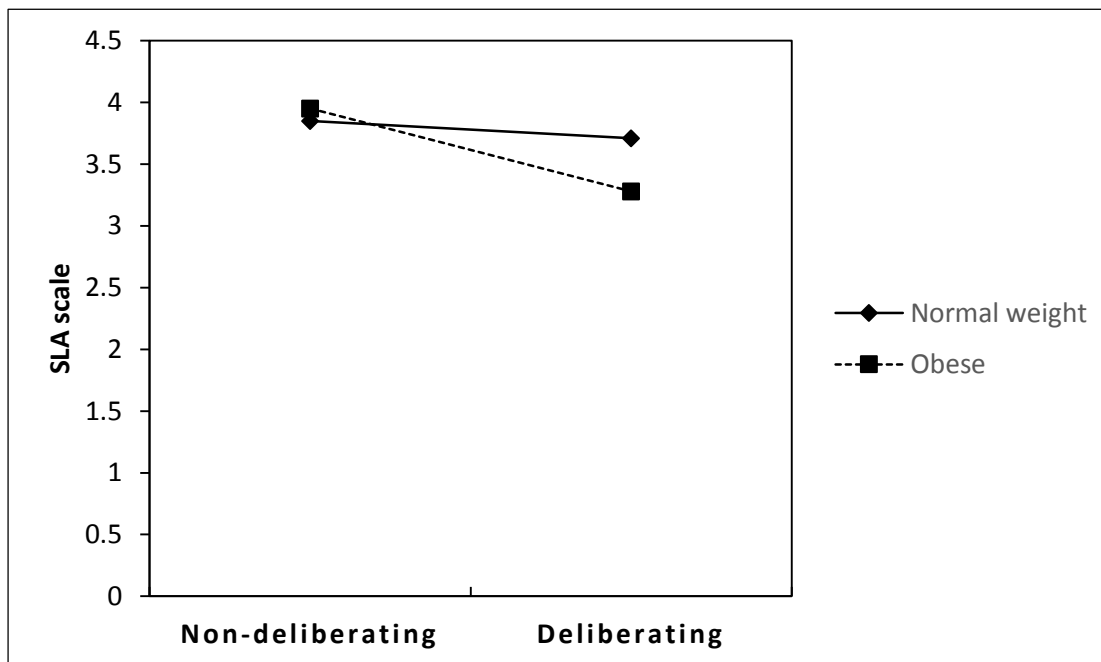
**Main effects of decision context on SLA measures.** SLA measures included scores on the SLA scale, plaintiff witness ratings, and defendant witness ratings. The model examining the effects of gender on SLA scale scores revealed a significant effect of decision context, such that deliberating jurors had lower scores on the SLA scale ( $M = 3.47, SE = .08$ ) than non-deliberating jurors ( $M = 3.85, SE = .08$ ). That is, deliberating jurors were less likely than non-deliberating jurors to express pro-plaintiff attributions and more likely to express pro-defendant attributions. This effect was replicated in all other models specifying SLA scale scores as the DV. In addition, deliberating jurors had significantly lower ratings of the plaintiff's witnesses than did non-deliberating jurors across all five models for plaintiff witness ratings ( $ps < .001$ ). Interestingly, decision context did not significantly impact defendant witness ratings in any model.

**Interactive effects of plaintiff weight and decision context on SLA measures.** Decision context moderated the effects of plaintiff weight on SLA measures in four of the models executed for this DV (excluding gender). This interactive effect first emerged in the model incorporating BJW-O as the individual difference variable,  $F(1,94.7) = 5.68, p = .019$ . As **Figure 24** indicates, non-deliberating jurors had similar scores on the SLA scale regardless of whether they

were assigned to normal weight ( $M = 3.85$ ,  $SE = .11$ ) or obese ( $M = 3.95$ ,  $SE = .12$ ) plaintiff conditions. In the deliberating condition, jurors in the obese condition had lower SLA scale scores ( $M = 3.28$ ,  $SE = .11$ ) than jurors in the normal weight condition ( $M = 3.71$ ,  $SE = .10$ ). Tests of pairwise comparisons indicated that the difference between SLA scale scores in the normal weight and obese conditions was significant for the deliberating sample ( $p < .001$ ).

The interaction between plaintiff weight and decision context approached significance in only two models specifying plaintiff witness ratings as the DV ( $ps < .09$ ). The pattern of the interaction was consistent with prior findings: plaintiff weight had a negligible effect on plaintiff witness ratings in the non-deliberating condition, but deliberating jurors had lower ratings of plaintiff witness convincingness when presented with an obese plaintiff compared to a normal weight plaintiff. In three of the five models specifying defendant witness ratings as the DV, the interaction between decision context and plaintiff weight was significant or marginally

Figure 24. *Interaction between Decision Context and Plaintiff Weight on SLA Scale Scores in the Total Sample.*



significant ( $ps < .06$ ). Again, deliberations did not substantially affect defendant witness ratings in the normal weight condition. Participants in the obese condition, however, viewed the defendant's witnesses as more credible when they deliberated than when they considered the case individually.

**Main and interactive effects involving individual difference variables on SE measures.**

**Gender.** SLA scale scores were lower among males ( $M = 3.48, SE = .08$ ) than among females ( $M = 3.83, SE = .07$ ), and this difference was statistically significant,  $F(1,439.2) = 14.92, p < .001$ . In addition, males had significantly lower plaintiff witness ratings ( $M = 4.04, SE = .10$ ) than did females ( $M = 4.56, SE = .08$ ),  $F(1, 441.7) = 19.85, p < .001$ . There was a marginally significant interaction between gender and condition context on defendant witness ratings ( $p = .075$ ), such that males in the non-deliberating condition perceived the defendant's witnesses as less convincing than males in the deliberating condition; there were no differences in females' ratings as a function of decision context (please see Appendix T for more detailed results and a graph of this interaction).

**BJW-O.** The significant main effect of BJW-O on SLA scale scores ( $F[1,439.2] = 14.92, p < .001$ ) was qualified by a significant interaction between BJW-O and plaintiff weight, ( $F[1, 439.2] = 8.58, p < .001$ ). As depicted in **Figure 25**, plaintiff weight did not impact SLA scale scores among those lower in BJW-O (normal weight  $M = 3.77, SE = .10$ ; obese  $M = 3.84, SE = .10$ ). Those higher in BJW-O had lower scores on the SLA scale in the obese condition ( $M = 3.38, SE = .10$ ) than in the normal weight condition ( $M = 3.81, SE = .09$ ), and tests of pairwise comparisons indicated that this difference was significant ( $p = .003$ ).

This interaction persevered in the models examining the main and interactive effects of BJW-O on plaintiff witness ratings ( $p = .027$ ) and defendant witness ratings ( $p = .086$ ). Those

with higher BJW-O scores rated the plaintiff's witnesses as less convincing and the defendant's witnesses as more convincing in the obese condition than in the normal weight condition.

**BPWE.** There were numerous main and interactive effects of participants' BPWE on SLA measures. The significant main effect of BPWE on SLA scale scores ( $F[1,429.9] = 24.15, p < .001$ ) such that those lower in BPWE scored higher on the SLA scale than those higher in BPWE ( $b = -.18, SE = .10, p = .065$ ) was qualified by a significant interaction between BPWE and decision context,  $F(1,429.9) = 7.79, p = .005$  (see **Figure 26**). Those higher in BPWE had similar SLA scale scores regardless of whether they were in the non-deliberating ( $M = 3.60, SE = .10$ ) or deliberating ( $M = 3.43, SD = .09$ ) condition. Among those lower in BPWE, SLA scale scores were higher for those in the non-deliberating condition ( $M = 4.24, SE = .10$ ) compared to the deliberating condition ( $M = 3.60, SE = .09$ ). Tests of pairwise comparisons indicate that the difference between decision contexts for those lower in BPWE was significant ( $p < .001$ ).

Figure 25. *Interaction between Plaintiff Weight and BJW-O on SLA Scale Scores in the Total Sample.*

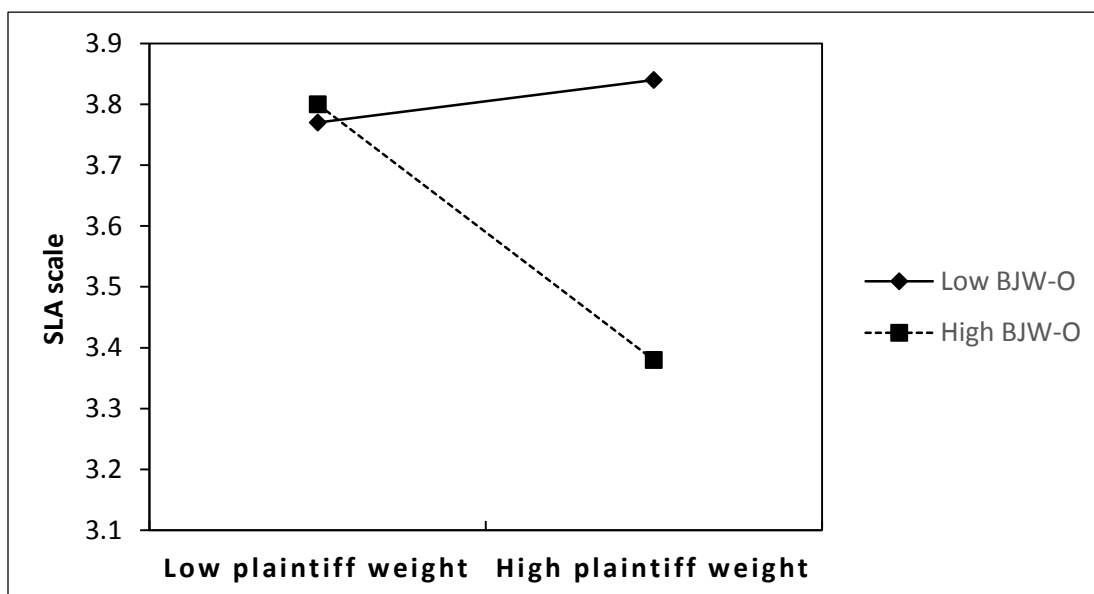
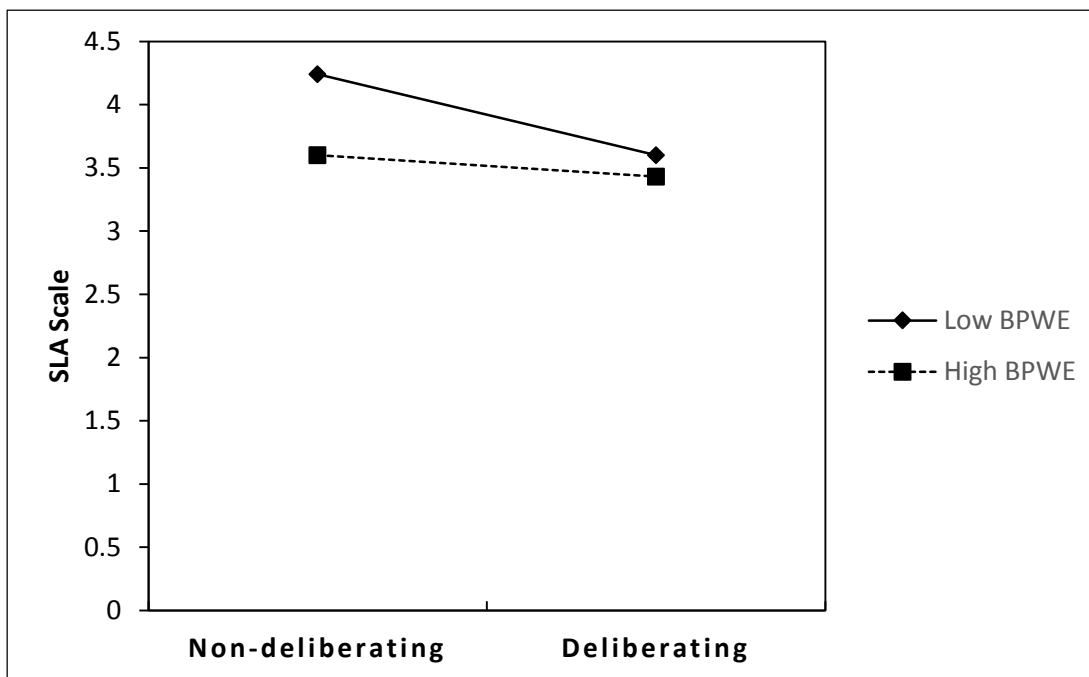


Figure 26. *Interaction between Decision Context and BPWE Scores on SLA Scale in the Total Sample.*



There was a main effect of BPWE on plaintiff witness ratings, such that plaintiff witness ratings decreased as BPWE scores increased ( $p = .029$ ); however, no interactive effects between BPWE and decision context or plaintiff weight on plaintiff witness ratings emerged. The significant main effect of BPWE on defendant witness ratings ( $p = .001$ ) was qualified by two significant interactions. First, BPWE moderated the effects of decision context on defendant witness ratings ( $p < .038$ ). Decision context had a negligible effect on defendant witness ratings among those higher in BPWE, but participants lower in BPWE perceived the defendant's witnesses as less convincing in the non-deliberating condition than in the deliberating condition. This pattern is consistent with the interaction between BPWE and decision context on SLA scale scores: in both models, jurors lower in BPWE were more likely to interpret attributional information in a manner consistent with blaming the defendant in the non-deliberating

condition compared to the deliberating condition. Second, BPWE moderated the effects of plaintiff weight on defendant witness ratings ( $p < .009$ ). This interactive effect complements the effects that emerged in the models executed for plaintiff witness ratings. In the normal weight condition, participants' BPWE had little effect on defendant witness ratings. In the obese condition, those scoring lower on the BPWE scale had less favorable perceptions of the defendant's witnesses than those with higher BPWE scale scores.

**FPS.** FPS scores significantly predicted SLA scale scores,  $F(1,427.1) = 13.13, p < .001$ ; SLA scale scores decreased as FPS scores increased ( $b = -.28, SE = .13, p = .037$ ). There were also significant main effects of FPS scores on plaintiff witness ratings (such that higher FPS scores were associated with lower plaintiff witness ratings,  $p = .006$ ), and on defendant witness ratings (such that higher FPS scores were associated with higher defendant witness ratings,  $p = .001$ ). The main effect of FPS scores on defendant witness ratings was qualified by two interactions. The first interaction ( $p = .016$ ) is similar to the interaction between BPWE and decision context described above. Those with higher FPS scores provided similar ratings of the defendant's witnesses across decision contexts, whereas those with lower FPS scores perceived the defendant's witnesses as less convincing in the non-deliberating condition than in the deliberating condition. The second interaction, between FPS scores and plaintiff weight, was marginally significant ( $p = .065$ ) but was consistent with the interactive effects between BJV-O and plaintiff weight and BPWE and plaintiff weight on defendant witness ratings. FPS scale scores had little impact on defendant witness ratings in the normal weight condition. In the obese condition, those with higher FPS scale scores perceived the defendant's witnesses as more convincing than those with lower FPS scores.

**BMI.** Participant BMI significantly impacted SLA scale scores  $F(1,433.5) = 5.34, p = .021$ , such that SLA scale scores decreased as BMI decreased. The fixed effects estimate of BMI, however, was non-significant ( $b = -.21, SE = 1.03, p = .84$ ). There also was a significant main effect of BMI on defendant witness ratings ( $p = .001$ ), such that ratings of the defendant's witnesses' convincingness increased as BMI decreased. Participant BMI did not significantly impact plaintiff witness ratings, and did not moderate the effects of plaintiff weight or decision context on any of the SLA variables.

**Review of results of analyses addressing RQ 2.** Analyses revealed that there were indeed many differences in deliberating and non-deliberating jurors' scores on SE and SLA measures. On nearly all SE and SLA measures, deliberating jurors' scores indicated more support for the defendant and less support for the plaintiff than non-deliberating jurors' scores. In addition, plaintiff weight only impacted SE and SLA measures in the deliberating condition. When the plaintiff was depicted as obese, deliberating jurors had less favorable perceptions of the plaintiff, lower scores on the SLA scale, lower ratings of the plaintiff's witnesses, and higher ratings of the defendant's witnesses than when the plaintiff was depicted as normal weight. These findings are consistent with those examining the effects of decision context and plaintiff weight on case outcome variables.

Decision context moderated the effects of certain individual difference variables on certain SLA measures. Attributional responses among jurors with higher BPWE and FPS scores were similar across decision contexts. Those with lower BPWE and FPS scores, however, scored more "pro-plaintiff" and "anti-defendant" on some of the SLA measures in the non-deliberating condition than in the deliberating condition. This tendency for those lower in BPWE and FPS to attribute more blame to the defendant in the non-deliberating condition than in the



deliberating condition also emerged in the analyses examining predictors of case outcomes (i.e., verdict, total responsibility assessment). Analyses revealed several significant or marginally significant interactions between plaintiff weight and scores on the BJW-O scale on SE and SLA measures. The pattern of all of these interactive effects was similar and supports prior research indicating that strong just world beliefs are associated with anti-fat bias (Crandall, 1994; Crandall & Martinez, 1996). Overall, plaintiff weight had little influence on several SE and SLA measures for participants lower in BJW-O. For those higher in BJW-O, responses indicated more favorable perceptions of the defendant and interpretation of attributional information more conducive to blaming the plaintiff in the obese condition compared to the normal weight condition. Again, these interactive effects cohere with the interactions between plaintiff weight and scores on the BJW-O scale on case-related judgments.

Plaintiff weight moderated the effects of other individual difference variables on SE and SLA measures pertaining to the defendant. These effects again are consistent with extant literature regarding the relationships between individual differences and anti-fat bias (e.g., Latner et al., 2008; Quinn & Crocker, 1999). Males had more positive perceptions of the defendant when the plaintiff was depicted as obese than when she was depicted as normal weight, and those high in BPWE provided more favorable ratings of the defendant's witnesses in the obese condition than in the normal weight condition.

Finally, several main effects of individual difference variables on SE and SLA measures emerged, which were not qualified by interactions with decision context or plaintiff weight. Participant BPWE in particular impacted SE and SLA measures independent of the study manipulations, such that those lower in BPWE scored more "pro-plaintiff" and "anti-defendant" on several of these measures than those higher in BPWE. Recall that participant BPWE

influenced damage awards in a similar manner, though BPWE itself did not significantly impact verdicts or assessments of total responsibility. Similarly, those with higher FPS scores had less favorable perceptions of the plaintiff and interpreted attributional information to be more consistent with blaming the plaintiff than those with lower FPS scores. Prior analyses also revealed that those with higher FPS scores were less likely to find the defendant liable and awarded fewer economic damages than those with lower FPS scores.

Participant BMI also impacted SE and SLA measures independent of plaintiff weight and decision context, such that the perceptions and interpretations of attributional information were more consistent with blaming the defendant among those with lower BMIs than those with higher BMIs. As reported earlier, those with higher BMIs were significantly more likely to find the defendant liable than those with lower BMIs. Interestingly, participant BMI did not moderate the effects of the weight manipulation on any of the SE or SLA measures.

In sum, analyses revealed many significant main effects of decision context and individual differences on SE and SLA measures; several significant two-way interactions between decision context and plaintiff weight, decision context and individual differences, and plaintiff weight and individual differences also emerged. These effects typically aligned with those emerging in analyses examining the effects of decision context, plaintiff weight, and individual difference variables on case outcomes. Whether the interactions between individual differences, decision context, and plaintiff weight affect the relationships between CCM attributional components is an interesting question, but beyond the scope of this study. However, the next series of analyses examine the attributional pathways followed by deliberating jurors, and how these pathways may differ from those followed by non-deliberating jurors.

## **Elucidating Attributional Pathways in the Deliberating Sample: Analyses Addressing Research**

### **Question 3**

Research Question 3 seeks to determine if the attributional pathways followed in assigning blame differ among deliberating and non-deliberating jurors. As previous findings demonstrate, discussing the case in groups and rendering a group verdict does have a significant impact on participants' individually rendered SEs, SLAs, and case judgments. Thus, it is likely that relationships between CCM attributional components differ between deliberating and non-deliberating samples in some respects. Because the attributional models involving deliberating jurors are nested and because they are specified a bit differently than the attributional models involving non-deliberating jurors, each parameter in the deliberating and non-deliberating models will not be tested to assess differences. Rather, the models will be compared based on the significance of specific pathways and indirect effects to elucidate any differences between the attributional processes of deliberating and non-deliberating jurors.

The procedures followed in specifying the models in Mplus Version 7 were similar to those used to elucidate attributional pathways in the non-deliberating sample, with one important exception. All path analyses pertaining to the deliberating sample utilized the "cluster" command, which results in calculation of robust standard errors and a mean-adjusted chi-square statistic to account for the fact that the data are nested and may not meet common normality assumptions (Muthén & Muthén, 2012).

**Eliminating plaintiff weight as a moderator of attributional pathways in the deliberating sample.** Chi-square difference testing was again conducted to determine whether attributional pathways leading to assessments of total responsibility and verdicts differed as a function of plaintiff weight in the deliberating sample. As in the non-deliberating sample, results

of these tests indicated no significant differences between models estimated for the obese and normal weight conditions. Therefore, all models of attributional pathways estimated below will include the entire sample of deliberating jurors, regardless of weight condition assignment. Appendix U contains specific details and results of the chi-square difference tests conducted to compare attributional pathway models between deliberating jurors exposed to the obese and normal weight plaintiff.

**Model 1: Direct and indirect effects of SE and SLA measures on total responsibility.**

Prior to specifying Model 1, a path analysis was executed to assess the effects of all of the endogenous variables (SE measures) on all of the proposed mediator variables (SLA measures). Results revealed significant relationships between each SE and SLA variable, with one exception: perceptions of the plaintiff did not significantly impact defendant witness ratings ( $B = -.101, p = .138$ ). Thus, the pathway from perceptions of the plaintiff to defendant witness ratings was not included in Model 1 to avoid saturation. Aside from this pathway, Model 1 assessed the direct effects of all SE and SLA variables on total responsibility assessments, the direct effects of all SE variables on all SLA variables, and the indirect effects of all SE variables on total responsibility via SLA variables. **Tables 22 and 23** present the bivariate correlations between SE measures, SLA measures, and case outcome variables in the deliberating sample.

Model 1 was estimated using MLR. The direct effects of all SE and SLA variables are depicted in **Figure 27**, and a summary of indirect effects appears in **Table 24**. Goodness-of-fit indicators suggest that the specified model fit the data well. The Chi-Square Test of Model Fit was non-significant, [ $\chi^2(1) = 2.06, p > .15$ ], and the REMSA and CFI values also indicated good model fit (.064 and .998, respectively). Standardized coefficients indicated that all SE measures affected all SLA measures as expected. Negative SE scale scores and perceptions of the plaintiff

were positively related to SLA scale scores (which indicated interpretation of attributional information in a manner consistent with blaming the defendant) and ratings of the plaintiff's witnesses. In addition, negative SE scale scores were negatively related to ratings of the defendant's witnesses. Perceptions of the defendant were negatively related to SLA scale scores and plaintiff witness ratings, and positively related to defendant witness ratings. All SLA measures affected assessments of total responsibility as expected. Higher SLA scores and plaintiff witness ratings were positively related to assessments total responsibility (with higher scores on the total responsibility scale indicating more responsibility attributed to the defendant), whereas higher defendant witness ratings were negatively related to assessments of total responsibility.

Because the "complex" command was used in MPLUS to account for the nested nature of the data in estimating these models, confidence intervals for indirect effects could not be calculated using bootstrapping methods (Muthén & Muthén, 2012). It should be noted that all  $p$  values obtained from the path analyses conducted using the non-deliberating sample were consistent with the confidence intervals obtained from bootstrapping methods, and the  $p$  values obtained for the indirect effects for the models using the deliberating sample are likely similarly valid. Model 1 indirect effects results indicated that all indirect effects of the SE measures on total responsibility via the SLA measures were statistically significant (**see Table 24**). The direct effects of scores on the negative SE scale and perceptions of the defendant on total responsibility were non-significant ( $Bs < .93$ ,  $ps > .10$ ), yet negative SEs and perceptions of the defendant were significantly correlated with total responsibility ( $rs > .28$ ,  $ps < .001$ ; see Table 23). This suggests that the relationship between Negative SEs and total responsibility assessments was fully mediated by plaintiff witness ratings, defendant witness ratings, and SLA

Table 22. *Correlations between SE and SLA Variables in the Deliberating Sample.*

<b>Variables</b>	Negative SEs	Perceptions of Plaintiff	Perceptions of Defendant	SLA Scale	Plain. Witness Ratings	Def. Witness Ratings
Negative SEs	-	.243**	-.150*	.295**	.297**	-.235**
Perceptions of Plaintiff	.243**	-	-.423**	.491**	.543**	-.281**
Perceptions of Defendant	-.150*	-.423**	-	-.547**	-.475**	.357**
SLA Scale	.295**	.491**	-.547**	-	.650**	-.509**
Plaintiff Witness Ratings	.297**	.543**	-.475**	.650**	-	-.282**
Defendant Witness Ratings	-.235**	-.281**	.357**	-.509**	-.282**	-

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

Table 23. *Correlations between SE/SLA Variables and Blame Variables in the Deliberating Sample.*

<b>Variables</b>	Negative SEs	Perceptions of Plaintiff	Perceptions of Defendant	SLA Scale	Plain. Witness Ratings	Def. Witness Ratings
Total Responsibility	.282**	.559**	-.536**	.744**	.656**	-.498**
Verdict	.273**	.458**	-.514**	.694**	.577**	-.442**
Economic Damages	.080	.201*	-.275**	.404**	.331**	-.248*
Non-economic Damages	.232*	.245*	-.231*	.369**	.384**	-.266**

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

Table 24. *Indirect Pathways from SE Measures to Total Responsibility in Deliberating Sample.*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$
Negative SE Scale	.198**	SLA Scale	.634**	.067**
Negative SE Scale	.237**	Plaintiff Witness Ratings	.297**	.037*
Negative SE Scale	-.234**	Defendant Witness Ratings	-.238**	.030*
Perceptions of Plaintiff	.181**	SLA Scale	.634**	.093**
Perceptions of Plaintiff	.359**	Plaintiff Witness Ratings	.297**	.087**
Perceptions of Defendant	-.351**	SLA Scale	.634**	-.161**
Perceptions of Defendant	-.313**	Plaintiff Witness Ratings	.297**	-.067**
Perceptions of Defendant	.305**	Defendant Witness Ratings	-.238**	-.053**

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

scale scores; it also suggested that the relationship between perceptions of the defendant was fully mediated by the aforementioned SLA measures (Path 2 in Figure 1). There was a significant direct effect of perceptions of the plaintiff on total responsibility assessments ( $B = .164$ ,  $p < .001$ ), which suggests that the effects of perceptions of the plaintiff on total responsibility assessments was *partially* mediated by SLA scale scores and plaintiff witness ratings (Path 3 in Figure 1).

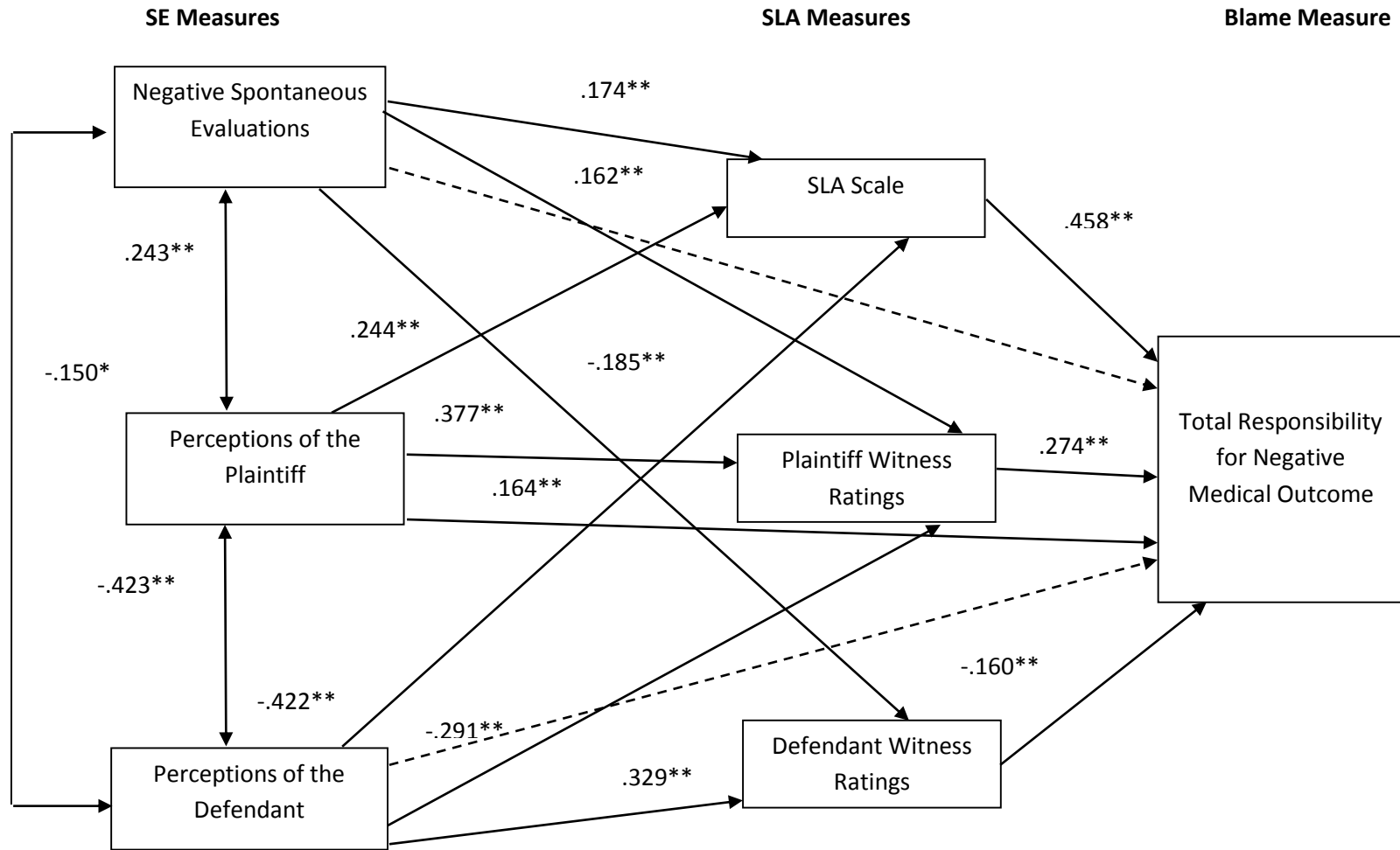
**Model 1: Differences between deliberating and non-deliberating samples.** As explained earlier, slightly different models were estimated for non-deliberating and deliberating samples. In addition, the deliberating models were estimated using the “cluster” command and MLR to account for the nested nature of the data, whereas MLE was used to estimate the models pertaining to the non-deliberating condition. Therefore, the non-deliberating and deliberating models will not be compared using statistical tests to determine which one fits the data better. A general comparison of the specific relationships between the CCM components in the models is better suited to determining how attributional processes may differ among deliberating and non-deliberating samples.

Overall, the relationships between the SE measures, SLA measures, and total responsibility were similar in non-deliberating and deliberating samples, but a few differences were noted. The extent of mediation and specific mediating variables slightly differed between models. In the non-deliberating sample, the effects of all of the SE measures on total responsibility were fully mediated by SLA scale scores and plaintiff witness ratings, and there was no direct effect of defendant witness ratings (an SLA measure) on total responsibility. In the deliberating sample, a direct effect between defendant witness ratings and total responsibility assessments emerged, and the effects of negative SE scale scores and perceptions of the defendant on total responsibility were fully mediated by all three SLA measures. In contrast to the model including non-deliberating jurors, the model including deliberating jurors indicated that perceptions of the plaintiff directly impacted total responsibility assessments and that this relationship was partially mediated by two (SLA scale scores and plaintiff witness ratings) out of the three SLA measures.

**Model 2: Direct and indirect effects of SE and SLA measures on verdict.** All of the direct and indirect effects specified in Model 1 remained in model 2, with the exceptions that verdict was specified as the outcome variable and the “categorical” command was used. Because the outcome variable was categorical, it was estimated using WLSMV, which can accommodate nested models with dichotomous outcome variables (Geiser, 2013). The Chi-Square Test of Model Fit for Model 2 was marginally significant, [ $\chi^2(1) = 3.96, p > .64$ ], and yielded a REMSA beyond what is considered to indicate good model fit (.98). However, the CFA value did indicate good model fit (.99) and eliminating various pathways did not improve these model fit statistics. Moreover, Model 2 yielded many significant direct and indirect effects and thus was retained as a representation of the relationships between verdicts, SE measures, and SLA measures in the



Figure 27. Diagram of Relationships between SE Measures, SLA Measures, and Total Responsibility in Deliberating Sample



**Note.** \* $p < .05$ ; \*\* $p < .01$ .

↔ = Covariance, → = Direct path, ---> Non-significant path

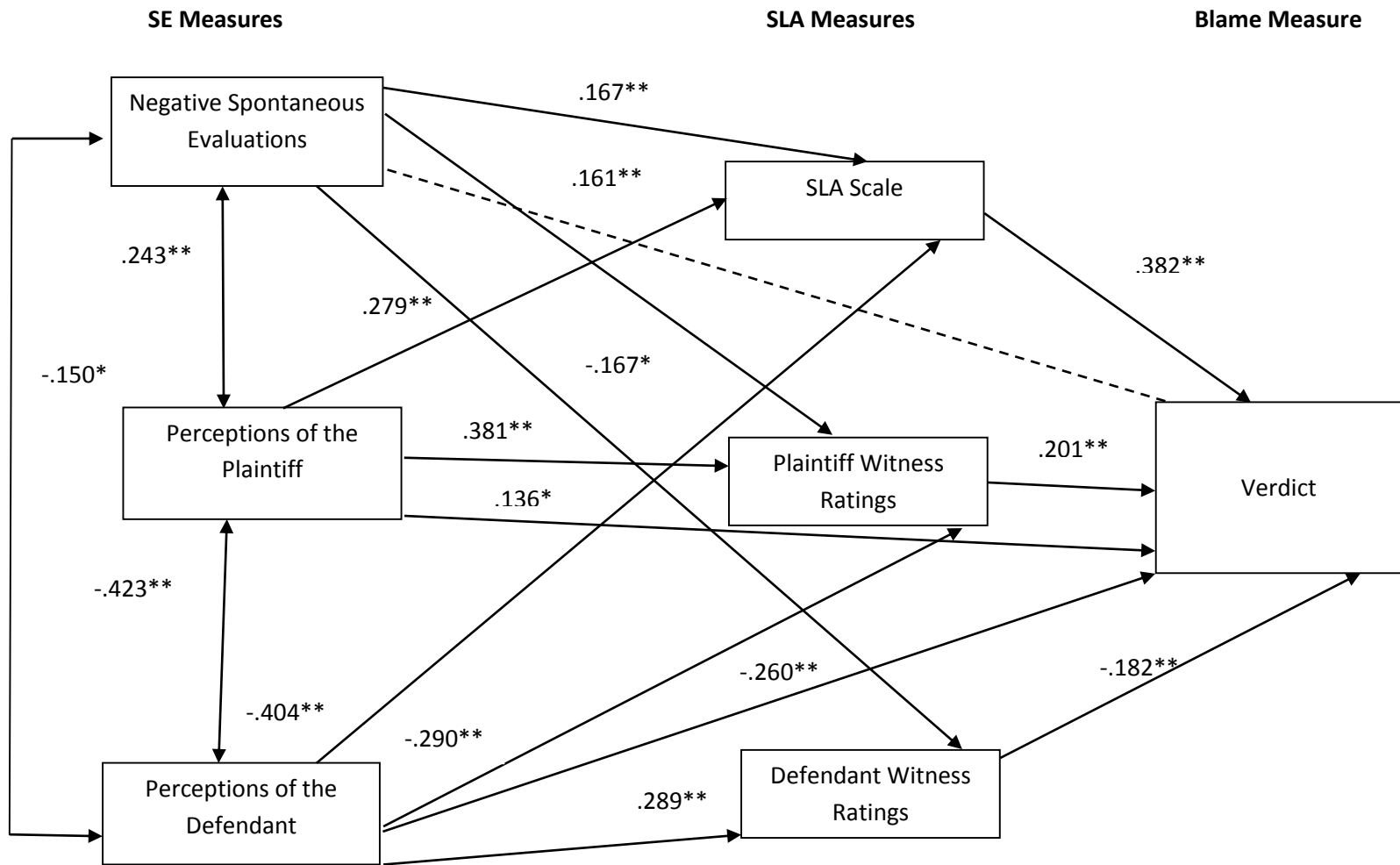
deliberating sample. Direct effects are depicted in **Figure 28**, and **Table 25** displays a summary of indirect effects.

In Model 2, all SE measures included predicted deliberating jurors' scores on SLA measures as reported in Model 1 results. Further, all direct effects of SLA measures on verdict replicated the direct effects of SLA measures on total responsibility assessments. The direct effect of negative SE scale scores on verdict was non-significant ( $B = .03, p = .68$ ), yet negative SE scale scores were positively and significantly correlated with deliberating jurors' verdicts ( $r = .271, p < .001$ ; see Table 23). Although the indirect effect of negative SE scale scores on verdict via defendant witness ratings was non-significant, the indirect effects of the negative SE scale scores on verdict via SLA scale scores and defendant witness ratings were significant at the .05 level. This indicates that the relationship between negative SE scale scores and verdict in the deliberating sample was fully mediated by SLA scale scores and plaintiff witness ratings, as illustrated by Path 2 in Figure 1.

The direct effects of both perceptions of the plaintiff and perceptions of the defendant on verdicts were significant ( $Bs < .13, ps < .01$ ). Tests of indirect effects of these SE variables on verdict also were significant, such that perceptions of the plaintiff impacted verdicts indirectly via SLA scale scores and plaintiff witness ratings, and perceptions of the defendant impacted verdicts indirectly via all three SLA measures. These attributional pathways are most consistent with Path 3 in Figure 1, whereby the effects of SEs are partially mediated by SLAs.

**Model 2: Differences between deliberating and non-deliberating sample.** The models executed with verdict as the outcome variable with deliberating and non-deliberating samples were both consistent with CCM predictions. There were two main differences between the models. First, the direct effect of perceptions of the plaintiff on verdict was non-significant in

Figure 28. Diagram of Relationships between SE Measures, SLA Measures, and Verdict in Deliberating Sample



Note. \* $p < .05$ ; \*\* $p < .01$ .

↔ = Covariance, → = Direct path, ---> Non-significant path

Table 25. *Indirect Pathways from SE Measures to Verdict in Deliberating Sample.*

SE Measure	Direct $\beta$	SLA Measure	Direct $\beta$	Indirect $\beta$
Negative SE Scale	.167**	SLA Scale	.382**	.064**
Negative SE Scale	.161**	Plaintiff Witness Ratings	.201**	.032*
Negative SE Scale	-.167*	Defendant Witness Ratings	-.182**	.030
Perceptions of Plaintiff	.279**	SLA Scale	.382**	.107**
Perceptions of Plaintiff	.381**	Plaintiff Witness Ratings	.201**	.076**
Perceptions of Defendant	-.404**	SLA Scale	.382**	-.154**
Perceptions of Defendant	-.290**	Plaintiff Witness Ratings	.201**	-.058**
Perceptions of Defendant	.289**	Defendant Witness Ratings	-.182**	-.053*

**Note.** \* $p < .05$ ; \*\* $p < .01$ .

the non-deliberating model, and thus the relationship between perceptions of the plaintiff and verdict was fully mediated by plaintiff witness ratings and SLA scale scores. In the deliberating model, the direct effect of perceptions of the plaintiff was significant, and this relationship was partially mediated by plaintiff witness ratings and SLA scale score. Second, the effect of defendant witness ratings was non-significant in the non-deliberating model, but significant in the deliberating model. In the deliberating model, defendant witness ratings (along with the other SLA variables) served as mediators in the relationships between Negative SEs and verdict and between perceptions of the defendant and verdict.

### **Model 3: Direct and indirect effects of SE and SLA measures on economic damage**

**awards.** Specification of Model 3 was similar to the specification of Model 1, with economic damage awards as the outcome variable. As in other models examining the impacts of SEs and SLAs on damage awards, both economic and non-economic damages were multiplied by .0001 prior to inclusion in the model. Model 3 only include 96 cases, representing the 96 jurors in the deliberating sample who found the defendant liable for malpractice.

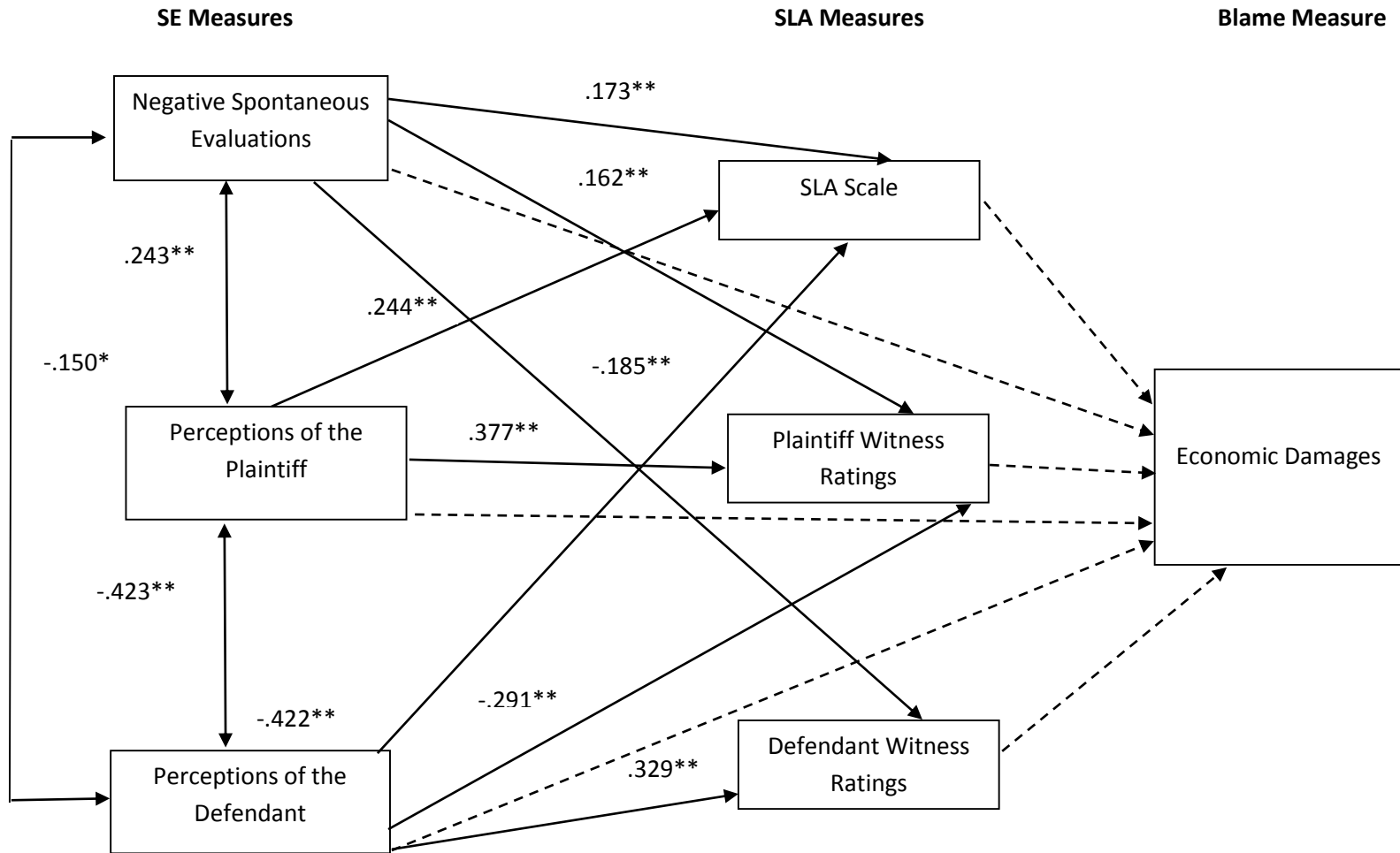
All goodness-of-fit indicators suggested that the target model fit the observed data well,  $\chi^2(1) = 2.06$ ,  $p > .15$ ; CFI = .99; RMSEA = .06. As in Models 1 and 2, all of the direct effects of the

SE variables on the SLA variables were statistically significant and in the expected directions (see **Figure 29**). Yet, all paths from the SE and SLA variables to economic damage awards were non-significant ( $Bs < .32, ps > .10$ ), and thus there also were no significant indirect effects of the SE variables on economic damage awards ( $Bs < .14, ps > .10$ ). Because all indirect effects were non-significant, a summary table of indirect effects is not presented for Model 3. As indicated in **Table 23**, all SLA variables are significantly correlated with economic damage awards in the deliberating sample, with scores on the SLA scale most strongly correlated with economic damages ( $r = .40, p < .01$ ). These relationships did not emerge as significant in Model 3, likely because of the small sample size. Recommended sample sizes for path analyses with manifest variables vary from as low as 5 cases to as high as 30 cases per specified pathway (Starkweather, 2014). Because Model 3 was specified so that it could be compared to Model 3 using the non-deliberating sample, it was important to include the same number of pathways for consistency. With only 96 cases in the deliberating sample, it is likely that inclusion of all of the pathways decreased the variance attributable to any specific pathway, thereby “masking” a direct effects of SLA scale scores on economic damages.

**Model 3: Differences between deliberating and non-deliberating samples.** Despite the lack of direct effects between SLA variables and economic damages in Model 3, there were only a few differences between this model and the model estimated using the non-deliberating sample. In the non-deliberating model, only perceptions of the plaintiff and SLA scale scores significantly predicted economic damages. Moreover, as in the deliberating model, none of the indirect effects tested in the non-deliberating model reached statistical significance.

**Model 4: Direct and indirect effects of SE and SLA measures on non-economic damage awards.** Specification of Model 4 was identical to that of Model 3, except that non-economic

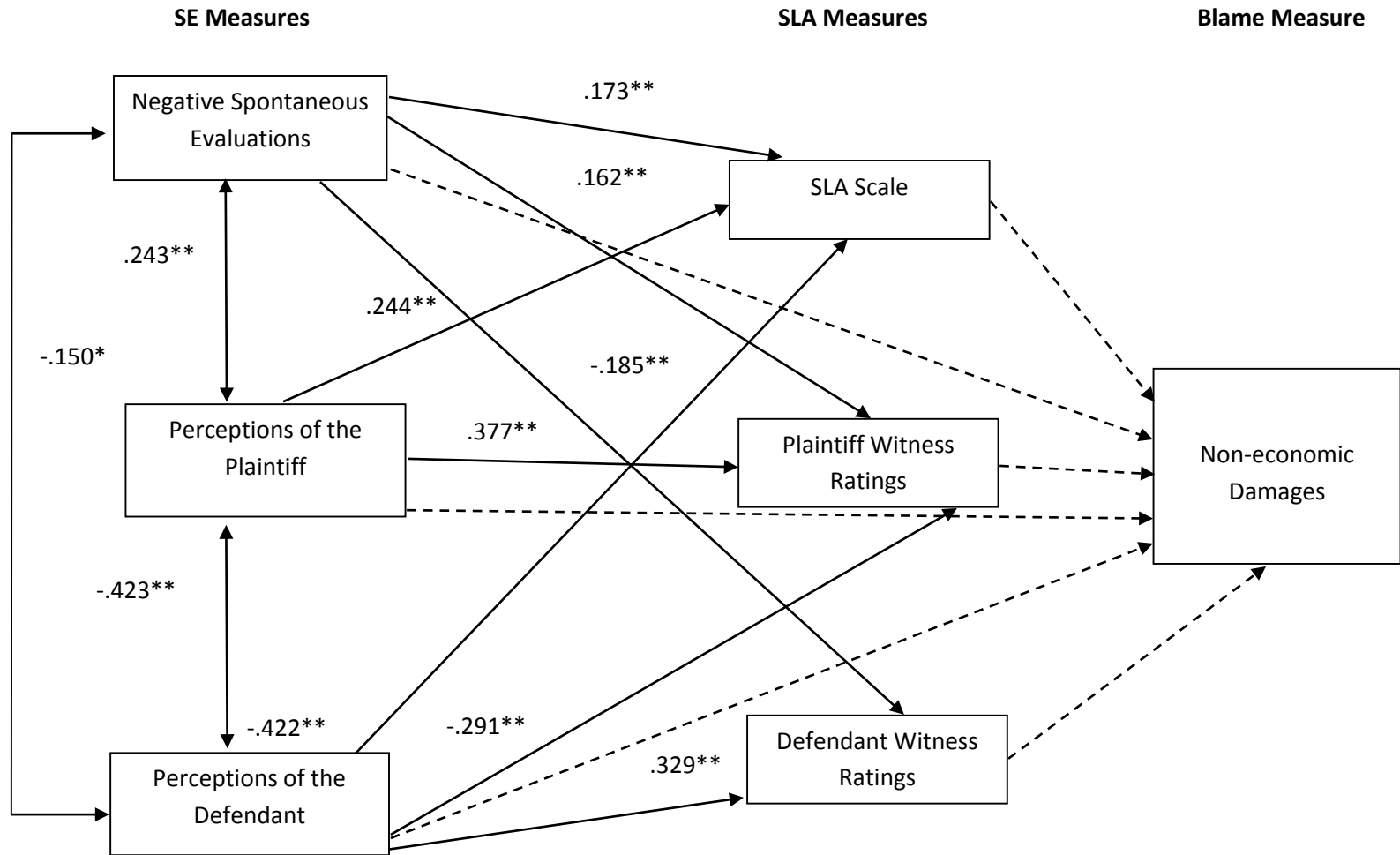
Figure 29. Diagram of Relationships between SE Measures, SLA Measures, and Economic Damages in Deliberating Sample (liable verdicts only)



**Note.**  $*p < .05$ ;  $**p < .01$ .

↔ = Covariance, → = Direct path, ---> Non-significant path

Figure 30. Diagram of Relationships between SE Measures, SLA Measures, and Non-Economic Damages in Deliberating sample (liable verdicts only)



**Note.** \* $p < .05$ ; \*\* $p < .01$ .

↔ = Covariance, → = Direct path, ---> Non-significant path

damage awards replaced economic damage awards as the outcome variable. Again, all goodness-of-fit indicators were within acceptable ranges,  $\chi^2(1) = 2.06, p > .15$ ; CFI = .99; RMSEA = .06., and all relationships between SE and SLA variables were significant and in the expected direction (see Figure 39). No significant direct effects of any of the SE or SLA variables on non-economic damage awards emerged. Because there also were no significant indirect effects of SE variables on non-economic damages via SLA variables, a summary table of indirect effects for Model 4 is not presented. As in Model 3, all SLA variables were significantly correlated with non-economic damages, with SLA scale scores the most strongly correlated ( $r = .369, p < .01$ ; see Table 23). A direct effect of SLA scale scores on non-economic damages may have gone undetected due to the small sample size given the number of pathways estimated.

***Model 4: Differences between deliberating and non-deliberating samples.*** There were no direct effects of SE variables on non-economic damages in either the deliberating or non-deliberating model. In the deliberating model, there was a significant direct effect of SLA scale scores on non-economic damages, and SLA scale scores fully mediated the relationships between all SE variables and non-economic damages.

**Summary of analyses addressing Research Question 3.** Overall, the models examining the attributional pathways followed by deliberating and non-deliberating jurors were quite consistent. Models for both samples specifying total responsibility and verdict as the outcome variable aligned with CCM predictions, though there was some variation in the extent to which SLA variables mediated the relationships between SE variables and the outcome variables (i.e., full vs. partial mediation). The most notable difference was that defendant witness ratings played a greater role in the attributions of deliberating jurors than in those of non-deliberating jurors. In both deliberating and non-deliberating models, SLA scale scores (compared to the



other SLA variables- plaintiff witness ratings and defendant witness ratings) were the most strongly influenced by the SE variables, and SLA variables exerted the greatest impact on the outcome variables. Thus, the indirect effects of SE variables via SLA scale scores on the outcome variables were stronger than the indirect effects with the other SLA variables as mediators. Though it was difficult to compare Models 3 and 4 between deliberating and non-deliberating samples, findings still suggest that SEs are most strongly related to SLA scale scores compared to the other SLA variables, and that SLA scale scores are more strongly related to damage awards than the other SLA variables.

## Chapter 12: Discussion

The primary purpose of this study was to examine the effects of plaintiff weight, deliberations, and individual differences on jurors' decision-making in a medical malpractice case. The CCM was used to guide this research for two reasons. First, it was determined that among extant attribution theories, the CCM was best suited to illuminate the attributional processes underlying jurors' decisions. Second, although researchers have encouraged the use of the CCM to guide jury decision-making research (Nadelhoffer, 2006), it has only been used in one jury-decision making study to date (Bright & Goodman-Delahunty, 2008), and a full test of the model has never been conducted. Thus, the secondary purpose of this study was to more extensively test the components of the CCM and assess its applicability to research in legal contexts.

Findings indicated that plaintiff weight, deliberations, and individual differences did indeed impact jurors' decisions in the hypothetical malpractice case used in this study. Consistent with reviews of jury decision-making literature (e.g., Feigenson, 2000; Greene & Bornstien, 2003), the influence of extra-legal factors on juror decisions was often dependent on other factors. For example, the influence of plaintiff weight was moderated by both decision context and participants' individual differences. This chapter highlights the key findings of this research, proposing explanations for these findings and discussing their implications for both researchers and practitioners. In addition, this chapter addresses the limitations of this study and offers numerous directions for future research in this area.

### **Effects of Plaintiff Weight on Jurors' Decisions and Attributional Processes**

Analyses revealed no main effects of the weight manipulation on any of the dependent variables assessed in this study, which corresponded to the three attributional process

components specified by the CCM (SEs, SLAs, and blame variables; blame variables include the “final” case decisions such as total responsibility, verdict, and damage awards). Thus, all components of Hypothesis 1 for the non-deliberating sample, which predicted main effects of the weight manipulation on all dependent variables, were unsupported. It should be noted that the weight manipulation used in this study was not extreme. The photograph of the “normal weight” plaintiff clearly depicted a thin woman (see Appendix G). The photograph of the “obese plaintiff” depicted the same woman who would have met the criteria for obesity given current CDC standards and the SFRS scale (Stunkard, Sørensen, & Shulsinger, 1983). However, it was initially hoped that the plaintiff photograph could be altered to make the “obese” plaintiff appear more overweight, but technological difficulties prohibited this. Adding additional digital weight to the obese plaintiff photograph may have resulted in direct impacts of plaintiff weight on juror decisions. Yet, published studies examining the impact of manipulated plaintiff or defendant weight also failed to find direct impacts of the weight manipulation on jurors’ decisions (Reichert et al., 20011; Schvey et al., 2013). Consistent with the findings of Schvey and colleagues (2013), plaintiff weight only impacted juror decisions among certain participants, and in certain circumstances.

**Interactive effects of plaintiff weight and decision context on jurors’ decisions and attributional processes.** Hypothesis 1 pertaining to comparisons between the deliberating and non-deliberating sample posited that deliberations would help attenuate any individual juror biases regarding plaintiff weight. Accordingly, it was expected that the case-related judgments of the deliberating jurors assigned to the obese plaintiff condition (at both the individual and jury group level) would be more pro-plaintiff than those of non-deliberating jurors assigned to the obese plaintiff condition. Not only was this hypothesis unsupported, but it was often directly

contradicted by the results of this study. Plaintiff weight had no significant impact on verdict or economic damage awards in deliberating and non-deliberating samples. However, among participants finding the defendant liable for malpractice, deliberating jurors awarded significantly fewer non-economic damages than did non-deliberating jurors when the plaintiff was depicted as obese. This tendency to award fewer non-economic damages occurred at both the individual and jury levels for deliberating jurors. In addition, assessments of total responsibility provided at the individual level revealed that, when the plaintiff was depicted as obese, deliberating jurors attributed more responsibility to the plaintiff and less responsibility to the defendant for the negative medical outcome than did non-deliberating jurors.

Research Question 2 pertaining to comparisons between deliberating and non-deliberating samples sought to illuminate any differences between these two groups on measures of SEs and SLAs. Main effects of decision context on the CCM dependent variables did emerge, and will be further discussed in the following section. More pertinent to the current discussion, analyses revealed significant interactive effects between plaintiff weight and decision context on SE and SLA variables. Specifically, in the obese condition, deliberating jurors had more negative perceptions of the plaintiff, lower ratings of the plaintiff's witnesses, higher ratings of the defendant's witnesses and lower SLA scale scores than non-deliberating jurors. The more "anti-plaintiff" and "pro-defendant" scores on SE and SLA measures among the deliberating sample align with their heightened tendency to attribute more responsibility to the plaintiff and award fewer non-economic damages to the obese plaintiff compared to the normal weight plaintiff.

There are several possible explanations for why anti-fat bias was exacerbated rather than attenuated in the deliberating sample. First, it is important to note that all jurors who

deliberated in a group were college students, and often were students attending the same college and enrolled in the same courses. Though efforts were made to assign individuals to jury groups which did not include their closest peers, jury groups were often comprised of classmates. As previously discussed, homogenous juries are more susceptible to bias than more heterogeneous juries, because homogenous juries are more likely to interpret evidence in the same way, and they feel more comfortable with one another in discussing case interpretations which may reflect shared biases (Kerr et al., 1999; Stasser & Titus, 1985).

Upon viewing the photograph of the obese plaintiff, all jurors may have interpreted the case facts and evidence in a slightly biased manner. These biases may not have been significant enough to impact individual jurors' scores on CCM dependent variables. However, if many deliberating jurors' attributional processes were affected by plaintiff weight, group discussion of their biased interpretations of case facts and evidence may have strengthened the influences of these biases on attributional responses and case decisions rendered at both the jury and individual levels.

It should be noted that post-hoc analyses revealed no significant main or interactive effects of specific features of jury composition, such as gender or the average scores on the individual difference variables, on case-related judgments. The average BMI of a jury (calculated across jury members) also did not impact case-related judgments. However, this study did not specifically explore how the inclusion of one obese jury member in a particular jury may affect that jury's susceptibility to anti-fat bias. For instance, a jury group may have had a relatively average "group BMI" while still including one obese juror. Prior research indicates that jurors suppress racial biases when their jury includes just one juror from the relevant ethnic minority group (Sommers, 2006). It is unknown whether thinner jury members in this study may have

made more significant efforts to suppress anti-fat bias in the obese plaintiff condition when their jury included an obese juror.

The liberation hypothesis also may be responsible for deliberating jurors' increased tendency to blame the overweight plaintiff. According to the liberation hypothesis, jurors serving on ambiguous case or a case in which the evidence is strong for both sides may become overwhelmed in evaluating the contradictory evidence, and subsequently become more reliant on extra-legal factors in their decision-making (Kalven & Zeisel, 1966). The case scenario used in this study was designed to be a very "close" case, and yielded largely "split verdicts," with 63.1% of non-deliberating participants and 37.6% of the deliberating jurors (at the individual level) finding the defendant liable for malpractice.

The few studies testing the liberation hypothesis have shown that the increased reliance on extra-legal factors when case evidence is ambiguous or equally strong for both sides occurs among both deliberating (De La Fuente, De La Fuente, & García, 2003; Devine et al., 2009; Reskin & Visher, 1986) and non-deliberating (De La Fuente et al., 2003; Reskin & Visher, 1986) jurors. However, no comparisons have been conducted to determine if there are any differences in the strength of this effect on individual and deliberating jurors' decisions. If case ambiguity increases susceptibility to bias and most or all members of the jury group are affected, then more biased interpretations of the evidence should be shared during deliberations. This could in turn increase the impact of extra-legal factors on deliberating jurors' decisions, as compared to those of non-deliberating jurors.

Finally, study procedures many have unintentionally primed central or rational processing of the case facts and evidence in the non-deliberating sample, making these participants less susceptible to the influence of plaintiff weight and other extra-legal factors. All

jurors were allowed to take notes when individually reviewing the trial summary. After reviewing the summary, those in the deliberating condition immediately discussed the case in their jury groups. Non-deliberating jurors were instructed to spend 15 minutes to think carefully about the case and further encouraged to write down any additional thoughts they had about the evidence prior to responding to the dependent measures. This 15 minute “individual contemplation” period was intended to ensure that any effects of deliberations could be attributed to group discussion rather than to additional time provided to contemplate the case. The contemplation instructions provided to non-deliberating jurors, however, were not much different from those that have been used to successfully prime rational processing (see Epstein et al., 1992; Scarlicki & Rupp, 2010). McCoy and colleagues (1999) found that deliberating jurors engaged in more rational processing and were less susceptible to the influence of extra-legal factors than non-deliberating jurors asked to verbally “ruminate” about the case for 15 minutes. Yet, the possibility remains that the instructions given to non-deliberating jurors in the present study may have helped shield them from the influence of extra-legal factors, even if the deliberating jurors had the opportunity to discuss the case with their peers.

**Interactive effects of plaintiff weight and individual differences on jurors’ decisions and attributional processes.** Hypotheses 2-4 pertaining to the non-deliberating sample predicted that all individual difference variables assessed in this study would interact with plaintiff weight to significantly impact all CCM measures. It was predicted that, in the obese plaintiff condition, those with higher BJW-O, BPWE, and FPS scores would have more “anti-plaintiff” and “pro-defendant” scores on the dependent CCM measure than their counterparts. In addition, it was predicted that in the obese plaintiff condition, men would have more anti-plaintiff and pro-defendant scores on the CCM measures than women, and that participants

with lower BMIs would have more anti-plaintiff and pro-defendant scores on the CCM than those with higher BMIs.

After data were collected and preliminary analyses were completed, the decision was made to investigate the interactive effects between plaintiff weight and individual differences on CCM measures in the entire sample, rather than limiting this investigation to non-deliberating jurors. Analyses using the total sample yielded several significant interactive effects that did not emerge in the analyses conducted using the non-deliberating sample. This increase in significant effects using the total sample is likely attributable to the increased sample size and subsequent power to detect differences in employing the total sample. The interactive effects between plaintiff weight and individual difference variables that did emerge in the non-deliberating sample were replicated in analyses including the total sample. Analyses revealed no significant three-way interactions between plaintiff weight, decision context, and individual difference variables on CCM measures.

Analyses utilizing the total sample revealed that plaintiff weight sometimes, but not always, interacted with individual difference variables to influence CCM measures as predicted. The significant interactive effects that did emerge suggest that some individual differences are more consistent and powerful moderators of the effects of plaintiff weight on juror decisions than decision context. Among all of the individual differences assessed, BJW-O was the most likely to interact with plaintiff weight to affect jurors' decisions. These interactive effects largely aligned with H2 and with extant literature indicating that individuals with strong BJW-O beliefs are particularly inclined to express negative attitudes and behaviors towards obese persons (Crandall; 1995; Crandall & Martinez, 1996). In the obese plaintiff condition, those with higher BJW-O scores were more likely than those with lower BJW-O scores to: find the defendant liable



for malpractice; award fewer economic damages if finding the defendant liable; attribute responsibility to the plaintiff; perceive the defendant more favorably (SE measure); rate the defendant's witnesses as more convincing and the plaintiff's witnesses as less convincing (SLA measures); and to process attributional information related to intentionality, causality, and foresight in a pro-defendant manner (as indicated by lower scores on the SLA scale).

Belief in the protestant work ethic was the second most influential individual difference variable with regard to the effects of plaintiff weight on CCM measures. There was a marginally significant interaction between BPWE and plaintiff weight on verdict, such that in the obese condition, those with higher BPWE scores were more likely to find the defendant liable than those with lower BPWE scores. In the obese plaintiff condition, those higher in BPWE also were more likely to attribute responsibility to the plaintiff and rated the defendant's witnesses as more convincing than those lower in BPWE.

Interestingly, FPS scores had little impact on participants' CCM measures as a function of plaintiff weight, with one marginally significant interaction emerging between FPS scores and plaintiff weight on defendant witness ratings. Contrary to H4, there were no significant interactions between participant BMI and plaintiff weight on any of the CCM measures. Gender moderated the effects of plaintiff weight on just one CCM measure (perceptions of the defendant) and this effect was marginally significant. The failure of gender to moderate the effects of plaintiff weight in most instances is largely inconsistent with H3 and with prior research indicating that men are more likely to discriminate against obese targets than women (Bannon et al., 2008; Graziano et al., 2007; Schvey et al., 2013).

It is unknown why BJW-O scores more consistently moderated the effects of plaintiff weight on CCM measures than BPWE scores. Studies have generally either focused on

establishing links between anti-fat attitudes and belief in a just world (Crandall & Martinez, 1996) or between anti-fat attitudes and belief in the protestant work ethic (Quinn & Crocker, 1999). The BJW-O scale used in this study, which is shorter than most BJW scales used in other anti-fat bias literature and focuses on just world beliefs about *others* (rather than about the self) may be better suited than the BPWE scale in predicting the effects of anti-fat bias on jurors' decisions. Although research has demonstrated that both BJW and BPWE predict anti-fat attitudes, no published studies (to the author's knowledge) have demonstrated that these variables predict decisions about or discrimination against obese persons. Perhaps BJW-O scores are more predictive of *decisions or behaviors* towards the obese than BPWE scores.

It was anticipated that FPS scores would be among the strongest moderators of plaintiff weight on juror's decisions, but findings from some prior studies as well as the current study design may help explain why FPS scores did not operate as expected. A large body of research has demonstrated that anti-fat attitudes are pervasive (see Chapter 2 for a review), but few studies have explored whether measures of anti-fat attitudes predict discrimination against obese persons. Two studies found no relationship between participants' scores on Crandall's Antifat Attitudes scale (AFA; Crandall, 1994) and subsequent discrimination against obese targets (Bessenoff & Sherman, 2000; O'Brien et al., 2008). A recent study replicating the methodology employed by O'Brien et al. (2008) found that anti-fat attitudes assessed by the Universal Measure of Bias scale (UMB) did significantly predict discrimination against obese targets in a job candidate selection scenario. Thus, the effects of anti-fat attitudes on decisions and behaviors may depend upon the particular scale used to assess these attitudes. Further, participants completed the FPS after reading the case scenario and rendering their judgments, whereas the BJW-O and BPWE scales were administered prior to the case scenario. Though it is

recommended that assessments of potential moderating variables be conducted prior to assessment of dependent variables (MacKinnon, 2008), the FPS scale was administered following the assessment of DVs to avoid unintentionally informing participants about the purpose of the study and influencing their responses on CCM measures. However, participants still may have been surprised when asked about their perceptions of fat people toward the end of the study and concluded that these perceptions were important to the study's purpose, leading many to suppress their expression of anti-fat attitudes.

Overall, studies have shown that individuals' BMI does not impact measures of anti-fat attitudes (Bannon et al., 2008, Crocker et al, 1993, Crocker & Major, 1994), but little research has been conducted to determine whether participant BMI is related to discrimination against obese targets. This study confirms prior findings that BMI has no significant relationship with attitudes; in addition, BMI did not affect jurors' decision-making. The current findings indicating that gender had no relationship with FPS scores and a very negligible influence on CCM measures in the obese plaintiff condition is more challenging to explain. These results may be specific to the sample of males in this study, or they may be attributable to the increasing rate of obesity among males in the U.S. (see Centers for Disease Control and Prevention, 2012). Yet, a recent study revealed that male jurors were still significantly more punitive than female jurors when they were led to believe that the female defendant was obese (Schvey et al., 2013). Unlike Schvey et al.'s study, however, the current study did not test any three-way interactions between gender, plaintiff weight, and other individual difference variables. It is unknown, for example, whether the weight manipulation may have had a different impact on the decisions of male participants with lower versus higher BMIs.

***Effects of plaintiff weight on jurors' decisions and attributional processes:***

***Implications.*** This is first study demonstrating that civil mock juror decisions are affected by plaintiff weight, and elucidating the specific circumstances under which these effects occur. There are several implications of these findings for both researchers and practitioners. However, these implications, and all others discussed throughout the remainder of this chapter, may best be viewed as “preliminary implications.” They should be interpreted within the context of the limited generalizability of this single study and its methodological limitations. Replication and a more comprehensive understanding of the current findings is needed to build support for the following implications.

The current findings should be of interest to those who study prejudice and discrimination against the obese. Though numerous studies have elucidated the underpinnings of anti-fat attitudes and documented discrimination against the obese (see Chapter 2 for a review), few studies have explored if and how anti-fat attitudes and their correlates may impact actual decisions and behaviors evident of discrimination. Because FPS scores were not related to jurors' decisions, researchers wishing to explore the effects of anti-fat attitudes should consider using the UMB instead. More generally, researchers may wish to more thoroughly investigate the construct validity of the FPS, as it was not significantly correlated with gender and only weakly (but significantly) correlated with BJW-O scores.

Similarly, no published studies have explored the effects of BJW and BPWE on discrimination against the obese. Current findings suggest that strong just world and protestant work ethic beliefs did result in discrimination against the obese target; however, BJW-O scores were stronger predictors of discrimination than BPWE scores. These findings should be

considered in future research assessing both the predictors of discrimination against the obese and in the ideological foundations of anti-fat bias.

Current findings generally support the JSM, although they highlight the uncertainty of the factors that may serve as justifications for prejudice against the obese. Based on the JSM, it was expected that the case scenario information and the individual decision-making task would provide non-deliberating jurors with a “cover” for expressing their prejudice against the obese, whereas deliberating jurors would not have such cover in discussing the case with a group. Because deliberating jurors’ decisions were more susceptible to plaintiff weight, the group decision-making context may have provided an unexpected type of “cover” (e.g., feeling more comfortable and supported by their peers who expressed similar perspectives without individually considering the case for 15 minutes on their own), allowing jurors to express their case perspectives that were in fact influenced by anti-fat bias. The influence of BJW and BPWE on jurors’ decisions supports the JSM, which suggests that these individual difference variables are justifications of prejudice towards a variety of groups (Crandall & Eshleman, 2003).

Both the JSM and CCM predict that jurors exposed to the obese plaintiff would have stronger negative emotional reactions to those exposed to the normal weight plaintiff. This did not occur; however, plaintiff weight did impact general perceptions of both the plaintiff and defendant under certain circumstances (e.g. in the deliberating condition and among participants with strong BJW-O and BPWE). In addition, interpretation of attributional information also was affected by plaintiff weight under certain circumstances, which supports both the JSM and CCM. The researchers who developed and advanced the JSM (Crandall & Eshleman, 2003) and the CCM (Alicke, 2000) recognize that these frameworks can be influenced by both individual and situational factors, but those influencing factors have not yet been

illuminated by empirical research. The present findings can be used to establish a foundation for future research in this area, particularly with regard to legal decision-making.

Current findings are relevant to attorneys and judges because they suggest that civil jurors' decisions may be influenced by plaintiff weight. Though there were no direct influences of plaintiff weight on any of the dependent variables, several interactive effects indicate that plaintiff weight could potentially influence juror decisions with regard to key case decisions including verdict and damage awards. During jury selection, attorneys representing obese plaintiffs should consider the diversity of the panel in multiple respects (e.g., gender, race, age, background) and the implications for their client in seating a more homogenous or heterogeneous jury. Because BJW-O was a consistent predictor of bias in the obese plaintiff condition, attorneys representing obese plaintiffs should also consider including this measure in their pre-jury selection questionnaires when the law permits. Similarly, judges should consider allowing this measure to be included in the pre-selection questionnaires if the attorney provides an appropriate reason for doing so. This research did not investigate the effects of attempts to remove common justifications of anti-fat bias on juror decisions. Yet, JSM research indicates that subtle manipulations of such justifications can decrease discrimination against the obese (King et al., 2006). Attorneys representing an obese plaintiff could make efforts to present the plaintiff as professional, hard-working, and intelligent to counteract the common stereotypes of obese persons as sloppy, lazy, and stupid (see Puhl & Heuer, 2009). In medical malpractice cases, these attorneys also could try to introduce evidence or arguments regarding efforts their clients have made toward recovery from the negative medical outcome or to overall improving their health.

## **Effects of Deliberations and Individual Differences on Jurors' Decisions and Attributional Processes**

Most research examining the influence of deliberations and extra-legal factors on jurors' decisions has been conducted in the criminal rather than the civil realm. In particular, empirical research involving medical malpractice jurors is lacking. In addition to examining plaintiff weight, this study also explored the main and interactive effects of deliberations and individual difference variables on jurors' decisions. It was anticipated that such analyses could help enhance the understanding of how such variables may operate generally in malpractice cases. Findings indicated that deliberations and individual difference variables significantly impacted jurors' decisions in several ways regardless of the weight manipulation.

**Effects of deliberations on jurors' decisions and attributional processes.** Research Question 1 pertaining to the deliberating sample aimed to identify any differences in jury level case decisions and those rendered individually by deliberating jurors; no differences were found. Research Question 2 pertaining to the deliberating sample explored differences between deliberating and non-deliberating jurors on all dependent CCM measures. Analyses revealed that decision context was the most consistent predictor of jurors' individual attributions and decisions, such that deliberating jurors were more lenient than non-deliberating jurors. Compared to non-deliberating jurors, deliberating jurors were less likely to find the defendant liable and responsible for the negative medical outcomes, and awarded fewer non-economic damages when they did find the defendant liable. Moreover, with the exception of defendant witness ratings, deliberating jurors were significantly more likely to score more pro-defendant on all SE and SLA measures than non-deliberating jurors. This suggests that the leniency effect that has been frequently documented among criminal juries also may emerge in civil juries.

**Effects of individual differences on jurors' decisions and attributional processes.**

Research Question 2 pertaining to non-deliberating jurors explored how individual differences in this sample may affect CCM measures independent from plaintiff weight. As previously discussed, this exploration was expanded to include the entire sample. Results indicated that individual differences did indeed influence jurors' decisions.

Women were more punitive toward the defendant than men, such that they were more likely to find the defendant liable, interpreted attributional information in a manner more conducive to blaming the defendant, and rated the plaintiff's witnesses as more convincing. This effect is most readily explained by the similarity-leniency hypothesis (see Greene & Bornstein, 2003). The plaintiff was female, thus female participants were more likely to identify with her which led to an increased tendency to interpret case facts and evidence in a manner favorable to the plaintiff. Males were more likely to identify with the male defendant, and thus interpreted evidence and case facts in a manner favorable to the defendant. Though the question of how gender may interact with other individual difference variables to affect juror decisions is an interesting one (e.g., whether the effects of BMI differ between men and women), it is beyond the scope of this study.

Curiously, BJW-O scores did not directly affect any CCM measures. Conversely, BPWE scores influenced several CCM measures. Compared to those with lower BPWE scores, those with higher BPWE scores awarded fewer economic and non-economic damages, had more negative perceptions of the plaintiff and more positive perceptions of the defendant, and rated the plaintiff's witnesses as less convincing. These findings are consistent with research indicating that those with strong BPWE are inclined to find others responsible for their misfortunes, and with the concept of BPWE more generally (Christopher et al., 2008; Quinn & Crocker, 1999). To



date, no published studies have examined the relationship between BPWE and juror decisions, and it is unknown why BPWE scores directly impacted CCM measures while BJW-O scores did not.

Among all of the individual difference variables assessed in this study, FPS scores and participant BMI were the most likely to directly influence CCM measures. Those with higher FPS scores were more lenient toward the defendant than those with lower scores. Specifically, those with higher FPS scores were more likely to find the defendant liable, awarded fewer economic damages when finding the defendant liable, had less favorable perceptions of the plaintiff and more favorable perceptions of the defendant, interpreted attributional information in a more “pro-defendant” manner, and rated the plaintiff’s witnesses as less convincing. Again, it is unknown why FPS scores were better predictors of CCM measures than both BJW-O and BPWE scores. FPS scores were significantly correlated with both PES and BJW-O scores, but it is clear that FPS scores uniquely contributed to the variance in CCM measures. The FPS may tap a separate construct that is more predictive of juror decision-making than those assessed by the BPWE and BJW-O scales. In addition, the FPS is a semantic-differential scale and assesses attitudes by eliciting more experiential “gut” responses, whereas the BPWE and BJW-O are standard Likert-type scales. For reasons unknown, the more experiential nature of the FPS may have been better-suited in predicting punitiveness and leniency compared to the more “cognitive” BPWE and BJW-O.

Compared to participants with lower BMIs, those with higher BMIs were more likely to find the defendant liable and responsible for the negative medical outcome. In addition, jurors with higher BMIs expressed more positive perceptions of the plaintiff and more negative perceptions of the defendant; they also attributed attributional information in a more “pro-

plaintiff” manner and rated the defendant’s witnesses as less convincing. However, participant BMI did not moderate the effects of plaintiff weight on any of these dependent variables. The direct effects of BMI on CCM measures may be attributable to attitudes towards physicians. Research indicates that many physicians harbor strong anti-fat attitudes and that obese patients are subject to weight-related discrimination in health care settings (Anderson & Wadden, 2004; Bertakis & Azari, 2005). In response to such instances of perceived or real discrimination, many overweight or obese individuals may develop negative attitudes towards physicians. If jurors with higher BMIs in the current study developed similar attitudes, it is not surprising that they would be particularly inclined to blame the physician for the negative medical outcome.

**Interactive effects of deliberations and individual differences on jurors’ decisions and attributional processes.** There were several significant or marginally significant interactions between decision context and individual difference variables on CCM measures. Overall, deliberating jurors were more lenient than non-deliberating jurors. However, those with lower scores on the ideological individual difference measures were often more lenient than those with higher scores. In the non-deliberating condition, jurors’ liability judgments were not affected by BJW-O scale or BPWE scores. In the deliberating condition, those with lower BJW-O scale BPWE scores were less likely to find the defendant liable than those with higher scores. Interestingly, in the non-deliberating condition, those with lower BPWE scores were more likely to interpret attributional information in a “pro-defendant manner” and attribute responsibility to the plaintiff in than those with higher BPWE scores. In the deliberating condition, BPWE scores had little influence on interpretation of attributional information or responsibility judgments. Similarly, non-deliberating jurors scoring lower on the FPS had more positive ratings of the defendant’s witnesses and attributed greater responsibility to the plaintiff than those

with higher FPS scores, whereas FPS scores had no effects on these dependent measures in the deliberating condition.

The current body of juror decision-making research offers no explanations for these effects. In particular, it is unknown why non-deliberating jurors with higher scores on ideological difference measures (which are positively related to blaming others for their misfortunes) would be less likely to interpret attributional information and blame the purported victim (i.e., the plaintiff) than those with lower scores. The ideological framework encompassing these individual difference variables may help explain why those with weaker BJW, BPWE, and anti-fat attitudes were more susceptible to the leniency effect than their counterparts. Belief in a just world, BPWE, and anti-fat attitudes are not only strongly correlated with one another, but also correlated with other ideological variables indicative of rigidity and resistance to change such as conservatism and authoritarianism (Christopher et al., 2008; Dittmar & Dickinson, 1993). Thus, deliberating jurors with stronger BJW, BPWE, and anti-fat attitudes may have been less likely to consider and incorporate the perspectives of their fellow jurors in their individual decisions than those with weaker beliefs and attitudes.

Decision context also moderated the effects of gender on some CCM measures. Women were not affected by decision context, but men had more negative perceptions of the defendant and awarded greater economic damages in the non-deliberating condition than in the deliberating condition. This suggests that men were more susceptible to the leniency effect emerging from deliberations than women, but the reasons underlying this effect are unknown. Perhaps women's identification with the female plaintiff was a bit stronger than men's identification with the male defendant. In the deliberating condition, those with higher BMIs awarded significantly greater non-economic damages than those with lower BMIs. This effect

also is difficult to explain within the context of the extant literature, especially because analyses revealed no effects of the average BMI of juries on case decisions.

***Effects of deliberations on jurors' decisions and attributional processes: Implications.***

Again, the findings of the current study must be considered in the context of their limitations. However, the current findings can be used to help build a foundation for understanding the effects of deliberations and specific individual differences on juror decisions for both researchers and practitioners. To the author's knowledge, no studies have been published that directly compare the judgments of deliberating and non-deliberating jurors in a medical malpractice case. In addition, no published studies have demonstrated how BPWE, anti-fat attitudes, and participant weight (measured by BMI) may impact jurors' judgments in a civil case.

Overall, findings suggest that the decisions of individual jurors can significantly differ from those of deliberating jurors. This finding has important implications for both researchers and practitioners. A review of several jury decision-making studies found few differences in the decisions rendered by student and non-student jurors (Bornstein, 1999) but this review did not address potential differences between the judgments of deliberating and non-deliberating jurors. Deliberations had both direct and interactive (i.e., moderated the effects of plaintiff weight and individual differences) effects on juror decisions and judgments in the current study. Thus, researchers may consider the extent to which findings from studies that examine the judgments of individual jurors generalize to the group decision-making context. Similarly, practitioners may want to consider the applicability of such results to jury trials.

MacCoun (1998) posited that the leniency effect so commonly documented in studies of criminal juries may not apply to civil juries due to the lower standard of proof that applies in civil

cases. One study comparing mock jurors' pre- and post-deliberation verdicts across four different civil trials found that, overall, jurors were more likely to render liable verdicts post-deliberation (Hastie et al., 1998). The current study, however, demonstrates a consistent leniency effect of deliberations on mock jurors' judgments. There is no ready explanation to reconcile these conflicting findings, but both researchers and practitioners should recognize that the leniency effect may apply to some civil juries. Further evidence for a leniency effect in civil juries may encourage civil plaintiffs and their attorneys to opt for a bench trial rather than a jury trial. Findings indicating a leniency effect in civil mock juries comprised of 4-6 members also may have policy implications. There has been significant controversy regarding the decreasing size of civil juries (Monahan & Walker, 2006); in most states, civil juries include between 6-8 members rather than the traditional 12 members (American Bar Association, 2015). Evidence of a leniency effect among civil juries suggests that smaller juries may not be as disadvantageous to the defendant as expected, and that challenges to the preponderance of evidence standard are still often raised and discussed within these juries. Yet, if this leniency effect does exist in civil juries, the extent to which it may increase or decrease with the addition of jury members is unknown.

Studies have demonstrated a relationship between specific beliefs (such as beliefs in a litigation crisis and beliefs about physicians) and civil jurors' decisions (Hans & Loftquist, 1994; Hastie et al., 1999; Reichert et al., 2011), but few studies have assessed the impacts of personality and demographic variables on civil jurors' decisions. Two studies found that BJW was positively related to punitiveness towards civil defendants (Hans & Loftquist, 1994; Reichert et al., 2011). This finding was not replicated in the current study. However, BPWE scores were negatively related to punitiveness toward the defendant. This finding is important as no significant impacts of BPWE have yet been reported in the civil jury decision-making literature.

FPS scale scores also were consistently negatively related to punitiveness toward the defendant. Researchers should consider further exploring the potential for such measures to predict civil jurors' decisions, whereas attorneys should consider incorporating such measures into their voir dire questionnaires to help inform their voir dire and juror selection strategies. Within the context of the current study, it is suggested that participant BMI may be related to attitudes towards physicians, and that the purported negative attitudes towards physicians held among those with higher BMIs influenced their decisions. These findings should be interpreted with caution among legal practitioners. To the author's knowledge, there are no published studies demonstrating an empirical relationship between individuals' BMIs and attitudes towards physicians. Experts recommend that attorneys representing clients in medical malpractice cases should include an assessment of attitudes and beliefs about physicians in voir dire questionnaires (see Feigenson, 2000; Vidmar, 1995). Attorneys practicing in jurisdictions that prohibit or discourage the addition of additional voir dire questions should consider the ethical implications of exercising preemptory challenges to "strike" overweight or obese jurors due to the association revealed in this study until a further body of evidence emerges on this topic.

### **Testing the Culpable Control Model: Jurors' Attributional Pathways**

This study examined the relationships between the three main components of the CCM in both non-deliberating and deliberating samples. In prior research examining these relationships, each CCM component was typically operationalized by a single measure (e.g., emotional response or actor characterizations as SE measures; perceived causal contribution or negligence as SLA measures; and general "blame" or verdicts as blame measures), and these measures differ across studies (see Alicke, 1994; Bright & Goodman-Delahunty, 2006; Mazzocco et al., 2004). In the current research, a scale was developed intended to yield individual

measures of the three types of structural linkage assessments perceivers are expected to consider when ascribing blame: behavioral control, causal control, and outcome control. However, results of factor analyses suggested that this scale tapped a unitary construct, rather than three distinct attribution constructs. This SLA scale was consequently used as an overall measure of structural linkage assessments.

Research Questions 1 and 3 pertaining to the non-deliberating sample explored whether attributional pathways differed as a function of plaintiff weight and individual differences, respectively. Statistical model comparisons and other analyses revealed no substantial differences; thus, path models including all CCM variables were estimated using the entire non-deliberating sample. These models were highly consistent with CCM predictions. In most instances, jurors' SEs influenced their SLAs, which in turn influenced their blame judgments. The effects of jurors' SEs on total responsibility assessments, verdict, and non-economic damage awards were typically fully mediated by the SLA measures, although partial mediation also occurred. It should be noted that most, but not all of the CCM components were significant predictors of the outcome variables. For instance, ratings of the defendant's witnesses did not significantly predict any blame measures, and thus the indirect effects of the SE measures only operated through scores on the SLA scale and plaintiff witness ratings. In addition, there were no significant indirect effects of the SE measures on economic damage awards.

Overall, these findings reflect the "primary" CCM attributional pathway (Path 2 in Figure 1) advanced by Alicke (2000). This pathway suggests that perceivers' initial reactions to a situation involving a negative outcome and to the actors involved color their interpretation of attributional information, which can include evidence presented in a civil trial. In turn, these interpretations of attributional information affect blame ascriptions, or case-related judgments.

SEs only directly impacted blame measures in three instances. In two out of these three instances, the relationship between these SEs and blame measures were still partially mediated by SLAs. This indicates that, in the current study, jurors' initial reactions to the case seldom affected final judgments without also influencing their consideration of attributional information. Though the conclusion that jurors in this study followed Paths 2 and 3 in **Figure 1** is supported by theory and study design (i.e., participants responded to CCM measures in a specific order), the possibility exists that jurors may have followed Path 1B, which proposes that SEs directly impact blame, and that SLAs are subsequently modified to support these blame ascriptions. Within the context of the current study, however, this pathway is unlikely given the limited direct effects between measures of SEs and blame and the consistent indirect effects of SE measures on blame measures through SLA measures.

There were no indirect effects of SEs on economic damage awards via SLAs in the non-deliberating sample. Rather, both SLA scale scores and perceptions of the defendant (an SE measure) directly influenced economic damage awards. It is unknown why the attributional pathways emerging in the model specifying economic damage awards as the blame variable differed from the pathways emerging in the other three models. Both models specified with economic and non-economic damage awards included significantly fewer cases than the other models, as only jurors who found the defendant liable awarded damages. The plaintiff requested greater compensation in non-economic damage awards (\$400,000.00) than in economic damage awards (\$250,000.00), and more specific justifications were provided for the economic awards compared to the non-economic awards (see Appendix H). This may have resulted in greater variability in non-economic damage awards so that more specific



attributional pathways could be illuminated, whereas economic damage awards may have been more constrained.

Although current findings indicate the deliberating jurors were more likely to be influenced by plaintiff weight than non-deliberating jurors, attributional pathways followed by deliberating jurors also did not significantly differ between weight conditions. Research question 3 pertaining to comparisons between samples explored differences in attributional pathways followed by deliberating and non-deliberating jurors. Though these pathways could not be compared statistically, there appeared to be minimal differences between the two samples. SLA measures often fully mediated the relationships between SE measures and the total responsibility and verdict outcome variables. Partial mediation occurred in a few instances; for example, perceptions of the plaintiff directly impacted both total responsibility assessments and verdict, and this effect was partially mediated by SLA scale scores and plaintiff witness ratings.

There was one main difference between the attributional pathways followed by deliberating and non-deliberating samples: defendant witness ratings significantly influenced total responsibility assessment and verdict in the deliberating sample, but not in the non-deliberating sample. It follows that defendant witness ratings mediated the relationship between SEs and outcome measures in the deliberating sample, but not in the non-deliberating sample. Again, there are no simple explanations for these differences. Research on the leniency effect suggests that deliberations allow for more opportunities to discuss doubt regarding the plaintiff's case (i.e., whether it meets the standard of proof; MacCoun, 1990; MacCoun & Kerr, 1988); therefore, deliberating jurors may have either considered the defendant's witnesses' testimony more carefully, assigned greater weight to the defendant's witnesses' testimony, or both. There were no direct or indirect effects of SEs on damage awards in the deliberating

sample. However, this may be due to the decreased sample size of deliberating jurors finding the defendant liable than to actual differences in attributional pathways between samples.

Two specific trends emerged from path analyses conducted using both non-deliberating and deliberating samples. First, among the SE variables, perceptions of the plaintiff and perceptions of the defendant were stronger predictors of the SLA variables than negative SE scale scores. The indirect effects of negative SE scale scores via SLA variables on the outcome variables were smaller than those of the other two SE variables, and negative SE scale scores did not directly influence outcome variables in any of the estimated models. Overall, jurors did not have strong negative emotional reactions to the case, perhaps because the outcomes of the surgery were negative (vision loss) but not severe (chronic illness or death). SEs may be a better predictor of attributions in cases involving more disturbing or graphic allegations.

Second, among the SLA variables, the SLA scale was the strongest and most consistent predictor of the outcome variables. In the non-deliberating sample, the SLA scale was the only SLA measure that significantly predicted economic and non-economic damage awards. All three SLA measures had adequate reliability, but the SLA scale was much more comprehensive than the measures of plaintiff and defendant witness ratings. In addition, the SLA scale did not examine jurors' direct reactions to the evidence and testimony presented in the trial summary. Rather, participants were asked to provide their opinions regarding the plaintiff's and defendant's intention, foresight, and casual contribution relative to the negative medical outcome. The SLA scale likely provided jurors with a better opportunity to express their opinions about the thoughts and actions of the parties, which in turn strengthened its influence on case outcome variables.

Finally, it should be noted that results of the path analyses did not strongly support or refute key propositions of the JSM. Again, no specific tests of the JSM were conducted in this study, but this framework was used to help support the use of the CCM as a guiding theory and to anticipate effects of plaintiff weight and deliberations on jurors' interpretation of the case evidence and case decisions. JSM theorists conceptualize "genuine prejudices" as immediate negative emotional reactions to a minority group or its members, and that this negative emotional reaction often directly affects final judgments or blame ascriptions in an attributional scenario involving the target of prejudice; individuals may subsequently adjust their cognitions or beliefs to support this blame ascription (Crandall & Eshleman, 2000). Current findings suggest that jurors' initial perceptions and emotional responses directly impact their cognitions and beliefs pertaining the case evidence, which subsequently influences blame ascriptions. Based on the assumption that most study participants (like most Americans) harbor prejudices against the obese, the overarching JSM framework would predict some differences in attributional processes between jurors assigned to normal and obese plaintiff conditions. Yet, the JSM also acknowledges that genuine prejudices may sometimes directly alter values, thoughts, and beliefs about a target group or group member, which then are used to justify blame against the target for their situation (Crandall & Eshleman, 2000). This pattern aligns with the current findings.

**Testing the Culpable Control Model: Implications.** This study examined the relationships between the CCM components in greater depth than the extant literature grounded in the CCM. Thus, findings should be of interest to CCM theorists and the larger population of attribution researchers. Many attribution theories fail to consider how initial reactions to the situation and the actors involved may influence interpretation of attributional

information, or *processes* that in turn may influence blame ascriptions (e.g., Gailey & Lee, 2005; Shaver, 1985; Weiner, 2006). Current results highlight the importance of considering both the effects of initial reactions to a scenario and the factors that may mediate the relationship between initial reactions and blame ascriptions in understanding attributional processes. Current results also support the CCM's applicability to juror decision-making research, as only one published study (Bright & Goodman-Delahunty, 2006) has demonstrated that jurors' initial reactions to a case influence their interpretations of case evidence in testimony, which in turn influences verdicts.

Current findings have more specific implications for CCM researchers. Alicke's (2000) initial theoretical article outlining all of the potential relationships between the CCM components and sub-components (i.e., the three types of structural linkage assessments) operationalized SEs as *affective* reactions to a situation leading to a negative outcome and/or to the actors involved in that situation. Yet, most studies grounded in the CCM have operationalized SEs as perceptions or characterizations of the actors, rather than as general affective reactions (Alicke, 1994; Alicke & Zell, 2009; Mazocco et al., 2004: see Bright & Goodman-Delahunty, 2006, for an exception). In a later theoretical paper, Alicke (2008) acknowledged that SEs may also include initial, more generalized perceptions of the actors involved in an attributional scenario. Results of this study suggest that perceptions of actors may indeed be better predictors of both SLAs and blame than affective responses in attributional scenarios that are not highly emotionally provocative (e.g., do not focus on psychologically disturbing details or visuals of "gruesome" evidence as used in the study conducted by Bright and Goodman-Delahunty).

No prior studies have examined the specific contributions of the three hypothesized structural linkage assessments to blame ascriptions. The current study aimed to do so; however, factor analyses indicated that the scale developed to measure these three distinct linkages was actually a unitary measure of SLAs. This does not necessarily imply a theoretical weakness. However, the value of considering these three structural linkages in both understanding and predicting attributions merits further exploration.

Many judges, attorneys, and other legal professionals already recognize that juror decisions are susceptible to bias, and that early reactions to a case and its parties can influence both consideration of the evidence and case judgments (Broadsky, 2009). Although current results support these beliefs, they are limited in illuminating ways in which legal professionals can help influence these initial reactions and their subsequent impact on interpretation of evidence and testimony. In the current study, SEs influenced SLAs regardless of decision context or plaintiff weight. Legal professionals cannot anticipate the countless factors that may affect jurors' initial reactions, nor can they attempt to address all of these factors. They can, however, make efforts to attenuate negative reactions upon identifying specific case features or characteristics of the parties that could inappropriately influence jurors' attributional processes and decisions. Such efforts are often apparent during voir dire. For instance, attorneys representing a client belonging to a minority group with regard to ethnicity, religion, or sexual orientation will often highlight their client's minority status during voir dire. Next, they will ask members of the jury panel if they have any attitudes or beliefs about the specific minority group that would unduly influence their decisions in the case. Not only may such inquiries help identify and eliminate jurors willing to express prejudice, but they also serve to remind jurors about the

importance of remaining impartial fact finders even when they harbor prejudices related to a client's minority status (Broadsky, 2009).

There is insufficient evidence to advance a recommendation that attorneys representing an obese client highlight their client's weight during voir dire and directly ask members of the jury panel if they are prejudiced against the obese. Prior research suggests that presenting obese targets in a manner that counteracts commonly held stereotypes can help remove these stereotypical "justifications" for expressing prejudice, which in turn decreases discrimination (King et al., 2006). Thus, attorneys concerned about jurors' anti-fat biases may consider highlighting characteristics of their client that undermine weight-related stereotypes. If appropriate, this could include referencing the client's strong work ethic or educational background. Attorneys representing obese clients who have been injured or endured other negative medical outcomes could highlight their client's efforts towards recovery, if doing so is not expected to inappropriately influence jurors' damage awards related to medical costs and leave from work.

Given the documented influences of SEs on offense or case-related information in this study and in others (Alicke et al., 2009; Mazocco et al., 2004), managing jurors' initial reactions to their clients is likely the best strategy for attorneys concerned about juror bias related to salient client characteristics such as ethnicity and weight. However, attorneys anticipating initial negative reactions to their client could potentially minimize the effects of such reactions by presenting comprehensive and consistent evidence and testimony. Some attorneys may perceive similar witness testimony as repetitive and reiteration of case facts favorable to their client as unnecessary, but jurors may experience greater difficulty in modifying their interpretations of evidence and testimony that is strong and provided by multiple witnesses.

### **Limitations and Future Research**

There are two primary approaches to studying juror decision-making. The first involves analyzing actual jury-rendered case decisions and their relationships with a variety of known characteristics of the jury members, trial participants, and the case itself (e.g., see De La Fuente et al., 2003; Kalven & Zeisel, 1966; Vidmar & Hans, 2007). The second involves manipulation of various aspects of the case, trial participants, and/or decision context to assess the influences of such manipulations on mock jurors' decisions in a laboratory setting (e.g., see Kerr et al., 1995; Miller et al., 2011; Sommers, 2006). Both approaches have several, though different, limitations.

This study explored mock jurors' decisions in a laboratory setting so that researchers could manipulate plaintiff weight and explore the impacts of this manipulation on jurors' decisions about the same case scenario. Verisimilitude is always a concern in such laboratory juror decision making studies (Bornstein, 1999). Though participants in the current study were instructed to carefully and thoroughly review the case scenario, and to base their decision on only the case facts and evidence, they were well aware that the case judgments rendered had no actual legal or human impacts. Moreover, there are many critical differences between participants' experiences in this study and those of actual jurors. For instance, study participants served as "jurors" for one hour, based their decisions on a trial summary consisting of five pages, and were not exposed to several other experiences and information sources common in actual trials (e.g., juror orientation, voir dire, opening and closing arguments, cross-examination of witnesses, having the opportunity to submit questions). It follows that the judgments of mock jurors in this study and actual jurors may differ in many ways, and it is not easy to predict exactly how they may differ. However, given the limitations in their experiences as "jurors,"

there is a strong possibility that mock jurors in the current study may have been more susceptible to extra-legal influences compared to actual jurors.

This study did assess jury level case-related judgments and determined that there were few differences between jury decisions and deliberating juror's decisions at the individual level. However, findings did not reveal why some deliberating jurors rendered judgments that differed from those of their jury group. In addition, attributional processes were not examined at the jury level, and no higher-level (level two) analyses were conducted that explored the decisions of deliberating jurors while accounting for the context within their *specific* jury group. Future research should more carefully examine how jury level processes can be affected by individual juror biases, while considering several aspects of jury composition (e.g., gender, ethnicity, SES, personality variables and case-specific beliefs) as potential moderators of jury susceptibility to bias.

The sample in this study was entirely comprised of college students. Those who actually serve on juries are typically much older and less educated than the average college student (Cutler & Hughes, 2001) and likely differ from college students in several other respects. Bornstein's (1999) review comparing the outcomes of juror decision-making studies using college and community member samples found few differences between the two groups. More recent studies, however, have uncovered substantial differences in the judgments of student and community member mock jurors (McCabe, Krauss, & Lieberman, 2010; Reichert et al., 2011; Schwartz & Hunt, 2011). Thus, it is quite possible that the attributional processes and case judgments assessed in the current sample of college students could significantly differ from those in community member samples. In addition, deliberating jury groups in this study were often not only comprised of students from the same college, but of students enrolled in the



same class. As previously noted, this resulted in more homogenous jury groups than would be expected if juries were comprised of community members, and this homogeneity could have increased susceptibility to anti-fat bias and other extra-legal factors.

There also are limitations associated with the assessment of attributional processes. Prior to rendering individual level case judgments, participants were asked to express specific emotions, perceptions of the plaintiff and defendant, and opinions about witness credibility as well as those regarding actors' intention, causality, and foresight. This process may have increased participants' awareness and consideration of their reactions to the case and interpretations of attributional information, leading to an increased tendency to incorporate their expressed reactions and opinions into their case judgments. Jurors may have been motivated to incorporate their SE and SLA responses in order to maintain cognitive consistency or because they believed they were expected to do so. Essentially, analyses indicated that SEs predicted SLAs which predicted case judgments, but these relationships may be partially attributable to the "forced" expression of specific SEs and SLAs.

Findings from this study suggest that jurors followed the primary attributional pathways proposed by the CCM (Paths 2 and 3 as illustrated in **Figure 1**), but it is possible that some jurors may have followed Path 1B. Such alternative pathways should be tested in future research. In addition, this study failed to illuminate any differences in participant's perceptions of the three structural linkages as proposed by the CCM and how these three SLAs may impact decision-making. The scale designed to assess these three SLAs instead appeared to measure a unitary construct of interpretation of attributional criteria. The three hypothesized SLAs may indeed represent a single construct; however, future studies must be conducted to confirm this notion.

Perhaps the three unique SLAs could be more appropriately measured using a different scale or a different sample.

Both the limitations and contributions of this study can help inform future research. Clearly, more research is needed to better understand the circumstances in which plaintiff weight may influence jurors' decisions in malpractice cases. There were no direct effects of plaintiff weight on any of the dependent variables assessed in this study. The plaintiff was depicted as obese, but most participants likely did not perceive her as "morbidly" obese. Studies depicting the plaintiff as substantially heavier than the current depiction may reveal stronger effects of anti-fat bias on jurors' decisions. The effects of plaintiff weight on jurors' decisions may also depend on whether key features of the case trigger activation of weight-related stereotypes. The scenario involving LASIK surgery was purposely used in this study because it did not imply that the plaintiff's weight contributed to either her condition that necessitated the surgery or its negative outcomes. The effects of plaintiff weight may be stronger in medical malpractice cases in which an obese plaintiff has a condition that is more directly associated with obesity, such as heart disease or diabetes. Future research could explore the effects of plaintiff weight and condition/illness type (i.e., associated with obesity vs. not associated) on jurors' decisions using similar case scenarios. Findings that jurors render more "anti-plaintiff" judgments when an obese plaintiff's underlying condition is strongly associated with obesity could lend support to the JSM, which would conceptualize the obese plaintiff's reason for surgery as a justification for blame.

The depiction of the defendant in this study, "Dr. Kelly," was held constant across all conditions. Though the photograph of Dr. Kelly was not pre-tested or rated prior to being presented to participants in the current study, it does depict an attractive male doctor. The

attractiveness of Dr. Kelly may have affected jurors' decisions, such that jurors were more lenient towards the defendant. This leniency may have been more pronounced in the deliberating condition to the extent that all deliberating jurors similarly favored Dr. Kelly because of his attractiveness. Thus, findings from the current study must be replicated in studies that present different defendants to participants (e.g., less attractive defendants, female defendants, ethnic minority defendants, etc.) to ensure that effects are in fact attributable to plaintiff weight, decision context, and individual differences rather than to participants' reactions to the defendant's appearance.

Among all of the independent and individual difference variables included in this study, decision context had the strongest and most consistent effects on jurors' decisions. Further exploration of the dynamics and impacts of deliberations on jurors' decisions in medical malpractice cases and in civil cases in general is greatly needed, especially considering the dearth of research in this area. Experimental studies using community samples and different case scenarios can compare either the pre- and post-deliberation decisions of deliberating jurors or the decisions of deliberating and non-deliberating jurors to determine whether the current study's leniency effect occurs in other contexts. Evidence supporting or opposing a leniency effect in civil juries could also be obtained by comparing judicial and jury civil case judgments in both laboratory and real-world settings.

Sommer and colleagues (2001) demonstrated that the decision of mock civil juries were inappropriately influenced by decision rules (i.e., strict vs. contributory and comparative rules). Current findings highlight the need to examine civil juries' susceptibility to other extra-legal factors. Other studies using community samples and different case scenarios must be conducted to clarify and expand upon the current finding that deliberating jurors are more susceptible to

anti-fat bias than non-deliberating jurors. Civil jury decision-making researchers should also consider examining the effects of other potential biases related to plaintiff and defendant characteristics (e.g., ethnicity, SES, attractiveness, individual differences) on jurors' decisions in both deliberating and non-deliberating contexts. In particular, research is needed to better understand how related ideological variables such as BPWE, BJW, and anti-fat attitudes can impact civil jurors' decisions. Moreover, findings from the current study indicate that deliberations influenced jurors' decisions, but they do not explain *how* deliberations influenced these decisions. An enhanced understanding of deliberation processes and the topics discussed could be obtained by video or audio taping mock juror's deliberations.

Two additional key elements of civil jury decision-making were not explored in this study and merit further attention. Juries in the current study were required to render a unanimous verdicts; however, several state statutes specify that majority rather than unanimous agreement is sufficient to render judgments in many civil cases (Monahan & Walker, 2006). In future research, it will be important to consider unanimity as a factor in exploring both civil decision-making as a whole and how extra-legal factors can influence the judgments of deliberating juries. In addition, the current study did not ask juries to elect a foreperson. Yet, both civil and criminal juries elect a foreperson to serve as the chief jury leader and administrator (Feigenson, 2000). There has been little empirical research on the influences of jury forepersons on juror decisions; however, one study involving a civil case suggests that such influence is substantial (Foley & Pigott, 1997). Thus, future research investigating the effects of extra-legal factors on deliberating jurors' decisions should also explore the general role of the foreperson in such decisions as well as how characteristics of the foreperson (e.g., individual differences) operate to influence collective jury judgments.

Finally, there is a need for more empirical research grounded in the CCM. Such research should not only conduct additional tests of the framework, but also explore its capability to enhance the understanding of attributional processes and blame ascriptions in applied contexts. Both theorists and applied researchers have highlighted the CCM's applicability to real-world decision making, and to legal decision-making in particular (Alicke & Zell, 2009; Bright & Goodman-Delahunty, 2006; Nadelhoffer, 2006). Published empirical studies to date have only examined select components of the CCM (e.g., Alicke, 1994; Alicke & Zell, 2009. Bright & Goodman-Delahunty). The more comprehensive test of the CCM conducted in this study supports the main tenets of the CCM and the hypothesized relationships between its components. However, understanding how each component operates to influence jurors' decisions was challenging, and the full CCM framework may be too complex for use in applied settings. Thus, future research should focus on identifying the components of the CCM that are most predictive of attributional processes and blame ascriptions across various scenarios. For instance, current findings indicated that perceptions of the plaintiff and defendant were stronger predictors of attributional processes and blame than affective reactions, and that three separate SLAs conceptualized by the CCM may represent a single construct. Findings from research focused on identifying the strongest, most consistent predictors in the CCM could lead to the development of a simplified model, which in turn may increase the use of the CCM in both research and applied contexts.

### Chapter 13: Conclusion

Despite the growing rate of obesity in the U.S., weight-related prejudice perseveres. These prejudices often lead to discrimination against overweight and obese individuals in a variety of settings (Puhl & Heuer, 2009). Little research, however, has been conducted to determine whether obese individuals may be subject to discrimination in legal contexts such as jury trials. In addition, little is known about how extra-legal factors in general may influence juror decisions in jury trials and if deliberations serve to exacerbate or attenuate such influences.

This study explored the effects of plaintiff weight, deliberations, and individual differences on mock jurors' decisions in a medical malpractice case. The CCM was used to ground the research, as this attributional framework considers how initial reactions and biases can influence both interpretation of attributional information (e.g., case evidence) and blame ascriptions. It was predicted that jurors exposed to the obese plaintiff would express more anti-plaintiff reactions, interpret the evidence in a manner more conducive to blaming the plaintiff, and render case decisions less favorable to the plaintiff than jurors exposed to the normal weight plaintiff. In the obese plaintiff condition, men and those with strong ideological beliefs associated with anti-fat bias were expected to render more anti-plaintiff judgments than their counterparts. In addition, deliberations were expected to minimize the effects of anti-fat bias on both jury and individual level judgments when the plaintiff was depicted as obese.

Findings revealed no direct effects of plaintiff weight on case judgments or any of the attributional measures. Contrary to expectations, results suggested that deliberating jurors were more likely than non-deliberating jurors to incorporate plaintiff weight into their case-related reactions, interpretations, and decisions; yet, deliberations did not moderate the effects of

plaintiff weight on verdicts. Analyses including both deliberating and non-deliberating jurors generally supported predictions regarding interactive effects between plaintiff weight and individual differences on jurors' decisions. Mock jurors with strong just world beliefs were particularly likely to render anti-plaintiff judgments in the obese condition. Tests of the CCM indicated that jurors' attributions and attributional processes aligned with theoretical expectations and proposed relationships between the various CCM components. This study also yielded important findings that were not directly tied to formally advanced hypotheses. Overall, deliberating jurors were more lenient towards the defendant than non-deliberating jurors. Several individual difference impacted jurors' decisions regardless of plaintiff weight. Specifically, BPWE, anti-fat attitudes, and participant BMI were all positively related to leniency (toward the defendant).

This research has many limitations, specifically with respect to verisimilitude and generalizability. Yet, this study also yielded numerous main and interactive effects that have not been documented in the published civil juror decision-making literature, which can help build a foundation for understanding how extra-legal factors and deliberations can affect civil jury decisions. Both the contributions and limitations of this study illuminate exciting directions for future research.

Ultimately, this research reinforces the notion of juror and jury decision-making as a complex process that may be influenced by multiple factors. Plaintiff weight was introduced as a salient source of bias in this study, but it only influenced jurors' decisions in particular circumstances. In those specific circumstances, plaintiff weight still only exerted a small effect on jurors' decisions. In anticipating jurors' decisions, it is important that researchers and practitioners consider a broad range of potential influencing factors and how these factors may

interact with one another. However, simplification of research results and theoretical models guiding such predictions (such as the CCM and other attributional frameworks) is also needed so that practitioners can efficiently apply this knowledge in real-world contexts.



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### Appendix A: Summary of Abbreviations and Terms

Table 1. *Descriptions of key abbreviations and terms used in this study.*

Abbreviation or Term	Full name or construct	Description
<b>AFAs</b>	Anti-fat Attitudes	Negative attitudes toward overweight or obese people; also a scale used to measure Anti-Fat Attitudes in other studies.
<b>BJW</b>	Belief in a Just World	The belief that that the world is a fair and just place and that individuals get what they deserve. This term is used to discuss this general construct as examined in prior literature.
<b>BJW-O/ BJW-O Scale</b>	Belief in a Just World-Other	Individuals' beliefs that the world is just for others around them. The 8 item BJW-O scale used in this study assessed beliefs using a 5-point scale, such that 1 = very weak beliefs and 5 = very strong beliefs.
<b>BMI</b>	Body Mass Index	A measure to categorize individuals as underweight, normal weight, overweight, or obese; participant BMI in this study was calculated using self-reported weight and height. Higher BMIs indicate participants with greater body fat in proportion to their reported height.
<b>BPWE/ BPWE Scale</b>	Belief in the Protestant Work Ethic	Belief in the value of hard work and self-discipline; and that success can be achieved for those who work hard. This abbreviation refers to the general construct as well as Protestant Ethic beliefs as assessed in this study. Scores on the 11 item BPWE scale can range from 1 to 7, such that 1 = very weak beliefs and 7 = very strong beliefs.

Table 1 Continued.

Abbreviation or Term	Full name or construct	Description
<b>CCM</b>	Culpable Control Model	Attributional theory used to ground the current study; proposes that attributional processes and blame are affected by individual reactions and bias.
<b>Defendant Witness Ratings</b>	Defendant Witness Ratings: A Measure of Structural Linkage Assessments (SLAs)	This 2 item scale is an average of ratings of the convincingness of the two witnesses for the defendant. Scores can range from 1-7, with 1 = extremely negative ratings of the defendant's witnesses' convincingness and 7 = extremely positive ratings of the defendant's witnesses' convincingness
<b>FPS</b>	Fat Phobia Scale	This 14 item semantic differential scale measures anti-fat attitudes and beliefs. Scores can range from 1 to 5, with higher scores indicating stronger anti-fat attitudes and beliefs.
<b>JSM</b>	Justification-Suppression Model of Prejudice	Theory of the expression of prejudice used to guide and contextualize the current study; proposes that all individual harbor "raw" or genuine prejudices and that these prejudices are expressed through various outlets.
<b>Negative SEs/Negative SE Scale</b>	Negative Spontaneous Evaluations	"Negative SEs" refers to the initial negative emotional and perceptual experiences of perceivers after exposure to an event involving a negative outcome. The three item Negative SE scale used in this study assesses participant's negative emotional responses to the event using a 5-point scale, such that 1 = no negative

Table 1 Continued.

Abbreviation or Term	Full name or construct	Description
<b>Negative SEs/Negative SE Scale (Continued)</b>	Negative Spontaneous Evaluations (Continued)	emotional response and 5 = strong negative emotional response.
<b>Perceptions of the Plaintiff</b>	Perceptions of the Plaintiff: A Measure of Spontaneous Evaluations (SEs)	Individuals' initial reactions to the plaintiff, which occurred on a 7-point scale with 1 = extremely negative and 7 = extremely positive. This is one of the three measures of spontaneous evaluations (SEs) according to the CCM.
<b>Perceptions of the Defendant</b>	Perceptions of the Plaintiff: A Measure of Spontaneous Evaluations (SEs)	Individuals' initial reactions to the defendant, which occurred on a 7-point scale with 1 = extremely negative and 7 = extremely positive. This is one of the three measures of spontaneous evaluations (SEs) according to the CCM.
<b>Plaintiff Witness Ratings</b>	Plaintiff Witness Ratings: A Measure of Structural Linkage Assessments (SLAs)	This 3 item scale is an average of ratings of the convincingness of the three witnesses for the plaintiff. Scores can range from 1-7, with 1 = extremely negative ratings of the plaintiff's witnesses' convincingness and 7 = extremely positive ratings of the plaintiff's witnesses' convincingness
<b>SLAs</b>	Structural Linkage Assessments	As proposed by the CCM, SLAs are the attributional criteria perceivers consider when ascribing blame. There are three SLAs perceivers can make: causal control, behavioral control, and outcome control.
<b>SLA Scale</b>	Structural Linkage Assessment Scale	This 11-item scale was created for the purposes of this study to assess the extent to which perceivers interpret attributional criteria in a manner more conducive to blaming the

Table 1 Continued.

Abbreviation or Term	Full name or construct	Description
<b>SLA Scale (Continued)</b>	Structural Linkage Assessment Scale (Continued)	plaintiff or to blaming the defendant. It incorporates elements of the three proposed structural linkages. The scale ranged from 1-7, with higher scores indicating more pro-plaintiff attributions and lower scores indicating more pro-defendant attributions.
<b>Total Responsibility</b>	Total Responsibility Scale: A Measure of Blame	This two item scale is an average of total responsibility assigned to the plaintiff and defendant for the negative medical outcome. Scores can range from 1-7, such that 1 = responsibility completely assigned to the plaintiff and 7 = responsibility completely assigned to the defendant.

**Appendix B: Information Sheet for Non-Deliberating Participants**UNIVERSITY OF NEVADA, RENO  
INFORMATION SHEET

TITLE OF STUDY: Juror's Decisions in Medical Malpractice Trials

INVESTIGATORS: Monica Miller, J.D., Ph.D. ([mkmiller@unr.edu](mailto:mkmiller@unr.edu); 784-6021); Lorie Sicafuse ([lsicafuse@unr.edu](mailto:lsicafuse@unr.edu))

PROTOCOL NUMBER: XXXX/XXXX

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**PURPOSE:** You are being asked to participate in a research study. The purpose of this study is to learn more about factors that may affect jurors' decision making in medical malpractice trials.

**PARTICIPANTS:** You are being asked to participate in this dissertation study conducted by researchers at the University of Nevada, Reno, because you are currently enrolled in an undergraduate social sciences course. You are not obligated to participate in this specific study for course credit. You must be at least 18 years old to participate.

**PROCEDURES:** If you choose to participate, you will be asked to read a summary of a medical malpractice lawsuit. You will be asked to take some time to think about the case and then complete a survey asking you about your attitudes concerning the issues involved. In addition, you may complete a series of questionnaires regarding your personal beliefs and personality characteristics. Questions about demographic information (e.g., age, gender) will also be asked. The study will last approximately 60 minutes.

**RISKS:** There are minimal risks for participating in the study. However, you will be asked to imagine you are serving as a juror for a medical malpractice trial. You might become upset by reading about medical malpractice, especially if it has ever happened to you or someone you know. In addition, you might become fearful that something like that could happen to you if you ever have surgery. If you think that this activity might upset you, you may withdraw from the study with no penalty. If you feel the need to speak to a counseling professional, you may contact the Counseling and Testing Center at (775) 784-4648, or the Crisis Call center (775) 784-8090, or a mental health professional of your choice.

**BENEFITS:** There may be no direct benefits to you as a participant in this study. However, you may find it interesting to learn a little bit about how psychological research is conducted and about medical malpractice litigation.

**CONFIDENTIALITY:** Your responses are completely confidential, and will have absolutely *no effect* on your relationships with your course instructor or with your institution. Only the investigator, research assistants, and the UNR Social Behavioral Institutional Review Board will have access to the data. All surveys will be stored for 5 years in a locked space in the investigator's laboratory and then destroyed. Although your name or identifying information will not be collected, you will be asked to wear a sticker displaying your juror number (as actual jurors do) while you participate in this study. After you have finished the study, you will be asked to remove your sticker with your Juror ID number and place it on the cover sheet of your completed survey. This number will allow researchers to link the survey with the database in case researchers need to double check the information that was entered in the database (e.g., in case there is a typographical error in the database, we can go back to the survey and see what the

correct response was). This number will only be used for data analysis purposes; it cannot and will not be used to identify you personally.

COSTS/COMPENSATION: There will be no cost to you for participating in this study. You will receive credit to be applied to your undergraduate course for participation as determined by your professor. Equivalent alternatives for credit will be offered in every class where credit is given for participation in this study. If you are in a class that offers credit for this study and wish to complete an alternate opportunity, please ask your professor. Reading and summarizing a research article is a common example of an alternative activity offered by professors. You will receive equivalent credit for this alternate activity.

RIGHT TO REFUSE OR WITHDRAW: You may refuse to participate or withdraw from the study at anytime without penalty and there will be no negative impact on services, grades, or education. You may choose to skip questions that you do not want to answer.

QUESTIONS: If you have any questions, please ask us. If you have additional questions later, contact Monica Miller, J.D., Ph.D. Associate Professor of Criminal Justice and Social Psychology; Department of Criminal Justice Mailstop 214; Leifson Physics Building; (775) 784-6021; [mkmiller@unr.edu](mailto:mkmiller@unr.edu). You also may contact Lorie Sicafuse ([lsicafuse@unr.edu](mailto:lsicafuse@unr.edu)).

You may ask about your rights as a human subject or you may report (anonymously if you so choose) any comments, concerns, or complaints to the University of Nevada, Reno Social Behavioral Institutional Review Board, telephone number 775-327-2368, or by addressing a letter to the Chair of the Board, c/o Office of Human Research Protection, 205 Ross Hall/331, University of Nevada, Reno; Reno, Nevada 89557.

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## Appendix C: Information Sheet for Deliberating Participants

### UNIVERSITY OF NEVADA, RENO INFORMATION SHEET

TITLE OF STUDY: Juror's Decisions in Medical Malpractice Trials

INVESTIGATORS: Monica Miller, J.D., Ph.D. ([mkmiller@unr.edu](mailto:mkmiller@unr.edu); 784-6021); Lorie Sicafuse ([lsicafuse@unr.edu](mailto:lsicafuse@unr.edu))

PROTOCOL NUMBER: XXXX/XXXX

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**PURPOSE:** You are being asked to participate in a research study. The purpose of this study is to learn more about factors that may affect jurors' decision making in medical malpractice trials.

**PARTICIPANTS:** You are being asked to participate in this dissertation study conducted by researchers at the University of Nevada, Reno, because you are currently enrolled in an undergraduate social sciences course. You are not obligated to participate in this specific study for course credit. You must be at least 18 years old to participate.

**PROCEDURES:** If you choose to participate, you will be asked to read a summary of a medical malpractice lawsuit and "deliberate" the case with other participants in a small group, as actual jurors do before deciding on a verdict. After discussing the case and sharing your perspectives, your "jury" will be asked to render a group decision about the case. Next, you will be asked to complete a survey asking you about your own attitudes regarding the case and the issues involved. In addition, you may complete a series of questionnaires regarding your personal beliefs and personality characteristics. Questions about demographic information (e.g., age, gender) will also be asked. The study will last approximately 60 minutes.

**RISKS:** There are minimal risks for participating in the study. However, you will be asked to imagine you are serving as a juror for a medical malpractice trial. You might become upset by reading about medical malpractice, especially if it has ever happened to you or someone you know. In addition, you might become fearful that something like that could happen to you if you ever had surgery. If you think that this activity might upset you, you may withdraw from the study with no penalty. If you feel the need to speak to a counseling professional, you may contact the Counseling and Testing Center at (775) 784-4648, or the Crisis Call center (775) 784-8090, or a mental health professional of your choice.

**BENEFITS:** There may be no direct benefits to you as a participant in this study; however you may find it interesting to learn a little bit about how psychological research is conducted and about medical malpractice litigation.

**CONFIDENTIALITY:** This survey is completely confidential, and will have absolutely *no effect* on your relationships with your course instructor or with your institution. Only the investigator, research assistants, and the UNR Social Behavioral Institutional Review Board will have access to the data. All surveys will be stored for 5 years in a locked space in the investigator's laboratory and then destroyed. Although your name or identifying information will not be collected, you will be asked to wear a sticker displaying your juror number (as actual jurors do) while you participate in this study. After you have finished the study, you will be asked to remove your sticker with your Juror ID number and place it on the cover sheet of your completed survey. This number will allow researchers to link the survey with the database in case researchers need

to double check the information that was entered in the database (e.g., in case there is a typographical error in the database, we can go back to the survey and see what the correct response was), and it will allow us determine which jury group you belonged to. This number will only be used for data analysis purposes; it cannot and will not be used to identify you personally.

COSTS/COMPENSATION: There will be no cost to you for participating in this study. You will receive credit to be applied to your undergraduate course for participation as determined by your professor. Equivalent alternatives for credit will be offered in every class where credit is given for participation in this study. If you are in a class that offers credit for this study and wish to complete an alternate opportunity, please ask your professor. Reading and summarizing a research article is a common example of an alternative activity offered by professors. You will receive equivalent credit for this alternate activity.

RIGHT TO REFUSE OR WITHDRAW: You may refuse to participate or withdraw from the study at anytime without penalty and there will be no negative impact on services, grades, or education. You may choose to skip questions that you do not want to answer.

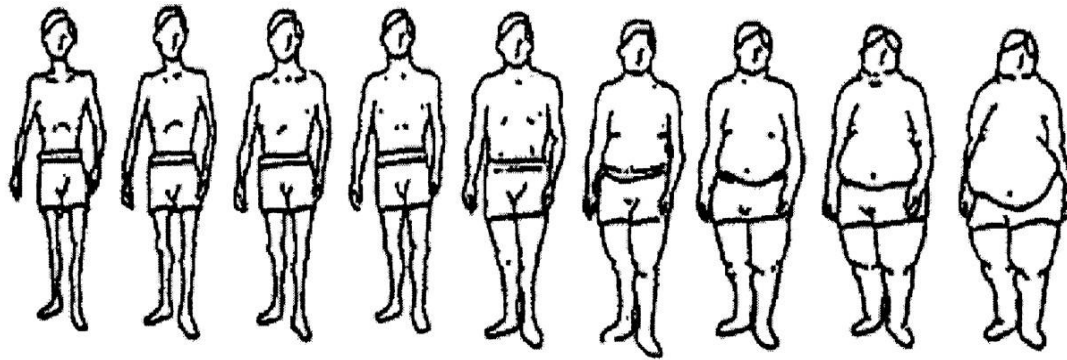
QUESTIONS: If you have any questions, please ask us. If you have additional questions later, contact Monica Miller, J.D., Ph.D. Associate Professor of Criminal Justice and Social Psychology; Department of Criminal Justice Mailstop 214; Leifson Physics Building; (775) 784-6021; [mkmiller@unr.edu](mailto:mkmiller@unr.edu). You may also contact Lorie Sicafuse ([lsicafuse@unr.edu](mailto:lsicafuse@unr.edu)).

You may ask about your rights as a human subject or you may report (anonymously if you so choose) any comments, concerns, or complaints to the University of Nevada, Reno Social Behavioral Institutional Review Board, telephone number 775-327-2368, or by addressing a letter to the Chair of the Board, c/o Office of Human Research Protection, 205 Ross Hall/331, University of Nevada, Reno; Reno, Nevada 89557.

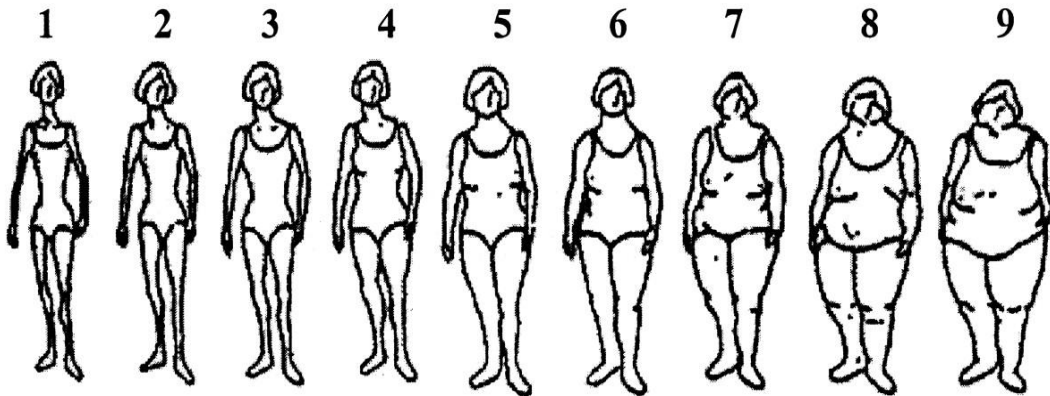
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Appendix D: Stunkard Figural Rating Scale Instrument



Male



Female







**Appendix F: Trial Summary with Instructions for Non-Deliberating Jurors**  
**Case: Morrison vs. Kelly**  
**Presided by: Judge Robert W. Pratt**

The presiding judge, the Honorable Robert Pratt, gives you the following INSTRUCTIONS:

**“You have been selected to serve as a juror in a case involving an allegation of medical malpractice. Our entire justice system rests on the decisions of citizens like you, and it is important that you take your job seriously. Please carefully read the following summary of the case. After you have finished reading the summary, I ask that you take some additional time, approximately 10-15 minutes, to further consider the case facts, evidence, and witness testimony included in the trial summary. You may refer back to the summary as you are thinking about the case and you make take notes on the scratch paper provided. The investigator will tell you when it is time to render your case decisions.”**

The plaintiff, Andrea Morrison, is a 32 year-old resident of Henderson, Nevada who earns \$43,000 a year as a Human Resources Assistant. On April 20, 2010, Ms. Morrison visited the Southern Nevada Eye Institute for consultation regarding corrective eye surgery for moderate myopia (nearsightedness). During this appointment, two technicians conducted a comprehensive eye exam, measured Ms. Morrison’s corneal thickness in both eyes, and obtained a detailed medical history. Based on these results, the technicians informed Ms. Morrison that she would be a good candidate for LASIK surgery to correct her myopia. Ms. Morrison decided to undergo LASIK eye surgery on June 23, 2010. She was directed to stop wearing her contact lenses two weeks prior to surgery so that her cornea would return to its natural shape for the procedure.

On the afternoon of her surgery, Ms. Morrison signed documents indicating that she was aware of the risks and side effects of LASIK and consenting to the surgery. Dr. Steven Kelly, a 35 year-old ophthalmic surgeon who was recently certified by the American Board of Ophthalmology, was scheduled to perform the procedure. Dr. Kelly had already performed 30 Lasik surgeries that day, and had two additional appointments scheduled after Ms. Morrison’s surgery. Dr. Kelly made his first contact with Ms. Morrison 45 minutes prior to surgery. During this time he conducted a pre-surgery exam, lasting approximately 20 minutes. He also counseled Ms. Morrison on what to expect during surgery and discussed the potential risks and benefits of LASIK. She was informed that there was approximately a 90% chance that her current vision of 20/60 would be fully corrected by the procedure and that various complications could occur, but that the risks were very low (less than 5%). Dr. Kelly explained that he would be using a mechanical microkeratome, a precision surgical instrument with an oscillating blade, to first cut a flap in the cornea which would be lifted to expose the corneal bed. Next, an excimer laser would be applied to erode and reshape the exposed corneal tissue, ultimately remodeling the cornea to properly refract light and most likely correcting Ms. Morrison’s myopia. Finally, the flaps would be repositioned, and Ms. Morrison would return home to rest for the next several days to facilitate healing. The entire surgical procedure was expected to last between 10-15 minutes. Ms. Morrison was strictly instructed to remain still during surgery and not to move her head, as patient head movement may result in imprecise corneal incisions. Ms. Morrison stated that she understood all of these precautions. As is typical in LASIK surgery, Ms. Morrison remained awake during the procedure, but was given Valium and anesthetic eye drops.

Ms. Morrison's surgery did not proceed as planned. Dr. Kelly first applied a corneal suction ring to Ms. Morrison's right eye to immobilize the eye. Next, he proceeded to make a corneal incision to create the "flap" using the microkeratome; however, the microkeratome passed through the top of the cornea, creating a thin, incomplete flap with a hole in its center. This rare complication of LASIK surgery is referred to as a "buttonhole flap." Dr. Kelly immediately suspended surgery following this error and replaced the damaged corneal flap. Two days later, he performed a "refloat" procedure on Ms. Morrison's right eye during which he repositioned and smoothed the flap. Dr. Kelly also removed an additional small piece of corneal tissue during this time to ensure optimal repositioning.

One week later, Ms. Morrison sought care at another facility (LasikPlus Vision Center in Las Vegas, Nevada), where she was diagnosed with decreased vision due to irregular astigmatism, corneal scarring, and some missing corneal flap in her right eye. She was subsequently referred to a local corneal specialist, who recommended a corneal transplant to remedy the damage. However, Ms. Morrison was unwilling to have the transplant and was left with extreme loss of vision, double vision, and blurriness in her right eye which cannot be corrected.

Ms. Morrison is suing the defendant, Dr. Kelly, on the grounds that he exhibited preoperative, interoperative, and postoperative negligence resulting in her current pronounced visual deficiencies. Several witnesses testified during the trial, including Ms. Morrison and her husband, David Morrison; Dr. Kelly; and two expert witnesses, Dr. Jordan and Dr. Elliot. Neither of the expert surgeons were directly related to the case (i.e., were not involved in Ms. Morrison's surgery or treatment).

### **Plaintiff Witnesses**

#### **Dr. Karen Jordan**

**Dr. Karen Jordan**, an ophthalmic surgeon specializing in LASIK procedures, testified for the plaintiff. Based on her knowledge and professional experience, Dr. Jordan concluded that Dr. Kelly behaved negligently before, during, and following Ms. Morrison's surgery. Dr. Jordan testified that only a Board-certified physician should assess a patient's suitability for corrective eye surgery; yet, in Ms. Morrison's case, such an assessment was conducted by two ophthalmic technicians. Though qualified in their current role, these individuals did not hold an MD and Dr. Kelly accepted their recommendations in lieu of conducting his own extensive pre-examination to determine whether LASIK would be appropriate for Ms. Morrison. Dr. Jordan believed that Ms. Morrison was in fact not a good candidate for LASIK due to an inadequate amount of corneal tissue. She explained that the recommended corneal thickness for LASIK is at least 500 microns; however, the technicians obtained a corneal thickness measurement of approximately 490 microns for both of Ms. Morrison's eyes. Dr. Jordan stated that this lack of corneal tissue could have possibly resulted in Dr. Kelly cutting a thinner corneal flap than is typical for LASIK. Further, Dr. Jordan opined that Dr. Kelly made an imprecise corneal incision with the mechanical microkeratome resulting in the thin buttonhole flap which led to the subsequent irreversible visual complications experienced by the plaintiff.

Dr. Jordan believed that Dr. Kelly's inexperience and fatigue from performing over 30 procedures on the same day likely contributed to the surgical error. She noted that complications such as buttonhole flaps are much more common among inexperienced surgeons,

and that Dr. Kelly had only been performing LASIK procedures for two weeks prior to Ms. Morrison's surgery. Though a typical LASIK procedure is completed in less than 15 minutes, Dr. Jordan emphasized that each procedure requires a great deal of concentration and preciseness on the part of the surgeon. She testified that, in her experience, LASIK surgeons generally perform approximately 20 procedures a day, which allows time for breaks and further patient consultation. Upon further questioning, Dr. Jordan said that Dr. Kelly may have scheduled an excessive number of surgeries in order to gain more experience and referrals, and that it was possible that he was "rushing" - that is, trying to complete Ms. Morrison's surgery as quickly as possible to allow time for the additional two surgeries he had scheduled for that day.

Finally, Dr. Jordan testified Dr. Kelly was negligent in removing any further corneal tissue in performing the "refloat" procedure two days following the failed surgery, and that the typical protocol for buttonhole flaps is to immediately replace the flap, let the hole heal over the course of several months, and to attempt surgery again if indeed the flap has healed.

#### **Ms. Andrea Morrison**

**Ms. Morrison** testified that that Dr. Kelly and the Southern Eye Institute of Nevada staff had informed her of the potential risks and benefits of surgery, and that she had signed documents consenting to the procedure. She stated that she adhered to all preoperative, intraoperative, and postoperative instructions she was given. Ms. Morrison testified that her life was severely and permanently impacted by the outcome of her surgery. She reported experiencing moderate pain and irritation in her right eye during the two months following the unsuccessful procedure, as well as visual disturbances such as "floaters" (spots and lines in her field of vision) and "halos" (luminous rings around light sources). Based on her surgical consultation, Ms. Morrison anticipated taking three days of paid leave from work to recover from her procedure; however, due to complications, she missed an additional 5 weeks of work, 3 of which were unpaid. Ms. Morrison testified that she is no longer able to drive due to her decreased vision and relies on her husband to transport her to and from work; she also requires special visual accommodations in her job. Ms. Morrison estimated that her work productivity has decreased by 50% as a result of her permanent visual impairment. During cross-examination, Ms. Morrison admitted that she continued to wear her contact lenses until five days prior to surgery, though she had been instructed to stop wearing them a full two weeks before the surgery. Yet, she maintained that she followed all other instructions related to her surgery and adamantly denied moving her head during the procedure.

#### **Mr. Brian Morrison**

During his testimony, **Ms. Morrison's husband, Brian**, confirmed that she had followed all pre, post, and intraoperative instructions with the exception of continuing to wear her contacts until five days before the surgery. Mr. Morrison was present in the operating room, and stated that Ms. Morrison remained still throughout the procedure and did not move her head. He further corroborated Ms. Morrison's testimony in describing the significant impact that the failed surgery has had on her life. In addition, Mr. Morrison indicated that Ms. Morrison's injuries also have impacted his life and household finances. Most notably, Mr. Morrison (who works as a warehouse supervisor) said that he had to switch his regular work hours from swing shift (3 PM – 12 PM) to day shift in order to drive Ms. Morrison to work; this change resulted in a 10% reduction in his hourly pay.

Following Ms. And Mrs. Morrison's testimony, the plaintiff's attorney again called their expert witness, **Dr. Jordan**, for brief follow-up questioning. Dr. Jordan testified that Ms. Morrison's failure to follow instructions regarding discontinuing the use of contact lenses likely did not contribute to the surgical complications. She explained that although continued use of contact lenses may alter the natural shape of the cornea and decrease the likelihood of LASIK success, it should not impact initial surgical procedures or estimations of corneal thickness.

### **Defense Witnesses**

#### **Dr. Lisa Elliot**

Ophthalmic surgeon **Dr. Lisa Elliot** testified for the defense. Like the plaintiff's expert, Dr. Elliot specializes in LASIK procedures and based her testimony on her years of education and experience. In addressing the plaintiff's claims of preoperative negligence, Dr. Elliot conceded that only a qualified physician should assess a patient's suitability for LASIK surgery. However, she testified that ophthalmic surgeons sometimes largely base these assessments on exams conducted by qualified ophthalmic technicians and on their pre-operative examination, and that this practice is generally accepted in the ophthalmic medical community. Dr. Elliot agreed with the plaintiff's expert that basic guidelines for LASIK indicate that patients' corneal width should measure 500 microns, but countered that exceptions often are made based on the degree to which the surgeon must erode or "ablate" the exposed corneal tissue to reshape the cornea. In addition, Dr. Elliot testified that although Dr. Kelly only had been routinely performing LASIK surgery for two weeks prior to Ms. Morrison's procedure, he was qualified to do so as he had performed such surgeries during his residency and had been certified by the American Board of Ophthalmology. She disagreed with the plaintiff's expert's testimony that Dr. Kelly performed an "excessive" number of procedures on the day of Ms. Morrison's surgery, noting that there are no clear professional guidelines regarding this matter. However, she stated that, based on her experience, it was highly unusual for a surgeon to perform more than 25 procedures in one day.

Dr. Elliot opined that the buttonhole complication during surgery was most likely caused by sudden patient head movements, causing Dr. Kelly to involuntarily "pull up" on the microkeratome resulting in the thin flap with a central hole. Regarding the plaintiff's continued use of contact lenses until five days prior to surgery, Dr. Elliott testified that this precaution was primarily intended to prevent excessive bleeding and to ensure surgical success in correcting myopia, but that this possibly could have affected Dr. Kelly's estimations of the amount of tissue he would need to erode via laser, and subsequently the amount of corneal surface tissue to initially cut. Finally, Dr. Elliot testified that "refloat" procedures are routine following LASIK surgical procedures regardless of the outcome, and that performing such procedures is not in and of itself indicative of negligence. She admitted that removal of any corneal tissue during a refloat procedure is uncommon, but that this may possibly be required to ensure proper placement of the corneal tissues in some cases.

#### **Dr. Steven Kelly**

**Dr. Kelly** testified that he was fully qualified to perform LASIK surgery and submitted documentation of his certification from the American Board of Ophthalmology to the court. He stated that he had conducted LASIK several times during his residency, though he was unable to recall the exact number of procedures and no documentation of these surgeries could be



located. However, he did produce records of 208 LASIK surgical procedures he had performed at the Southern Nevada Eye Institute during the two weeks prior to Ms. Morrison's procedure. The patient's eyesight was successfully restored in 190 of these cases; the remaining 18 patients experienced minimal or no improvements in vision. Dr. Kelly noted that his record is consistent with the overall 90% success rate of LASIK surgery. No significant complications were documented in any of the 208 cases.

Dr. Kelly refuted the plaintiff's claims that he had failed to assess Ms. Morrison's suitability for LASIK, stating that he conducted his own assessment based on the consulting technician's exam results and on his examination of Ms. Morrison one hour prior to surgery. He acknowledged that Ms. Morrison's corneal thickness fell slightly below recommended guidelines for LASIK at 490 microns, but that he was not overly concerned due to his estimation that only 50 microns of tissue would need to be eroded to reshape the corneas. Dr. Kelly explained that a corneal bed of 250 microns must remain at the end of LASIK to promote surgical success and healing, and that the typical width of the initial corneal flap measures 150 microns. After creating the corneal flap (150 microns) and ablating 50 microns of tissue in each eye, Ms. Morrison would be left with 290 microns of corneal tissue in each eye.

The defendant also denied that the buttonhole flap complication resulted from fatigue or his "rushing" Ms. Morrison's surgery in order to attend to other patients. Dr. Kelly admitted that he had a "heavy" schedule on the day of Ms. Morrison's surgery, but this it was no more intense than that experienced by many surgical residents (himself included).

Dr. Kelly claimed that Ms. Morrison repeatedly made significant "jerking" movements of her head during the procedure and that he had written a chart note extensively detailing the patient jerking her head. This documentation was produced and submitted to the court. Dr. Kelly testified that the patient's head movements caused the buttonhole flap complication. Though he admitted to pulling back on the microkeratome, he said that this action was necessary to prevent more extensive injury to Ms. Morrison (e.g., to prevent the microkeratome from cutting deep into the eye). In examining Ms. Morrison two days following the incomplete LASIK surgery, Dr. Kelly noted that the replaced corneal flap had not returned to its prior position and was slightly "wrinkled," thus necessitating a "refloat" procedure to smooth and reposition the flap. Dr. Kelly further stated that he removed part of the corneal flap to ensure proper placement though this is not typically recommended. Documentation of these notes and of the refloat procedure were submitted to the Court.

**\*\*\*\*\*PLEASE STOP HERE AND WAIT FOR THE INVESTIGATOR'S  
INSTRUCTIONS\*\*\*\*\***

**Appendix G: Trial Summary with Instructions for Deliberating Jurors**  
**Case: Morrison vs. Kelly**  
**Presided by: Judge Robert W. Pratt**

**The presiding judge, the Honorable Robert Pratt, gives you the following INSTRUCTIONS:**

**“You have been selected to serve as a juror in a case involving an allegation of medical malpractice. Our entire justice system rests on the decisions of citizens like you, and it is important that you take your job seriously. Please carefully read the following summary of the case. After you have finished reading the summary, you will be asked to deliberate the case with your assigned jury; that is, you will be asked to discuss the case facts, evidence, and witness testimony provided in this summary in a group and reach an agreement about liability and damages. You may refer back to the summary as you are deliberating this case.”**

The plaintiff, Andrea Morrison, is a 32 year-old resident of Henderson, Nevada who earns \$43,000 a year as a Human Resources Assistant. On April 20, 2010, Ms. Morrison visited the Southern Nevada Eye Institute for consultation regarding corrective eye surgery for moderate myopia (nearsightedness). During this appointment, two technicians conducted a comprehensive eye exam, measured Ms. Morrison’s corneal thickness in both eyes, and obtained a detailed medical history. Based on these results, the technicians informed Ms. Morrison that she would be a good candidate for LASIK surgery to correct her myopia. Ms. Morrison decided to undergo LASIK eye surgery on June 23, 2010. She was directed to stop wearing her contact lenses two weeks prior to surgery so that her cornea would return to its natural shape for the procedure.

On the afternoon of her surgery, Ms. Morrison signed documents indicating that she was aware of the risks and side effects of LASIK and consenting to the surgery. Dr. Steven Kelly, a 35 year-old ophthalmic surgeon who was recently certified by the American Board of Ophthalmology, was scheduled to perform the procedure. Dr. Kelly had already performed 30 Lasik surgeries that day, and had two additional appointments scheduled after Ms. Morrison’s surgery. Dr. Kelly made his first contact with Ms. Morrison 45 minutes prior to surgery. During this time he conducted a pre-surgery exam, lasting approximately 20 minutes. He also counseled Ms. Morrison on what to expect during surgery and discussed the potential risks and benefits of LASIK. She was informed that there was approximately a 90% chance that her current vision of 20/60 would be fully corrected by the procedure and that various complications could occur, but that the risks were very low (less than 5%). Dr. Kelly explained that he would be using a mechanical microkeratome, a precision surgical instrument with an oscillating blade, to first cut a flap in the cornea which would be lifted to expose the corneal bed. Next, an excimer laser would be applied to erode and reshape the exposed corneal tissue, ultimately remodeling the cornea to properly refract light and most likely correcting Ms. Morrison’s myopia. Finally, the flaps would be repositioned, and Ms. Morrison would return home to rest for the next several days to facilitate healing. The entire surgical procedure was expected to last between 10-15 minutes. Ms. Morrison was strictly instructed to remain still during surgery and not to move her head, as patient head movement may result in imprecise corneal incisions. Ms. Morrison stated that she understood all of these precautions. As is typical in LASIK surgery, Ms. Morrison remained awake during the procedure, but was given Valium and anesthetic eye drops.

Ms. Morrison's surgery did not proceed as planned. Dr. Kelly first applied a corneal suction ring to Ms. Morrison's right eye to immobilize the eye. Next, he proceeded to make a corneal incision to create the "flap" using the microkeratome; however, the microkeratome passed through the top of the cornea, creating a thin, incomplete flap with a hole in its center. This rare complication of LASIK surgery is referred to as a "buttonhole flap." Dr. Kelly immediately suspended surgery following this error and replaced the damaged corneal flap. Two days later, he performed a "refloat" procedure on Ms. Morrison's right eye during which he repositioned and smoothed the flap. Dr. Kelly also removed an additional small piece of corneal tissue during this time to ensure optimal repositioning.

One week later, Ms. Morrison sought care at another facility (LasikPlus Vision Center in Las Vegas, Nevada), where she was diagnosed with decreased vision due to irregular astigmatism, corneal scarring, and some missing corneal flap in her right eye. She was subsequently referred to a local corneal specialist, who recommended a corneal transplant to remedy the damage. However, Ms. Morrison was unwilling to have the transplant and was left with extreme loss of vision, double vision, and blurriness in her right eye which cannot be corrected.

Ms. Morrison is suing the defendant, Dr. Kelly, on the grounds that he exhibited preoperative, interoperative, and postoperative negligence resulting in her current pronounced visual deficiencies. Several witnesses testified during the trial, including Ms. Morrison and her husband, David Morrison; Dr. Kelly; and two expert witnesses, Dr. Jordan and Dr. Elliot. Neither of the expert surgeons were directly related to the case (i.e., were not involved in Ms. Morrison's surgery or treatment).

### **Plaintiff Witnesses**

#### **Dr. Karen Jordan**

**Dr. Karen Jordan**, an ophthalmic surgeon specializing in LASIK procedures, testified for the plaintiff. Based on her knowledge and professional experience, Dr. Jordan concluded that Dr. Kelly behaved negligently before, during, and following Ms. Morrison's surgery. Dr. Jordan testified that only a Board-certified physician should assess a patient's suitability for corrective eye surgery; yet, in Ms. Morrison's case, such an assessment was conducted by two ophthalmic technicians. Though qualified in their current role, these individuals did not hold an MD and Dr. Kelly accepted their recommendations in lieu of conducting his own extensive pre-examination to determine whether LASIK would be appropriate for Ms. Morrison. Dr. Jordan believed that Ms. Morrison was in fact not a good candidate for LASIK due to an inadequate amount of corneal tissue. She explained that the recommended corneal thickness for LASIK is at least 500 microns; however, the technicians obtained a corneal thickness measurement of approximately 490 microns for both of Ms. Morrison's eyes. Dr. Jordan stated that this lack of corneal tissue could have possibly resulted in Dr. Kelly cutting a thinner corneal flap than is typical for LASIK. Further, Dr. Jordan opined that Dr. Kelly made an imprecise corneal incision with the mechanical microkeratome resulting in the thin buttonhole flap which led to the subsequent irreversible visual complications experienced by the plaintiff.

Dr. Jordan believed that Dr. Kelly's inexperience and fatigue from performing over 30 procedures on the same day likely contributed to the surgical error. She noted that complications such as buttonhole flaps are much more common among inexperienced surgeons,

and that Dr. Kelly had only been performing LASIK procedures for two weeks prior to Ms. Morrison's surgery. Though a typical LASIK procedure is completed in less than 15 minutes, Dr. Jordan emphasized that each procedure requires a great deal of concentration and preciseness on the part of the surgeon. She testified that, in her experience, LASIK surgeons generally perform approximately 20 procedures a day, which allows time for breaks and further patient consultation. Upon further questioning, Dr. Jordan said that Dr. Kelly may have scheduled an excessive number of surgeries in order to gain more experience and referrals, and that it was possible that he was "rushing" - that is, trying to complete Ms. Morrison's surgery as quickly as possible to allow time for the additional two surgeries he had scheduled for that day.

Finally, Dr. Jordan testified Dr. Kelly was negligent in removing any further corneal tissue in performing the "refloat" procedure two days following the failed surgery, and that the typical protocol for buttonhole flaps is to immediately replace the flap, let the hole heal over the course of several months, and to attempt surgery again if indeed the flap has healed.

### **Ms. Andrea Morrison**

**Ms. Morrison** testified that that Dr. Kelly and the Southern Eye Institute of Nevada staff had informed her of the potential risks and benefits of surgery, and that she had signed documents consenting to the procedure. She stated that she adhered to all preoperative, intraoperative, and postoperative instructions she was given. Ms. Morrison testified that her life was severely and permanently impacted by the outcome of her surgery. She reported experiencing moderate pain and irritation in her right eye during the two months following the unsuccessful procedure, as well as visual disturbances such as "floaters" (spots and lines in her field of vision) and "halos" (luminous rings around light sources). Based on her surgical consultation, Ms. Morrison anticipated taking three days of paid leave from work to recover from her procedure; however, due to complications, she missed an additional 5 weeks of work, 3 of which were unpaid. Ms. Morrison testified that she is no longer able to drive due to her decreased vision and relies on her husband to transport her to and from work; she also requires special visual accommodations in her job. Ms. Morrison estimated that her work productivity has decreased by 50% as a result of her permanent visual impairment. During cross-examination, Ms. Morrison admitted that she continued to wear her contact lenses until five days prior to surgery, though she had been instructed to stop wearing them a full two weeks before the surgery. Yet, she maintained that she followed all other instructions related to her surgery and adamantly denied moving her head during the procedure.

### **Mr. Brian Morrison**

During his testimony, **Ms. Morrison's husband, Brian**, confirmed that she had followed all pre, post, and intraoperative instructions with the exception of continuing to wear her contacts until five days before the surgery. Mr. Morrison was present in the operating room, and stated that Ms. Morrison remained still throughout the procedure and did not move her head. He further corroborated Ms. Morrison's testimony in describing the significant impact that the failed surgery has had on her life. In addition, Mr. Morrison indicated that Ms. Morrison's injuries also have impacted his life and household finances. Most notably, Mr. Morrison (who works as a warehouse supervisor) said that he had to switch his regular work hours from swing shift (3 PM – 12 PM) to day shift in order to drive Ms. Morrison to work; this change resulted in a 10% reduction in his hourly pay.

Following Ms. And Mrs. Morrison's testimony, the plaintiff's attorney again called their expert witness, **Dr. Jordan**, for brief follow-up questioning. Dr. Jordan testified that Ms. Morrison's failure to follow instructions regarding discontinuing the use of contact lenses likely did not contribute to the surgical complications. She explained that although continued use of contact lenses may alter the natural shape of the cornea and decrease the likelihood of LASIK success, it should not impact initial surgical procedures or estimations of corneal thickness.

### **Defense Witnesses**

#### **Dr. Lisa Elliot**

Ophthalmic surgeon **Dr. Lisa Elliot** testified for the defense. Like the plaintiff's expert, Dr. Elliot specializes in LASIK procedures and based her testimony on her years of education and experience. In addressing the plaintiff's claims of preoperative negligence, Dr. Elliot conceded that only a qualified physician should assess a patient's suitability for LASIK surgery. However, she testified that ophthalmic surgeons sometimes largely base these assessments on exams conducted by qualified ophthalmic technicians and on their pre-operative examination, and that this practice is generally accepted in the ophthalmic medical community. Dr. Elliot agreed with the plaintiff's expert that basic guidelines for LASIK indicate that patients' corneal width should measure 500 microns, but countered that exceptions often are made based on the degree to which the surgeon must erode or "ablate" the exposed corneal tissue to reshape the cornea. In addition, Dr. Elliot testified that although Dr. Kelly only had been routinely performing LASIK surgery for two weeks prior to Ms. Morrison's procedure, he was qualified to do so as he had performed such surgeries during his residency and had been certified by the American Board of Ophthalmology. She disagreed with the plaintiff's expert's testimony that Dr. Kelly performed an "excessive" number of procedures on the day of Ms. Morrison's surgery, noting that there are no clear professional guidelines regarding this matter. However, she stated that, based on her experience, it was highly unusual for a surgeon to perform more than 25 procedures in one day.

Dr. Elliot opined that the buttonhole complication during surgery was most likely caused by sudden patient head movements, causing Dr. Kelly to involuntarily "pull up" on the microkeratome resulting in the thin flap with a central hole. Regarding the plaintiff's continued use of contact lenses until five days prior to surgery, Dr. Elliott testified that this precaution was primarily intended to prevent excessive bleeding and to ensure surgical success in correcting myopia, but that this possibly could have affected Dr. Kelly's estimations of the amount of tissue he would need to erode via laser, and subsequently the amount of corneal surface tissue to initially cut. Finally, Dr. Elliot testified that "refloat" procedures are routine following LASIK surgical procedures regardless of the outcome, and that performing such procedures is not in and of itself indicative of negligence. She admitted that removal of any corneal tissue during a refloat procedure is uncommon, but that this may possibly be required to ensure proper placement of the corneal tissues in some cases.

#### **Dr. Steven Kelly**

**Dr. Kelly** testified that he was fully qualified to perform LASIK surgery and submitted documentation of his certification from the American Board of Ophthalmology to the court. He stated that he had conducted LASIK several times during his residency, though he was unable to recall the exact number of procedures and no documentation of these surgeries could be

located. However, he did produce records of 208 LASIK surgical procedures he had performed at the Southern Nevada Eye Institute during the two weeks prior to Ms. Morrison's procedure. The patient's eyesight was successfully restored in 190 of these cases; the remaining 18 patients experienced minimal or no improvements in vision. Dr. Kelly noted that his record is consistent with the overall 90% success rate of LASIK surgery. No significant complications were documented in any of the 208 cases.

Dr. Kelly refuted the plaintiff's claims that he had failed to assess Ms. Morrison's suitability for LASIK, stating that he conducted his own assessment based on the consulting technician's exam results and on his examination of Ms. Morrison one hour prior to surgery. He acknowledged that Ms. Morrison's corneal thickness fell slightly below recommended guidelines for LASIK at 490 microns, but that he was not overly concerned due to his estimation that only 50 microns of tissue would need to be eroded to reshape the corneas. Dr. Kelly explained that a corneal bed of 250 microns must remain at the end of LASIK to promote surgical success and healing, and that the typical width of the initial corneal flap measures 150 microns. After creating the corneal flap (150 microns) and ablating 50 microns of tissue in each eye, Ms. Morrison would be left with 290 microns of corneal tissue in each eye.

The defendant also denied that the buttonhole flap complication resulted from fatigue or his "rushing" Ms. Morrison's surgery in order to attend to other patients. Dr. Kelly admitted that he had a "heavy" schedule on the day of Ms. Morrison's surgery, but this it was no more intense than that experienced by many surgical residents (himself included).

Dr. Kelly claimed that Ms. Morrison repeatedly made significant "jerking" movements of her head during the procedure and that he had written a chart note extensively detailing the patient jerking her head. This documentation was produced and submitted to the court. Dr. Kelly testified that the patient's head movements caused the buttonhole flap complication. Though he admitted to pulling back on the microkeratome, he said that this action was necessary to prevent more extensive injury to Ms. Morrison (e.g., to prevent the microkeratome from cutting deep into the eye). In examining Ms. Morrison two days following the incomplete LASIK surgery, Dr. Kelly noted that the replaced corneal flap had not returned to its prior position and was slightly "wrinkled," thus necessitating a "refloat" procedure to smooth and reposition the flap. Dr. Kelly further stated that he removed part of the corneal flap to ensure proper placement though this is not typically recommended. Documentation of these notes and of the refloat procedure were submitted to the Court.

**\*\*\*\*\*PLEASE STOP HERE AND WAIT FOR THE INVESTIGATOR'S  
INSTRUCTIONS\*\*\*\*\***

**Appendix H: Trial Summary Cover Sheet with Photographs- Obese Condition**

**CASE # 1941A**

**Presiding Judge: Honorable Robert W. Pratt**

**Ms. Andrea Morrison**  
**Plaintiff**

**VS**

**Dr. Steven Kelly**  
**Defendant**



Appendix I: Trial Summary Cover Sheet with Photographs- Normal Weight Condition

**CASE # 1941A**

**Presiding Judge: Honorable Robert W. Pratt**

**Ms. Andrea Morrison**  
**Plaintiff**

**VS**

**Dr. Steven Kelly**  
**Defendant**















### Appendix L: Individual Case Judgments

**The presiding Judge in this case, the Honorable Robert W. Pratt, gives you the following instructions:**

“Your task as a juror is to determine whether Dr. Kelly is liable for medical malpractice, and if so, to further determine the amount of economic and non-economic damages that should be awarded to the plaintiff (Ms. Andrea Morrison).

In order to render a verdict of liable for medical malpractice, you must determine that the defendant (Dr. Kelly) behaved negligently in his care of the plaintiff (Ms. Morrison). That is, you must conclude that the defendants’ treatment of the plaintiff fell below the accepted standard of practice in the medical community, and that this negligence resulted in unnecessary injury to the plaintiff. Importantly, negligence may emerge in actions or inactions (e.g., failing to behave in accordance with acceptance medical standards or behaving contrary to such standards, or not acting as a reasonable, qualified physician would under such circumstances).

***If and only if you find the defendant liable for medical malpractice***, you must next determine the amount of damages that the defendant should award to the plaintiff. **Economic damages** compensate the plaintiff for actual financial losses resulting from an injury, such as medical bills and uncompensated medical leave from work. **Non-economic** damages compensate the plaintiff for his or her pain and suffering endured as a result of medical malpractice. **In this case, the plaintiff, Ms. Morrison, is requesting that jurors award \$250,000.00 in economic damages to cover her medical expenses, her three weeks of unpaid leave from work, her decreased productivity at work, and the wages (both present and future) lost from her husband’s modified work schedule as a direct result of the surgical error. In addition, she is requesting that jurors award \$400,000.00 in non-economic damages due to the pain and suffering she experienced following the surgical error, which includes her permanent inability to drive and perform everyday tasks.** Remember, you should only consider damages if you find the defendant liable for medical malpractice.

Your decisions should be based on the evidence, case facts, and testimony provided in the trial summary, rather than on emotions or personal attitudes.”

**INSTRUCTIONS: Please respond to the following items:**

1) On a scale of 1 to 7, where 1 = not at all responsible and 7 = completely responsible, please indicate the degree to which you believe that...

A. ***The physician, Dr. Kelly***, was responsible for the injuries Ms. Morrison incurred as a result of the failed LASIK surgery

1-----2-----3-----4-----5-----6-----7

Not at all  
responsible

Somewhat  
responsible

Completely  
responsible



### Appendix M: Jury Verdict Form

**The presiding Judge in this case, the Honorable Robert W. Pratt, gives you the following instructions:**

“Your task as a jury is to determine whether Dr. Kelly is liable for medical malpractice, and if so, to further determine the amount of economic and non-economic damages that should be awarded to the plaintiff (Ms. Andrea Morrison).

In order to render a verdict of liable for medical malpractice, you must determine that the defendant (Dr. Kelly) behaved negligently in his care of the plaintiff (Ms. Morrison). That is, you must conclude that the defendants’ treatment of the plaintiff fell below the accepted standard of practice in the medical community, and that this negligence resulted in unnecessary injury to the plaintiff. Importantly, negligence may emerge in actions or inactions (e.g., failing to behave in accordance with acceptance medical standards or behaving contrary to such standards, or not acting as a reasonable, qualified physician would under such circumstances).

***If and only if you find the defendant liable for medical malpractice***, you must next determine the amount of damages that the defendant should award to the plaintiff. **Economic damages** compensate the plaintiff for actual financial losses resulting from an injury, such as medical bills and uncompensated medical leave from work. **Non-economic** damages compensate the plaintiff for his or her pain and suffering endured as a result of medical malpractice. **In this case, the plaintiff, Ms. Morrison, is requesting that jurors award \$250,000.00 in economic damages to cover her medical expenses, her three weeks of unpaid leave from work, her decreased productivity at work, and the wages (both present and future) lost from her husband’s modified work schedule as a direct result of the surgical error. In addition, she is requesting that jurors award \$400,000.00 in non-economic damages due to the pain and suffering she experienced following the surgical error, which includes her permanent inability to drive and perform everyday tasks.** Remember, you should only consider damages if you find the defendant liable for medical malpractice.

Your jury’s final decisions should be based on the evidence, case facts, and testimony provided in the trial summary, rather than on emotions or personal attitudes. As you deliberate, you are encouraged to share your own perspectives on the case information provided and to consider the perspectives of fellow jury members in arriving at your ultimate decisions. Your jury must render unanimous decisions (i.e. all jurors must agree) on the case verdict and any damages awarded to the plaintiff. You will have 30 minutes to deliberate this case with your fellow jurors. Each member of your jury will pledge to keep all contents of deliberations confidential.”

**INSTRUCTIONS: Please respond to the following items as a jury. All jury members must be in agreement with these responses.**

1) We the jury render the following collective decision regarding the defendant’s (Dr. Kelly’s) liability for medical malpractice:

\_\_\_\_ Not liable

\_\_\_\_ Liable



2) Please circle the value that *best* corresponds to the amount of **economic damages** the jury awards to the plaintiff, Ms. Morrison.

\$0.00---\$25,000---\$50,000---\$75,000---\$100,000---\$125,000---\$150,000---\$175,000---

\$200,000---\$225,000---\$250,000---\$275,000---\$300,000---\$325,000---\$350,000---\$400,000---

\$425,000---\$450,000

3) Please circle the value that *best* corresponds to the amount of **non-economic damages** the jury awards to the plaintiff, Ms. Morrison.

\$0.00---\$25,000---\$50,000---\$75,000---\$100,000---\$125,000---\$150,000---\$175,000---

\$200,000---\$225,000---\$250,000---\$275,000---\$300,000---\$325,000---\$350,000---\$400,000---

\$425,000---\$450,000

**WE REQUEST THAT EACH JUROR INITIAL THIS DOCUMENT TO CONFIRM THAT THEY AGREE WITH THE ABOVE DECISIONS REGARDING THE TRIAL VERDICT AND DAMAGE AWARDS:**

**Juror 1** \_\_\_\_\_

**Juror 2** \_\_\_\_\_

**Juror 3** \_\_\_\_\_

**Juror 4** \_\_\_\_\_

**Juror 5** \_\_\_\_\_

**Juror 6** \_\_\_\_\_

### Appendix N: Fat Phobia Scale

**INSTRUCTIONS:** Listed below are 14 pairs of adjectives sometimes used to describe obese or fat people. For each adjective pair, please place an X on the line *closest to the adjective* that you feel best describes your feelings and beliefs. Please answer as honestly as possible, and remember that your responses are anonymous.

**Fat or Obese people are:**

- |                      |     |     |     |     |     |                     |
|----------------------|-----|-----|-----|-----|-----|---------------------|
| 1) Lazy              | ___ | ___ | ___ | ___ | ___ | Industrious         |
| 2) No will power     | ___ | ___ | ___ | ___ | ___ | Has will power      |
| 3) Attractive        | ___ | ___ | ___ | ___ | ___ | Unattractive        |
| 4) Good self-control | ___ | ___ | ___ | ___ | ___ | Poor self-control   |
| 5) Fast              | ___ | ___ | ___ | ___ | ___ | Slow                |
| 6) Having endurance  | ___ | ___ | ___ | ___ | ___ | Having no endurance |
| 7) Active            | ___ | ___ | ___ | ___ | ___ | Inactive            |
| 8) Weak              | ___ | ___ | ___ | ___ | ___ | Strong              |
| 9) Self-indulgent    | ___ | ___ | ___ | ___ | ___ | Self-sacrificing    |
| 10) Dislikes food    | ___ | ___ | ___ | ___ | ___ | Likes food          |
| 11) Shapeless        | ___ | ___ | ___ | ___ | ___ | Shapely             |
| 12) Undereats        | ___ | ___ | ___ | ___ | ___ | Overeats            |
| 13) Insecure         | ___ | ___ | ___ | ___ | ___ | Secure              |
| 14) Low self-esteem  | ___ | ___ | ___ | ___ | ___ | High self-esteem    |

### Appendix O: Demographic Information

**INSTRUCTIONS:** Please answer the following questions about you.

1) I am:  Male  Female

2) What is your age?  years

3) Have you ever had LASIK eye surgery or a similar procedure?  Yes  No

If **yes**, please elaborate on your experience. What type of surgery did you have? Was it successful? Did you experience any negative effects as a result of the surgery?

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4) Please indicate your height and weight:

Height:  feet  inches

Weight:  lbs.

5) Which of the following best represents your ethnic or racial background?

White/Non-Hispanic

Native American/American Indian

Black/African American

Pacific Islander

Asian/Asian American

Multi-ethnic

Hispanic/Latino(a)

Other (please specify) \_\_\_\_\_

## Appendix P: Debriefing Form

### “Jurors’ Decisions in Medical Malpractice Trials”

#### PURPOSE

Thank you for participating in this study. This study has three main objectives or purposes. The first objective is to investigate the processes responsible for jurors’ decisions in medical malpractice cases. The second is to determine whether the weight of the plaintiff may affect jurors’ judgments in malpractice cases, even if the plaintiff’s weight is unrelated to the allegation of malpractice. The third purpose is determine whether juries deliberating as a group provide different case-related decisions than jurors providing individual case judgments.

All participants were asked to review the same trial summary. However, some were randomly assigned to view a photograph depicting an obese plaintiff, whereas others viewed a photograph depicting a normal-weight plaintiff. In addition, participants were assigned to be “deliberating” or “non-deliberating” jurors based on the date and time scheduled for the research participation session. That is, some of you were asked to review the trial summary, think about what you had read, and provide your own judgments about the case. Others were asked review the trial summary and deliberate the case with other participants, render a group verdict, and then provide individual judgments about the case.

Prejudice and discrimination against the overweight in America is widespread and well-documented (Crandall, 1994; Puhl & Heuer, 2009). Accordingly, we hypothesized that participants exposed to the photograph of the obese plaintiff would be more likely to demonstrate an “anti-plaintiff” bias in their case-related judgments (i.e., be more likely to find the defendant not liable, award fewer damages to the plaintiff) than those exposed to the photograph of the normal-weight plaintiff. Due to pervasive social stereotypes, these results may occur even if jurors attempt to render fair decisions in line with the evidence and testimony prevented in the trial summary. We also hypothesized that jurors exposed to a photograph of the obese plaintiff would interpret the evidence differently than those exposed to a photograph of the normal-weight plaintiff. Specifically, we thought that those exposed to the photograph of the obese plaintiff would be more likely to view the evidence as favorable to the defense (the physician charged with medical malpractice) than would those exposed to the photograph of the normal-weight plaintiff.

Prior research has shown that deliberations may lessen or eliminate the impact of biases held by individual jurors (Miller et al., 2011; Sommers, 2006). Thus, we expect that deliberations may decrease the impact of any biases related to plaintiff weight. This should result in more liable verdicts rendered by juries (as a group decision) than by individual jurors when the plaintiff is depicted as overweight. We also wanted to explore the differences in medical malpractice case-related judgments among deliberating and non-deliberating jurors, as little prior research has been conducted in this area.

Finally, research has suggested that the body type and personality characteristics of jurors may influence their decisions in medical malpractice cases involving an obese plaintiff (see Crandall et al, 1994; Reichert et al, 2011). Thus, all participants in this study were asked to answer

questions about their general beliefs about the world and about obese persons, as well as to provide their height and weight. Because self-reported height and weight can sometimes be inaccurate, the investigator also used a numbered scale to record the body type of each participant in a confidential codebook. This codebook contains participants' Juror ID numbers followed by their assigned body type; it does not contain any other participant information. After the study is completed, the investigator will enter the numeric body type information into a database and match it to your survey using your Juror ID number.

### **CONFIDENTIALITY**

You will not be personally identified in any reports that may result from this study, and all of the responses you provide (case-related judgments and attitudes, responses to personality and belief questionnaires, demographic information, and reported height and weight) will remain anonymous. The number representing your body type also cannot be used to personally identify you; it will be linked to your Juror ID number strictly for analysis purposes and kept confidential. Only the investigator, research assistants, and the UNR Social Behavioral Institutional Review Board will have access to the data. All surveys will be stored for 5 years in a locked space in the investigator's laboratory and then destroyed. We request that you not discuss this experiment or share information included in this debriefing form with other individuals who may be participants themselves. If you discussed your opinions about the case with fellow participants, we ask that you refrain from further discussing the contents of deliberations and the perspectives of any other fellow participants shared during these group discussions.

### **FINAL REPORT**

If you are interested in obtaining a copy of the final report of this study, please contact Monica Miller, J.D., Ph.D. Associate Professor of Criminal Justice and Social Psychology, at 775-784-6021; Department of Criminal Justice Mailstop 214, Leifson Physics Building; [mkmiller@unr.edu](mailto:mkmiller@unr.edu); or Lorie Sicafuse, Graduate Researcher, at 612-730-4992; [lsicafuse@unr.edu](mailto:lsicafuse@unr.edu)

### **CONTACT**

Thank you for participating in our study. If you have any questions regarding this study, its purposes, or procedures, please contact Monica Miller, J.D., Ph.D. Assistant Professor of Criminal Justice and Social Psychology, at 775-784-6021; Department of Criminal Justice Mailstop 214, Leifson Physics Building; [mkmiller@unr.edu](mailto:mkmiller@unr.edu); or Lorie Sicafuse, Graduate Researcher, at 612-730-4992; [lsicafuse@unr.edu](mailto:lsicafuse@unr.edu).

### **FOR FURTHER READING**

Crandall, C. (1994). Prejudice against fat people: Ideology and self-interest. *Journal of Personality and Social Psychology*, 66, 882-894.

Miller, M. K., Maskaly, J., Green, M., & Peoples, C. D. (2011). The effects of deliberations and religious alibi on mock jurors' pre and post deliberation verdicts. *Group Processes & Intergroup Relations*, 14, 517-532.

Puhl, R. M., & Heuer, C. A. (2009). The stigma of obesity: A review and update. *Obesity, 17*, 941-964.

Reichert, J., Miller, M. K., Bornstein, B. ., & Shelton, D. (2011). How reason for surgery and patient weight affects verdicts and perceptions in medical malpractice trials: A comparison of students and jurors. *Behavioral Sciences and the Law, 29*, 395-418.

### Appendix Q: Summary of Findings

Table 1. *Summary of findings addressing hypotheses and research questions regarding non-deliberating jurors.*

Hypothesis/ Research Question	Overall Finding	Comments
<b>H1 A-F</b>	Unsupported	There were no significant main effects of the weight manipulation on measures of SEs, SLAs, and case judgments.
<b>H2 A-F</b>	Partially Supported	BJW was the only individual difference variable that moderated the effects of plaintiff weight on CCM measures. There were significant interactions between BJW and plaintiff weight in the hypothesized direction on perceptions of the plaintiff, plaintiff witness ratings, and economic damage awards.
<b>H3 A-F</b>	Unsupported	Participant gender did not moderate the effects of plaintiff weight on any of the dependent CCM variables.
<b>H4 A-F</b>	Unsupported	BMI did not moderate the effects of plaintiff weight on any of the dependent CCM variables.
<b>RQ 1</b>	Negative	Results from chi-square difference tests indicated that plaintiff weight did not moderate the attributional pathways followed in assigning blame.
<b>RQ 2</b>	Affirmative	There were significant main effects of participating BMI on perceptions of the plaintiff, of BPWE on perceptions of the defendant and SLA scale scores, and of FPS scores on verdict.
<b>RQ 3</b>	Negative	A series of regression analyses suggested that individual differences did not moderate the effects of the weight manipulation on the attributional pathways followed in assigning blame.

Table 2. *Summary of findings addressing hypotheses and research questions comparing deliberating and non-deliberating jurors and juries.*

Hypothesis/ Research Question	Overall Finding	Comments
<b>H1 A-E</b>	Unsupported	There were no significant interactions between plaintiff weight and decision context on verdicts. Significant interactive effects between plaintiff weight and decision context on non-economic damages and total responsibility opposed what was predicted in H1 B, D, and E.
<b>RQ 1</b>	Negative	In the deliberating sample, there were no notable differences in the verdicts and economic damage awards rendered at the jury and individual levels. However, the individual level non-economic damage awards among deliberating jurors were slightly higher than jury awards.
<b>RQ 2</b>	Affirmative	Deliberating jurors showed more leniency toward the defendant than non-deliberating jurors. This effect occurred on verdicts and total responsibility, and on many of the other dependent CCM measures. Analyses conducted using the entire sample (both deliberating and non-deliberating jurors) also revealed several significant interactions between plaintiff weight and individual differences and decision context and individual differences on dependent CCM measures.
<b>RQ 3</b>	Negative	There were few meaningful differences in the attributional pathways followed in assigning blame in the deliberating and non-deliberating samples.



## **Appendix R: Chi-Square Difference Tests Conducted to Eliminate Plaintiff Weight as a Moderator of Attributional Pathways in the Non-Deliberating Sample**

### **Overview**

Chi-square difference testing is a means of comparing a set of two nuanced path analyses or structural equation models to determine whether one model fits the data significantly better than the other (Satorra & Bentler, 2001). In comparing models pertaining to two different experimental conditions (i.e., normal weight plaintiff vs. obese plaintiff), this typically first involves specifying the theoretically grounded path model with the condition as the “grouping variable.” In the initial path model, all coefficients are “free,” permitting the coefficients to vary between these two conditions (Geiser, 2013). Next, a series of path analyses are estimated in which one coefficient is constrained or “fixed,” meaning that the coefficient is forced to be equal across the two conditions. In comparing the difference between the chi-square values in the Test of Model Fit for each model and its correspondence to the chi-square critical value as determined by the difference in degrees of freedom for each model, it can be determined if a given relationship between variables significantly differs across conditions (Satorra & Bentler, 2001).

There are four outcome measures corresponding to participants’ blame ascriptions in this study: scores on the total responsibility scale, verdict, economic damage awards, and non-economic damage awards. However, testing to determine whether models significantly varied between weight conditions was only conducted on path analyses specifying total responsibility and verdict as the dependent variable. This is because only participants finding the defendant liable ( $n = 128$ ) awarded damages, and this decreased sample sizes prohibited valid model comparisons between weight conditions.

### **Chi-Square Difference Tests Comparing Models with Total Responsibility as the DV**

As a first step in specifying a model with the CCM blame measure of total responsibility as the DV, two path analyses (one including participants exposed to the normal weight plaintiff and one including those exposed to the obese plaintiff) were estimated using Maximum Likelihood Estimation (MLE) in which each endogenous SLA variable (SLA scale scores, plaintiff witness ratings, and defendant witness ratings) was regressed upon each exogenous SE variable (negative SE scale, perceptions of plaintiff, perceptions of defendant). Through this process, it was discovered that scores on the negative SE scale did not significantly predict scores on the SLA scale in either the normal weight or obese conditions ( $bs > .15, ps > .08$ ). Thus, the regression of SLA scores on negative SE scores were not included in this model to avoid model saturation and to produce Chi-Square Test of Model Fit statistics (Geiser, 2013). A series of path analyses were estimated fixing each parameter and were compared to the free model. The difference between Model Fit in each comparative instance did not exceed the chi-square critical value of 3.84 at one degree of freedom, and neither freeing nor constraining the parameters significantly influenced model fit. Thus, it can be concluded that that plaintiff weight did not moderate attributional pathways in assigning total responsibility for the negative medical outcome.

#### **Chi-Square Difference Tests Comparing Models with Verdict as the DV**

Weighted least squares means and variance adjusted (WLSMV) is the default estimator used by Mplus in estimating models with categorical dependent variables. In models using WLSMV, the typical method of chi-square difference testing to assess competing model fits is no longer appropriate (Muthén & Muthén, 2012), and thus the “difftest,” recommended for comparing models with the WLSMV estimation method, was used. This procedure involves specifying a completely free model and comparing these outcomes to models with one

constrained parameter. Mplus produces a “Chi-Square Statistic for Difference Testing” that can be used to compare each model. In each comparison, the chi-square statistic for difference testing was non-significant ( $p > .09$ ) indicating that free model did not fit the data any worse than the models in which one parameter was fixed.

**Appendix S: Intra-Class Correlation Coefficients Calculated for Dependent Variables in  
Deliberating and Non-Deliberating Samples**

Table 1. Summary of intra-class correlation coefficients obtain from null models in deliberating and non-deliberating samples.

Variable	Deliberating			Non-Deliberating*		
	<i>ICC</i>	<i>Wald Z</i>	<i>p</i>	<i>ICC</i>	<i>Wald Z</i>	<i>p</i>
Negative SE Scale	.10	1.73	.08	.03	.62	.54
Perceptions of the Plaintiff	.19	2.81	>.01	.07	1.11	.27
Perceptions of the Defendant	.27	3.18	>.01	.02	.33	.72
SLA Scale	.32	3.52	>.01	.01	.01	.99
Plaintiff Witness Ratings	.21	2.78	>.01	.04	.66	.51
Defendant Witness Ratings	.18	2.53	.01	-	-	-
Total Responsibility	.48	4.09	>.01	-	-	-
Economic Damages	.61	3.12	>.01	.06	.65	.52
Non-Economic Damages	.43	2.52	.01	-	-	-

**Note.** \*Covariance parameters for null models executed with defendant witness ratings, total responsibility, and non-economic damages as DVs in the deliberating sample could not be obtained due to an apparent Hessian matrix issue. Thus, the *ICCs* for these measures could not be calculated. This failure may indicate that a very low amount of variance is attributable to differences between the nominal groups.

## **Appendix T: Complete Results of Analyses Addressing RQ 2 Using Deliberating and Non-Deliberating Samples**

### **Interactive Effects of Plaintiff Weight and Decision Context on Individual-Level SE and SLA**

#### **Measures: Analyses Addressing RQ 2**

As initially proposed, RQ 2 aimed to examine “differences between deliberating and non-deliberating jurors on measures of SEs, SLAs, and case judgments” in the normal weight condition. After completing data collection and analyses, the decision was made to expand the scope of this research question so that it included samples in both weight conditions, as there were no main effects of plaintiff weight on any of the dependent variables in deliberating and non-deliberating conditions. In addition, analyses addressing RQ 2 also explored potential interactive effects between individual difference variables, decision context, and plaintiff weight on SE and SLA measures. The effects of decision context, weight condition, and individual difference variables on case judgments are described in the previous section. The current section explores whether condition assignment interacts with individual differences to influence initial, emotionally-based reactions to the case (indicated by SE measures) and attributional, decision-making processes (indicated by SLA measures) that are hypothesized to lead to case judgments.

All analyses addressing RQ 2 were conducted using mixed modeling procedures in SPSS, with separate models estimated to examine the effects of each individual difference variable on each SE and SLA measure. Each model included jury group as a random effect, and the following predictors as fixed effects variables: decision context; plaintiff weight; the decision context by plaintiff weight interaction term; the individual difference variable being examined; the individual difference variable by decision context interaction term; the individual difference variable by plaintiff weight interaction term; and a three-way interaction term between the

individual difference variable, decision context, and plaintiff weight. **Table 1** includes a summary of fixed effects for all models with SE measures as the dependent variable, and **Table 2** summarizes the fixed effects for all models with SLA measures as the dependent variable.

**Effects of plaintiff weight, decision context, and individual differences on negative spontaneous evaluations (SE measure).** Null models were executed to determine the extent to which jury groups accounted for the variance in scores on the negative SE scale. Jury group membership in the deliberating sample only accounted for approximately 10% of the variance in negative SE scale scores,  $ICC = .10$ , Wald  $Z = 1.73$ ,  $p = .08$ . Though the variance component due to the random jury effect was non-significant, it has been suggested that  $ICCs$  as low as .10 can cause erroneous results if using linear regression (Bickel, 2007; Geiser, 2013), and thus the use of multi-level modeling is continued for this series of analyses. As expected, the between-groups variance component in the non-deliberating sample was lower than that in the deliberating sample,  $ICC = .03$ , Wald  $Z = .62$ ,  $p = .54$ .

Tests of all five models incorporating each individual difference variable yielded only one statistically significant effect, which emerged across the five models. Thus, comprehensive results for each model will not be reported separately. Results from first model, which incorporated gender as the individual difference variable, indicated that decision context had a significant effect on negative SE scale scores,  $F(1,100.4) = 9.90$ ,  $p = .002$ . Participants in the non-deliberating condition had stronger negative emotional reactions to the case ( $M = 2.07$ ,  $SE = .07$ ) than did those in the deliberating condition ( $M = 1.77$ ,  $SE = .063$ ). This effect was replicated in the other four models,  $F_s > 8.90$ ,  $p_s < .004$ . It should be noted that, overall, participants did not express negative strong emotional reactions to the case. No other variables in any of the five models significantly predicted scores on the negative SE scale ( $F_s > 2.94$ ,  $p_s < .09$ ).

**Effects of plaintiff weight, decision context, and individual differences on perceptions of the plaintiff (SE measure).** The null model indicated that, in the deliberating condition, approximately 19.2% of the variance in perceptions of the plaintiff could be attributed to jury group membership,  $ICC = .19$ , Wald  $Z = 2.81$ ,  $p = .009$ . In the deliberating condition, approximately 6.9% of the variance in perceptions of the plaintiff could be attributed to difference between the randomly assigned “jury groups,” and this variance component was non-significant,  $ICC = .07$ , Wald  $Z = 1.11$ ,  $p = .27$ . Results of all models testing the effects of plaintiff weight, decision context, and individual differences on perceptions of the plaintiff are summarized in **Table 1**.

**Model 1E: Effects of gender on perceptions of the plaintiff.** This model yielded a main effect of decision context on perceptions of the plaintiff,  $F(1,94.7) = 9.77$ ,  $p = .002$ , such that those in the non-deliberating condition had more positive perceptions of the plaintiff ( $M = 3.99$ ,  $SE = .11$ ) than those in the deliberating condition ( $M = 3.44$ ,  $SE = .10$ ). This effect was replicated in each of the following four models ( $Fs > 9.60$ ,  $ps < .01$ ), and thus will not be reiterated in the results for these models. There were no main effects of plaintiff weight in this model ( $F = .62$ ,  $p = .43$ ) or in the following four models ( $Fs < .96$ ,  $ps > .31$ ). The interaction between plaintiff weight and decision context was marginally significant,  $F(1,94.7) = 3.15$ ,  $p = .079$ . This interaction will be graphed and described in further detail in the results for model 2E. Gender did not significantly impact perceptions of the plaintiff, and there were no significant interactions between gender, plaintiff weight, and decision context ( $Fs < 1.76$ ,  $ps > .18$ ).

**Model 2E: Effects of BJW-O on perceptions of the plaintiff.** The interaction between plaintiff weight and decision context reached statistical significance in Model 2E,  $F(1,92.3) = 4.10$ ,  $p = .046$ , and is depicted in **Figure 1**. In the normal weight condition, the perceptions of the

plaintiff among non-deliberating ( $M = 3.82$ ,  $SD = .15$ ) and deliberating jurors ( $M = 3.64$ ,  $SE = .13$ ) were similar. When the plaintiff was depicted as obese, however, those in the deliberating condition had more negative perceptions ( $M = 3.25$ ,  $SE = .14$ ) than those in the non-deliberating condition ( $M = 4.01$ ,  $SE = .15$ ). Pairwise comparisons indicate that the difference in perceptions of the plaintiff in the obese condition between deliberating and non-deliberating conditions is significant ( $p < .001$ ), as is the difference in perceptions of the plaintiff in the deliberating sample between obese and normal weight conditions ( $p = .044$ ). BJW-O scores had no significant effect on perceptions of the plaintiff, and there were no significant interactions between BJW-O scores, plaintiff weight, and decision context ( $F_s < 1.73$ ,  $p_s > .18$ ).

**Model 3E: Effects of BPWE on perceptions of the plaintiff.** The significant interactive effect between plaintiff weight and decision context that emerged in Model 2E was replicated in Model 3E,  $F(1,90.8) = 5.04$ ,  $p = .027$ . This model also yielded a main effect of BPWE scale scores on perceptions of the plaintiff,  $F(1,433.9) = 8.49$ ,  $p = .004$ . Though the fixed effect estimate for BPWE was non-significant, it indicated that those lower in BPWE had more positive perceptions of the plaintiff than those higher in BPWE ( $b = -.19$ ,  $SE = .13$ ,  $p = .17$ ). There were no significant interactions between BPWE, decision context, and plaintiff weight ( $F_s < 1.56$ ,  $p_s > .21$ ).

**Model 4E: Effects of FPS on perceptions of the plaintiff.** In Model 4E, the interaction between plaintiff weight and decision context on perceptions of the plaintiff was marginally significant,  $F(1,83.2) = 3.61$ ,  $p = .061$ . Estimated marginal means revealed the same pattern observed in prior analyses, such that there was little difference in perceptions of the normal weight plaintiff in non-deliberating ( $M = 3.83$ ,  $SE = .14$ ) and deliberating conditions ( $M = 3.62$ ,  $SE = .13$ ). There was a greater difference in perceptions of the obese plaintiff between non-deliberating ( $M = 3.98$ ,  $SE = .15$ ) and deliberating conditions ( $M = 3.25$ ,  $SE = .13$ ), such that those



Table 1. *Fixed effects of decision context, plaintiff weight, and individual difference variables on SE measures in total sample.*

Model Variable*	D: Negative SEs		E: Perceptions of plaintiff		F: Perceptions of defendant	
	F	p	F	p	F	p
<b><u>Model 1: Effects of Gender</u></b>						
Decision context	9.68	>.01	9.77	>.01	2.27	.14
Weight condition	.07	.79	.62	.43	1.75	.19
Decision context x Weight condition	1.32	.25	3.15	.08	1.10	.30
Gender	.50	.48	1.76	.19	8.26	>.01
Gender x Decision context	.01	.95	.79	.38	.60	.44
Gender x Weight condition	.02	.31	.35	.56	5.01	.02
<b><u>Model 2: Effects of BJW-O</u></b>						
Decision context	10.50	>.01	10.74	.001	4.91	.03
Weight condition	.07	.79	.71	.20	.93	.34
Decision context x Weight condition	2.12	.15	4.10	.05	2.82	.10
BJW-O	.19	.67	1.73	.19	10.28	.001
BJW-O x Decision context	.04	.85	.76	.38	.09	.77
BJW-O x Weight condition	.41	.52	2.32	.13	4.42	.04
<b><u>Model 3: Effects of BPWE</u></b>						
Decision context	8.90	>.01	10.81	.001	4.47	.04
Weight condition	.35	.56	.14	.71	.07	.79
Decision context x Weight condition	1.88	.17	5.04	.03	2.18	.08
BPWE	1.64	.20	8.49	>.01	23.18	>.001
BPWE x Decision context	.01	.97	1.56	.21	.84	.36
BPWE x Weight condition	1.37	.24	.23	.63	.64	.42

**Note.** \*Each model also included a three-way interaction term between decision context, plaintiff weight, and the individual difference variable examined as a predictor variable. The three way interaction was non-significant in all models,  $F_s < 1.79$   $p_s > .18$

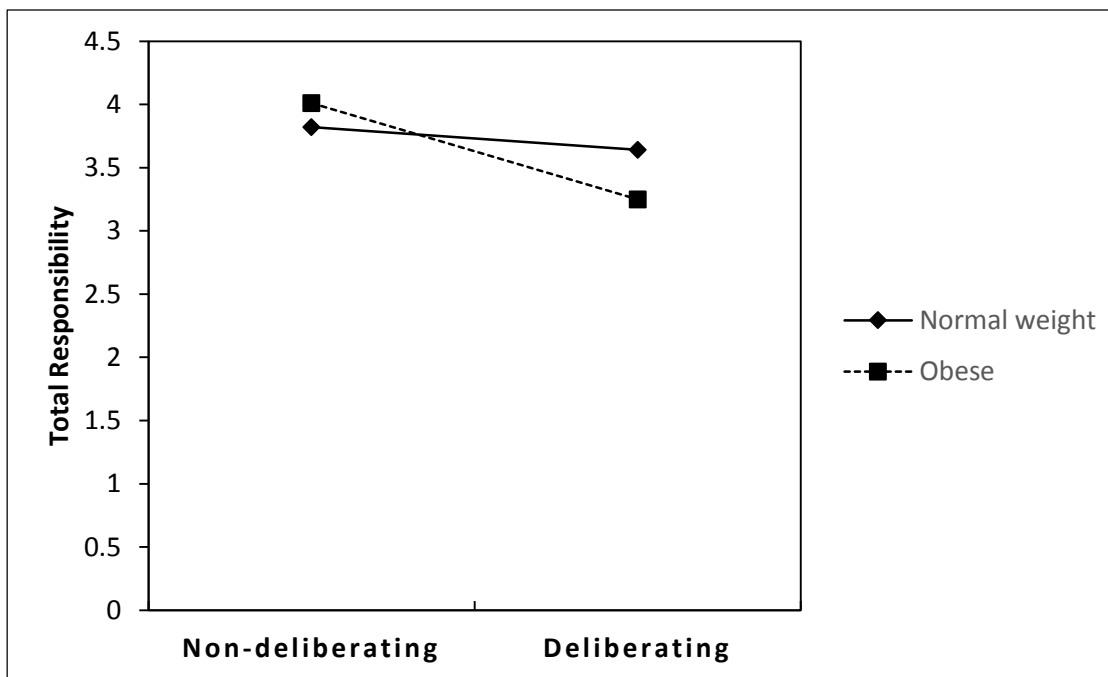
Table 1 (continued).

Model Variable	D: Negative SEs		E: Perceptions of plaintiff		F: Perceptions of defendant	
	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>
<b>Model 4: Effects of FPS</b>						
Decision context	11.67	.001	11.42	.001	3.62	.06
Weight condition	.13	.72	.62	.43	.52	.47
Decision context x Weight condition	1.57	.21	3.61	.06	2.07	.15
FPS	.78	.38	12.02	.001	3.44	.06
FPS x Decision context	.01	.95	.43	.51	.79	.38
FPS x Weight condition	.95	.33	.20	.65	.77	.38
<b>Model 5: Effects of BMI</b>						
Decision context	10.09	>.01	9.59	>.01	3.73	.06
Weight condition	.20	.66	.99	.32	1.04	.31
Decision context x Weight condition	2.94	.10	4.63	.03	2.02	.16
BMI	1.12	.27	14.17	>.001	5.71	.02
BMI x Decision context	.71	.40	1.76	.19	.25	.62
BMI x Weight condition	.01	.92	.52	.47	.12	.73

who deliberated had more negative perceptions of the plaintiff than those who did not. Again, pairwise comparisons indicate a significant difference in perceptions of the plaintiff between non-deliberating and deliberating jurors in the obese condition ( $p < .001$ ) and between deliberating jurors in the normal weight and obese conditions ( $p = .047$ ).

There was a significant main effect of FPS scores on perceptions of the plaintiff,  $F(1,430) = 12.02, p = .001$ . Estimates of fixed effects indicate that those with lower FPS scores had more positive perceptions of the plaintiff than those with higher scores ( $b = -.38, SE = .18, p = .036$ ). FPS scores did not moderate the effects of plaintiff weight or decision context on perceptions of the plaintiff ( $F_s < .48, p_s > .48$ ).

Figure 1. Interaction between decision context and plaintiff weight on perceptions of the plaintiff in the total sample.



**Model 5E: Effects of BMI on perceptions of the plaintiff.** The interaction between decision context and plaintiff weight reached statistical significance in Model 5,  $F(1,90.5) = 4.63$ ,

$p = .034$ . In addition, participant BMI was a significant predictor of perceptions of the plaintiff,  $F(1,434.6) = 14.18, p > .001$ . Though the fixed effects estimate was non-significant, it indicated that those with higher BMIs had more positive perceptions of the plaintiff than those with lower BMIs ( $b = 1.48, SE = 1.37, p = .28$ ). There were no significant interactions between participant BMI, decision context, or plaintiff weight ( $F_s < 1.76, p_s > .18$ ).

**Effects of plaintiff weight, decision context, and individual differences on perceptions of the defendant (SE measure).** The null model indicated that the variance component due to the random jury effect was significant in the deliberating condition, accounting for approximately 26.5% of the variance in jurors' perceptions of the defendant,  $ICC = .265, Wald Z = 3.18, p = .001$ . In comparison, the variance component due to the random jury effect was very low and non-significant for the non-deliberating sample,  $ICC = .017, Wald Z = .33, p = .72$ . Results of all models testing the effects of plaintiff weight, decision context, and individual differences on perceptions of the defendant are summarized in **Table 1**.

**Model 1F: Effects of gender on perceptions of the defendant.** Model 1F yielded no significant main effects of plaintiff weight or decision context on perceptions of the defendant, and the interaction between plaintiff weight and decision context also was non-significant ( $F_s < 2.28, p_s > .14$ ). Plaintiff weight as an individual predictor failed to impact perceptions of the defendant in any of the other models in this series ( $F_s < 2.00, p_s > .19$ ), and thus will not be further discussed. Gender significantly impacted perceptions of the defendant,  $F(1,440) = 8.26, p = .004$ , such that males had more positive perceptions of the defendant than females ( $b = -.42, SE = .25, p = .04$ ). This main effect was qualified by a significant interaction between participant gender and plaintiff weight,  $F(1,440) = 5.51, p = .019$ , which is displayed in **Figure 2**. In the normal weight condition, perceptions of the defendant were similar among female ( $M = 3.92, SE$

= .11) and male ( $M = 3.98, SE = .13$ ) participants. In the obese condition, however, males had more positive perceptions of the defendant ( $M = 4.40, SE = .14$ ) than did females ( $M = 3.85, SE = .11$ ). Tests of pairwise comparisons indicate that, for males, the difference in perceptions of the defendant between normal weight and obese plaintiff conditions was significant ( $p < .001$ ). Gender did not moderate the effects of decision context on perceptions of the plaintiff, and the three-way interaction between gender, decision context, and plaintiff weight also was non-significant ( $F_s < .60, p_s > .43$ ).

**Model 2F: Effects of BJW-O on perceptions of the defendant.** A significant main effect of decision context emerged in Model 2F,  $F(1,95) = 4.91, p = .029$ . Estimated marginal means revealed that deliberating jurors had more positive perceptions of the defendant ( $M = 4.15, SE = .09$ ) than non-deliberating jurors ( $M = 3.86, SE = .09$ ). Yet, the interaction between decision

Figure 2. Interaction between plaintiff weight and participant gender on perceptions of the defendant in the total sample.

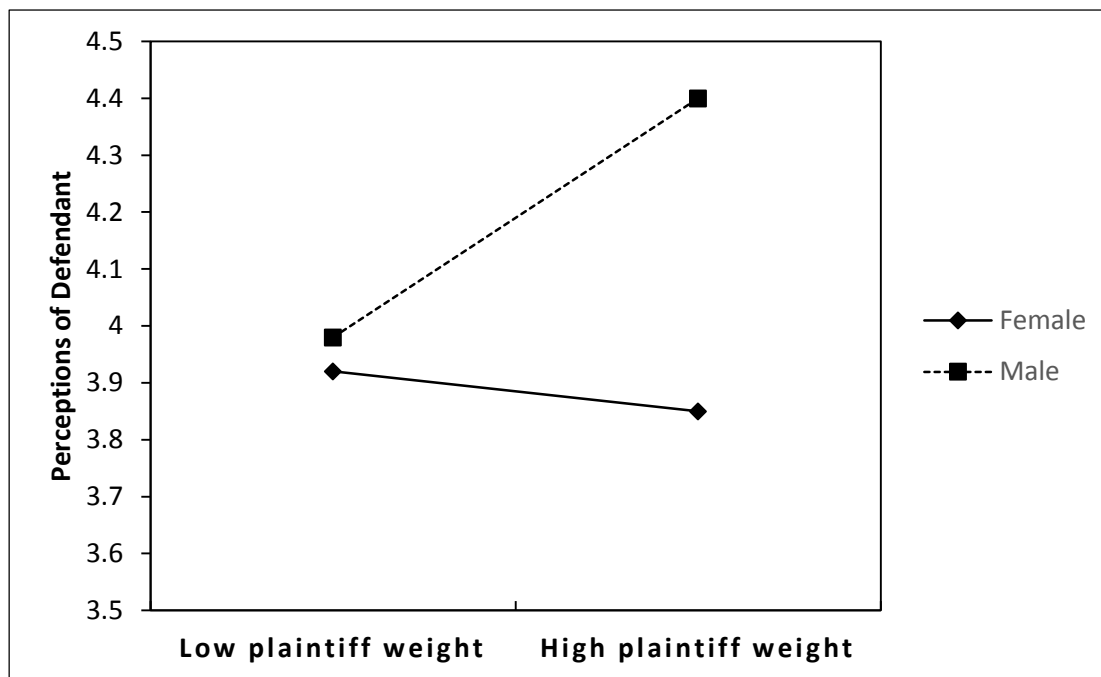
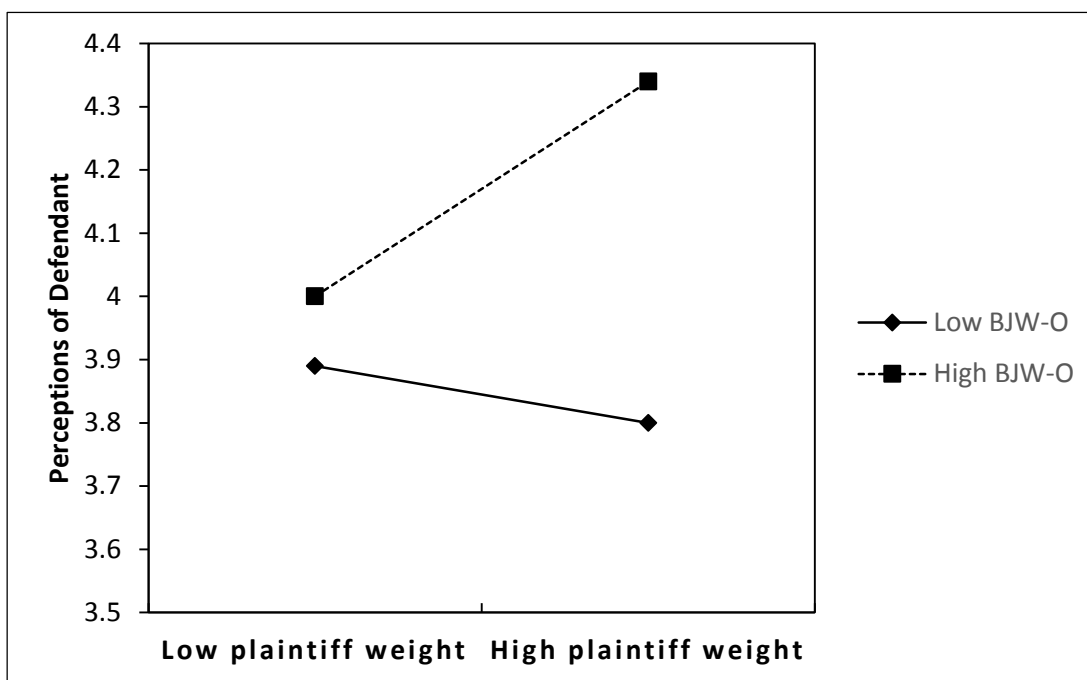


Figure 3. Interaction between plaintiff weight and BJW-O on perceptions of the defendant in the total sample.



context and plaintiff weight did not reach statistical significance ( $F = 2.83, p = .097$ ). There was a significant main effect of BJW-O scores on perceptions of the defendant,  $F(1,434.6) = 10.28, p = .001$ , such that those with higher BJW-O scores had more positive perceptions than those with lower BJW-O scores ( $b = .55, SE = .18, p = .002$ ). In addition, BJW-O moderated the effects of plaintiff weight on perceptions of the defendant,  $F(1,434.6) = 4.42, p = .036$  (see **Figure 3**).

Estimated marginal means were calculated at +1 and -1 standard deviations of scores on the BJW-O scale to help interpret this interaction. These calculations revealed that perceptions of the defendant did not substantially differ among those low in BJW-O, regardless of whether the plaintiff was depicted as normal weight ( $M = 3.89, SE = .12$ ) or obese ( $M = 3.80, SE = .12$ ). Those high in BJW-O had more positive perceptions of the defendant when the plaintiff was depicted as obese ( $M = 4.34, SE = .12$ ) compared to when she was depicted as normal weight ( $M = 4.00,$

$SE = .11$ ). Tests of pairwise comparisons indicate that the difference in perceptions of the defendant between normal weight and obese plaintiff condition among those higher in BJW-O is significant ( $p = .044$ ). The two-way interaction between BJW-O scale scores and decision context was non-significant, as was the three-way interaction between BJW-O scale scores, decision context, and plaintiff weight ( $F_s < .48, p_s > .45$ ).

**Model 3F: Effects of BPWE on perceptions of the defendant.** The main effect of decision context was again significant in Model 3F,  $F(1,90.9) = 4.47, p = .037$ , with those in the deliberating condition expressing more favorable perceptions of the defendant than those in the non-deliberating condition. The interaction between decision context and plaintiff weight was marginally significant,  $F(1,90.9) = 3.18, p = .078$ . Perceptions of the defendant in the normal weight condition were similar among non-deliberating ( $M = 3.94, SE = .14$ ) and deliberating ( $M = 3.99, SE = .12$ ) samples. However, this interactive effect did not approach significance in any of the other models described in this series of analyses. In the obese condition, there was slight but non-significant decrease in non-deliberating jurors' perceptions of the defendant ( $M = 3.74, SE = .14$ ), whereas deliberating jurors expressed significantly more positive perceptions of the defendant ( $M = 4.26, SE = .13, p = .008$ ).

There was a significant main effect of scores on the BPWE measure on perceptions of the defendant,  $F(1,429.9) = 23.18, p < .001$ , such that those higher in BPWE had more positive perceptions of the defendant than those lower in BPWE ( $b = .34, SE = .12, p = .005$ ). However, BPWE did not moderate the effects of plaintiff weight or decision context on perceptions of the defendant ( $F_s < .85, p_s > .35$ ).

**Model 4F: Effects of FPS on perceptions of the defendant.** The main effect of decision context on perceptions of the defendant was marginally significant in Model 4F,  $F(1,88.7) = 3.62$ ,

$p < .06$ . As in Models 2F and 3F, those in the deliberating condition expressed more positive perceptions of the plaintiff than those in the non-deliberating condition. However, the interaction between decision context and plaintiff weight was non-significant ( $F = 2.07, p = .15$ ). The main effect of FPS scores on perceptions of the defendant approached significance,  $F(1,425.5) = 3.44, p = .064$ . The fixed effects estimate was non-significant, but indicated that those with higher FPS scores had more positive perceptions of the defendant than those with lower FPS scores ( $b = .14, SE = .18, p = .38$ ). There were no significant interactions between scores on the FPS, decision context, or plaintiff weight ( $F_s < .79, p_s > .37$ ).

**Model 5F: Effects of BMI on perceptions of the defendant.** The main effect of decision context on perceptions of the defendant approached significance in Model 5F,  $F(1,93.5) = 3.73, p < .06$ , but there was no significant interactive effect between plaintiff weight and decision context ( $F = 2.02, p = .16$ ). Participant BMI significantly predicted perceptions of the defendant,  $F(1,431.6) = 5.17, p = .017$ . The fixed effects estimate for BMI was non-significant, but indicated that participants with higher BMIs had more negative perceptions of the defendant than those with lower BMIs ( $b = -1.55, SE = 1.24, p = .21$ ). There were no significant interactions between decision context, plaintiff weight, and participant BMI on perceptions of the defendant ( $F_s < .25, p_s > .61$ ).

**Effects of plaintiff weight, decision context, and individual differences on the SLA scale (SLA measure).** The null model indicated that the variance component due to the random jury effect was significant in the deliberating condition,  $ICC = .322, Wald Z = 3.52, p < .001$ . Approximately 32% of the variance in SLA scale scores could be attributed to differences between jury groups. In contrast, less than .01% of the variance could be attributed to differences between nominal jury groups in the non-deliberating condition,  $ICC < .001, Wald Z =$



.003,  $p = .998$ . Results for all models specifying SLA measures as dependent variables (including SLA scale scores, plaintiff witness ratings, and defendant witness ratings) are summarized in

**Table 2.**

**Model 1G: Effects of gender on SLA scale.** Because there was no main effect of plaintiff weight on SLA scale scores in this model or in any of the other four models in this series ( $F_s < 2.26$ ,  $p_s > .13$ ), results of plaintiff weight as an individual predictor will not be discussed further. A significant effect of decision context did emerge,  $F(1,98.6) = 11.15$ ,  $p = .001$ , such that deliberating jurors had lower scores on the SLA scale ( $M = 3.47$ ,  $SE = .08$ ) than non-deliberating jurors ( $M = 3.85$ ,  $SE = .08$ ). That is, deliberating jurors were less likely than non-deliberating jurors to express pro-plaintiff attributions and more likely to express pro-defendant attributions. The main effect of decision context remained significant in the following four models ( $F_s > 10.81$ ,  $p_s < .01$ ) and thus specific results pertaining to the main effect will not be further reported for this series of models. There was no significant interaction between plaintiff weight and decision context ( $F = 2.70$ ,  $p = .10$ ).

SLA scale scores were lower among males ( $M = 3.48$ ,  $SE = .08$ ) than among females ( $M = 3.83$ ,  $SE = .07$ ), and this difference was statistically significant,  $F(1,439.2) = 14.92$ ,  $p < .001$ . Analyses failed to reveal any significant interactive effects between gender, plaintiff weight, and decision context on SLA scale scores ( $F_s < 1.9$ ,  $p_s > .18$ ).

Table 2. Fixed effects of decision context, plaintiff weight, and individual difference variables on SLA measures in total sample.

Model Variable*	G: SLA Scale		H: Plaintiff witness ratings		I: Defendant witness ratings	
	F	p	F	p	F	p
<b>Model 1: Effects of Gender</b>						
Decision context	11.15	>.01	14.90	>.001	1.89	.17
Weight condition	2.07	.14	2.61	.43	.36	.55
Decision context x Weight condition	2.70	.10	.82	.37	2.94	.90
Gender	14.92	>.001	19.05	>.001	.07	.79
Gender x Decision context	.08	.78	.39	.53	3.18	.09
Gender x Weight condition	.43	.51	.30	.59	1.43	.23
<b>Model 2: Effects of BJW-O</b>						
Decision context	13.46	>.001	17.53	>.001	.95	.33
Weight condition	2.37	.13	2.03	.16	.03	.87
Decision context x Weight condition	5.68	.02	2.22	.14	5.02	.03
BJW-O	6.35	.01	.36	.55	12.02	.001
BJW-O x Decision context	1.20	.27	.98	.32	.06	.81
BJW-O x Weight condition	8.58	>.01	4.48	.04	2.93	.08
<b>Model 3: Effects of BPWE</b>						
Decision context	13.61	>.001	18.40	>.001	1.07	.31
Weight condition	.84	.36	1.47	.23	.35	.56
Decision context x Weight condition	7.45	>.01	3.06	.08	5.56	.02
BPWE	24.15	>.001	4.79	.03	13.68	>.001
BPWE x Decision context	7.79	>.01	1.35	.25	.30	.58
BPWE x Weight condition	2.45	.12	1.08	.30	6.89	>.01

**Note.** \*Each model also included a three-way interaction term between decision context, plaintiff weight, and the individual difference variable examined as a predictor variable. The three way interaction was non-significant in all models,  $F_s < 2.02$   $p_s > .15$

Table 2 (continued).

Model Variable	G: SLA Scale		H: Plaintiff witness ratings		I: Defendant witness ratings	
	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>	<i>F</i>	<i>p</i>
<b>Model 4: <i>Effects of FPS</i></b>						
Decision context	11.44	.001	16.96	>.001	.97	.06
Weight condition	2.54	.12	2.74	.10	.15	.47
Decision context x Weight condition	5.10	.03	2.60	.11	2.79	.10
FPS	13.13	>.001	7.65	>.01	10.52	.001
FPS x Decision context	.38	.54	.04	.84	5.89	.02
FPS x Weight condition	2.01	.15	.20	.65	3.42	.07
<b>Model 5: <i>Effects of BMI</i></b>						
Decision context	10.82	.001	17.27	>.001	.48	.49
Weight condition	3.05	.09	2.96	.32	.01	.31
Decision context x Weight condition	6.41	.01	3.07	.08	3.74	.06
BMI	5.34	.02	.52	.47	10.84	.001
BMI x Decision context	1.06	.30	.07	.80	.18	.67
BMI x Weight condition	.85	.36	.27	.60	.36	.55

**Model 2G: Effects of BJW-O on SLA scale.** Model 2G yielded a significant interactive effect between plaintiff weight and decision context on SLA scale scores,  $F(1,94.7) = 5.68, p = .019$ . As **Figure 4** indicates, non-deliberating jurors had similar scores on the SLA scale regardless of whether they were assigned to normal weight ( $M = 3.85, SE = .11$ ) or obese ( $M = 3.95, SE = .12$ ) plaintiff conditions. In the deliberating condition, jurors in the obese condition had lower SLA scale scores ( $M = 3.28, SE = .11$ ) than jurors in the normal weight condition ( $M = 3.71, SE = .10$ ). Tests of pairwise comparisons indicated that the difference between SLA scale scores in the normal weight and obese conditions was significant for the deliberating sample ( $p < .001$ ).

There was a significant main effect of BJW-O scale scores on SLA scale scores,  $F(1,439.2) = 14.92, p < .001$ . The fixed effects estimate for BJW-O revealed that those lower in BJW-O scored higher on the SLA scale (indicating stronger endorsement of pro-plaintiff attributions and weaker endorsement of pro-defendant attributions) than those higher in BJW-O. This main effect, however, was qualified by a significant interaction between BJW-O and plaintiff weight, which is depicted in **Figure 5**. Consistent with prior results, SLA scale score means calculated at +1 and -1 standard deviations of BJW-O indicated that plaintiff weight did not impact SLA scale scores among those lower in BJW-O (normal weight  $M = 3.77, SE = .10$ ; obese  $M = 3.84, SE = .10$ ). Those higher in BJW-O had lower scores on the SLA scale in the obese condition ( $M = 3.38, SE = .10$ ) than in the normal weight condition ( $M = 3.81, SE = .09$ ), and tests of pairwise comparisons indicated that this difference was significant ( $p = .003$ ). BJW-O scale scores did not moderate the effects of decision context on SLA scale scores, and the three-way interaction between BJW-O, plaintiff weight, and decision context also was non-significant ( $F_s < 1.21, p_s > .27$ ).

Figure 4. Interaction between decision context and plaintiff weight on SLA scale scores in the total sample.

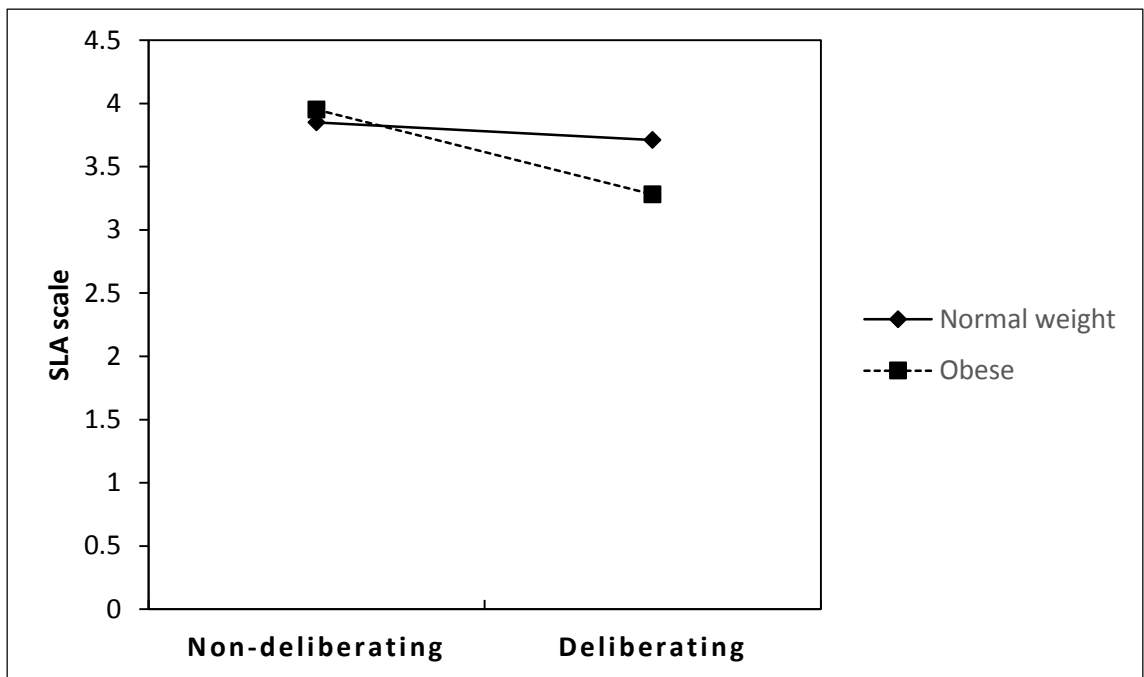
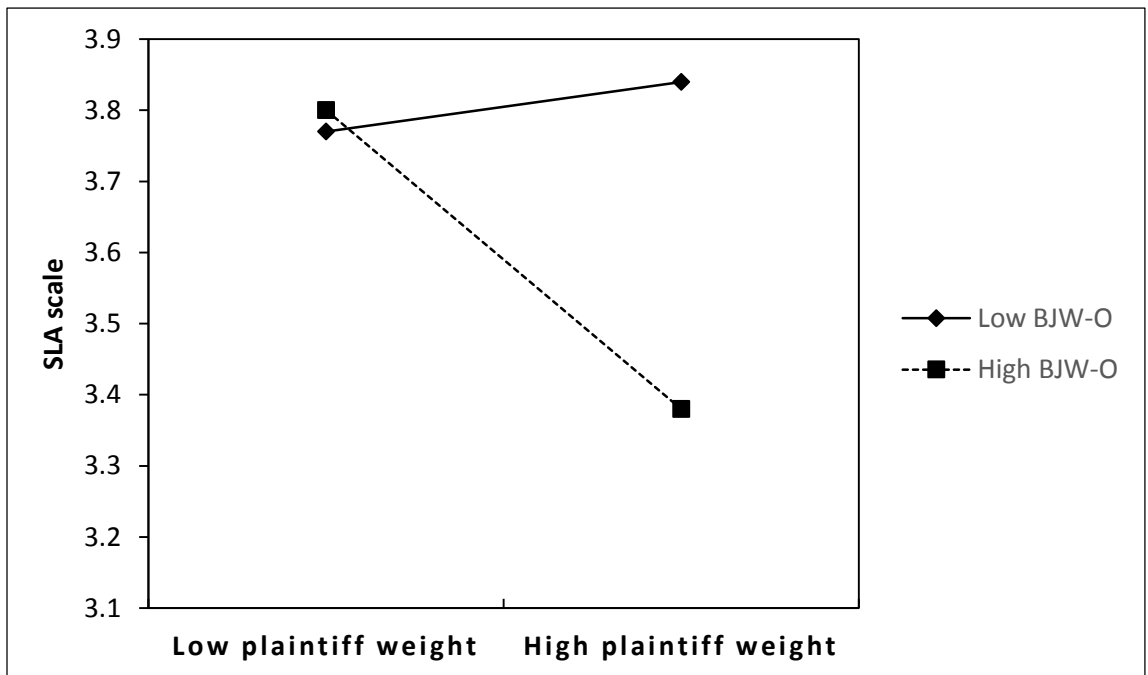


Figure 5. Interaction between plaintiff weight and BJW-O on SLA scale scores in the total sample.

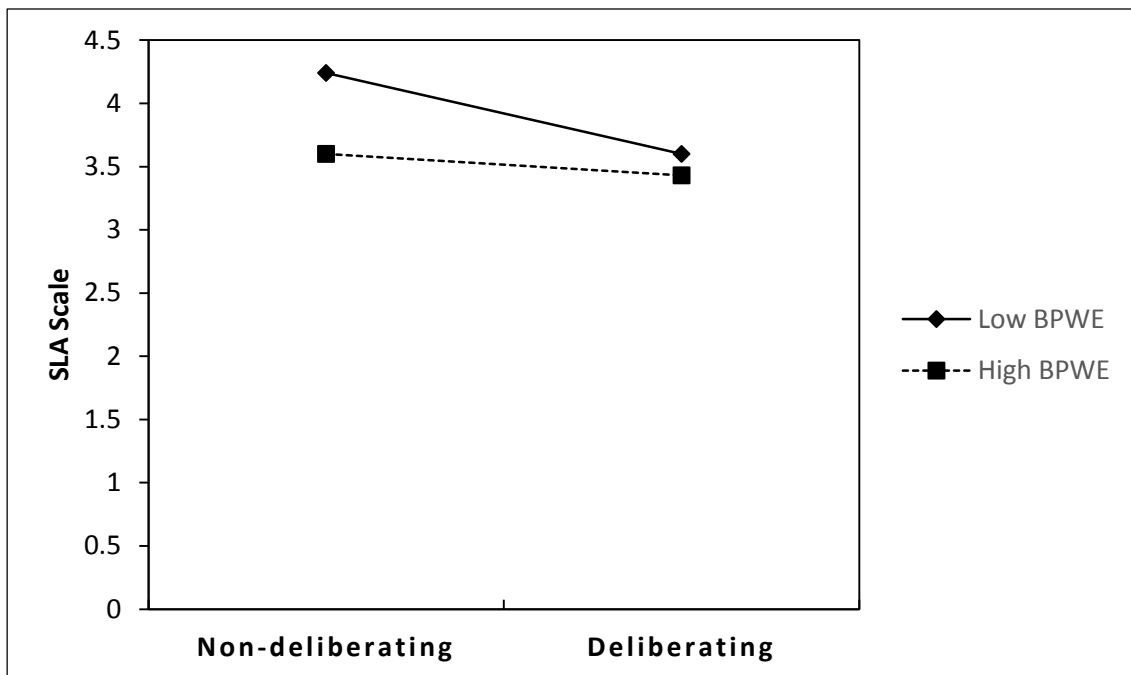


**Model 3G: Effects of BPWE on SLA scale.** The interaction between plaintiff weight and decision context was significant in this model as well as in the following two models in this series ( $F_s > 5.09$ ,  $p_s < .03$ ). The interaction pattern was the same across all models: deliberating jurors had significantly lower SLA scale scores when exposed to the obese plaintiff than when exposed to the normal weight plaintiff, whereas plaintiff weight had little impact on non-deliberating jurors' SLA scores.

There was a significant main effect of BPWE,  $F(1,429.9) = 24.15$ ,  $p < .001$ , such that those lower in BPWE scored higher on the SLA scale than those higher in BPWE ( $b = -.18$ ,  $SE = .10$ ,  $p = .065$ ). This main effect was qualified by a significant interaction between BPWE and decision context,  $F(1,429.9) = 7.79$ ,  $p = .005$  (see **Figure 6**). Those higher in BPWE had similar SLA scale scores regardless of whether they were in the non-deliberating ( $M = 3.60$ ,  $SE = .10$ ) or deliberating ( $M = 3.43$ ,  $SD = .09$ ) condition. Among those lower in BPWE, SLA scale scores were higher for those in the non-deliberating condition ( $M = 4.24$ ,  $SE = .10$ ) compared to the deliberating condition ( $M = 3.60$ ,  $SE = .09$ ). Tests of pairwise comparisons indicate that the difference between decision contexts for those lower in BPWE is significant ( $p < .001$ ). The interaction term between plaintiff weight and BPWE and the three-way interaction term were both non-significant ( $F_s < 2.45$ ,  $p_s > .11$ ).

**Model 4G: Effects of FPS on SLA scale.** There was a significant main effect of FPS scores on SLA scale scores,  $F(1,427.1) = 13.13$ ,  $p < .001$ . According to the fixed effects estimate, SLA scale scores decreased as FPS scores increased ( $b = -.28$ ,  $SE = .13$ ,  $p = .037$ ). However, there were no significant interactions between FPS scores and plaintiff weight and decision context on SLA scale scores ( $F_s < 2.01$ ,  $p_s > .15$ ).

Figure 6. Interaction between decision context and BPWE scores on SLA scale in the total sample.



**Model 5G: Effects of BMI on SLA scale.** Participant BMI significantly impacted SLA scale scores,  $F(1,433.5) = 5.34, p = .021$ , such that SLA scale scores decreased as BMI decreased. The fixed effects estimate for BMI, however, was non-significant ( $b = -.21, SE = 1.03, p = .84$ ). BMI did not moderate the effects of plaintiff weight or decision context on SLA scale scores ( $F_s < 1.06, p_s > .30$ ).

**Effects of plaintiff weight, decision context, and individual differences on plaintiff witness ratings (SLA measure).** Null models were executed with Jury ID as the grouping variable and the scale comprised of ratings of the convincingness of the witnesses for the plaintiff as the dependent variable. The null model including the deliberating sample revealed that 20.5% of the variance in plaintiff witness ratings was attributable to differences between jury groups,  $ICC = .205, Wald Z = 2.78, p = .005$ . The null model for the non-deliberating sample indicated that the

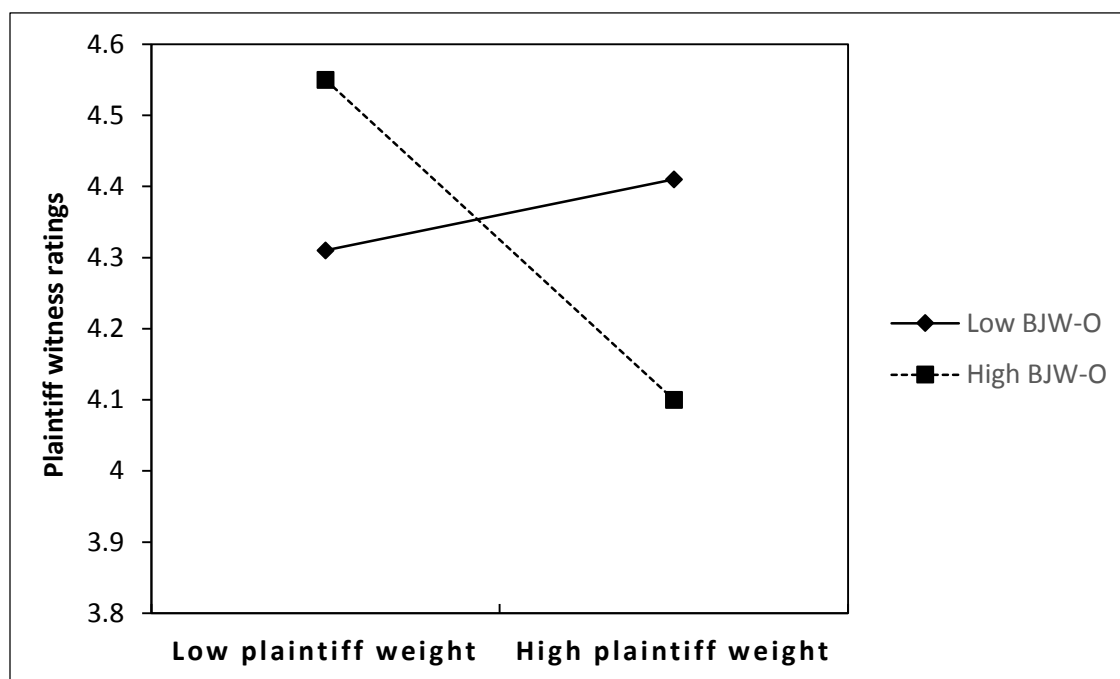
variance component due to random assignment to nominal jury groups was non-significant,  $ICC = .038$ , Wald  $Z = .66$ ,  $p = .51$ .

**Model 1H: Effects of gender on plaintiff witness ratings.** There were no significant main effects of plaintiff weight on plaintiff witness ratings in Model 1H or in Models 2H – 5H ( $F_s < 2.97$ ,  $p_s > .10$ ). Decision context did significantly impact plaintiff witness ratings,  $F(1,100.2) = 14.90$ ,  $p < .001$ . Estimated marginal means revealed that non-deliberating jurors perceived the plaintiff's witnesses as more convincing ( $M = 4.57$ ,  $SE = .11$ ) compared to deliberating jurors ( $M = 4.02$ ,  $SE = .10$ ). This main effect of decision context persevered in Models 2H – 5H ( $F_s > 16.96$ ,  $p_s < .001$ ) and will not be reported separately for each of the following individual models. All interaction terms, including those between plaintiff weight and decision context and those between plaintiff weight, decision context, and gender were non-significant ( $F_s < .82$ ,  $p_s > .36$ ). However, there was a significant main effect of gender,  $F(1, 441.7) = 19.85$ ,  $p < .001$ , such that males had lower scores on the plaintiff witness scale ( $M = 4.04$ ,  $SE = .10$ ) than did females ( $M = 4.56$ ,  $SE = .08$ ).

**Model 2H: Effects of BJW-O on plaintiff witness ratings.** There was no significant main effect of BJW-O scale scores on plaintiff witness ratings ( $F = .36$ ,  $p = .55$ ). Yet, BJW-O scale scores moderated the effects of plaintiff weight on plaintiff witness ratings,  $F(1,437.3) = 4.48$ ,  $p = .035$  (see **Figure 7**). Plaintiff weight did not significantly impact plaintiff witness ratings among participants lower in BJW-O (normal weight  $M = 4.31$ ,  $SE = .13$ ; obese  $M = 4.41$ ,  $SE = .13$ ). Plaintiff weight had a significant effect on plaintiff witness ratings among those higher in BJW-O ( $p < .001$ ). Those with higher BJW-O scores rated the plaintiff's witnesses as more convincing in the normal weight condition ( $M = 4.55$ ,  $SE = .12$ ) than in the obese condition ( $M = 4.10$ ,  $SE = .14$ ). All other interaction terms entered into Model 2H were non-significant ( $F_s < 2.22$ ,  $p_s > .13$ ).

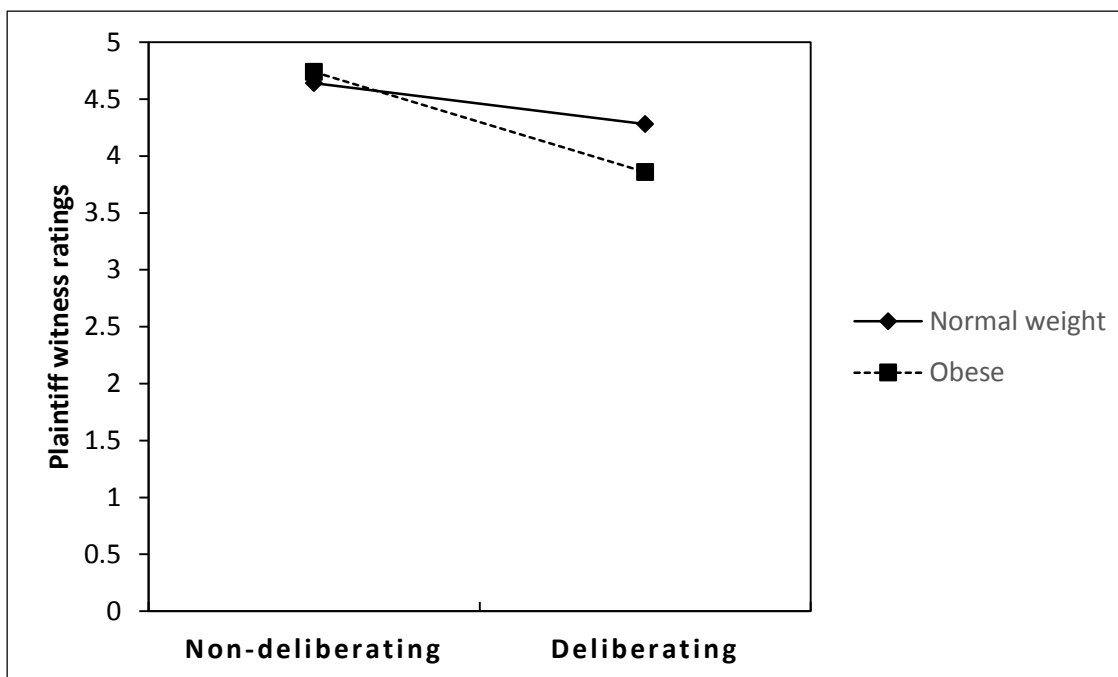


Figure 7. Interaction between plaintiff weight and BJW-O on plaintiff witness ratings in the total sample.



**Model 3H: Effects of BPWE on plaintiff witness ratings.** In Model 3H, the interaction between decision context and plaintiff weight on plaintiff witness ratings was marginally significant,  $F(1, 437.3) = 4.48, p = .035$ . This interactive effect is illustrated in **Figure 8**. Plaintiff weight had a negligible effect on plaintiff witness ratings in the non-deliberating condition (normal weight  $M = 4.64, SE = .15$ ; obese  $M = 4.71, SE = .15$ ). There was a more pronounced effect of plaintiff weight in the deliberating condition, such that deliberating jurors had lower ratings of plaintiff witness convincingness with presented with an obese plaintiff ( $M = 3.86, SE = .14$ ) than when presented with a normal weight plaintiff ( $M = 4.28, SE = .13$ ). Tests of pairwise comparisons indicate a significant difference in plaintiff witness ratings between normal weight and obese conditions among deliberating jurors ( $p < .001$ ).

Figure 8. Interaction between decision context and plaintiff weight on plaintiff witness ratings in the total sample.



In addition, a significant main effect of BPWE scores on plaintiff witness ratings emerged,  $F(1, 434.5) = 4.79, p = .029$ . The fixed effects estimate for BPWE was non-significant, but indicated that plaintiff witness ratings decreased as BPWE scores increased ( $b = -.15, SE = .14, p = .256$ ). BPWE did not moderate the effects of decision context or plaintiff weight on plaintiff witness ratings ( $F_s < 1.36, p_s > .24$ ).

**Model 4H: Effects of FPS on plaintiff witness ratings.** In Model 4H, the interaction between decision context and plaintiff weight did not approach statistical significance ( $F = 2.60, p = .11$ ). Further, FPS scores did not moderate the effects of decision context or plaintiff weight on plaintiff witness ratings ( $F_s < .45, p_s > .50$ ). There was, however, a significant main effect of FPS scores on plaintiff witness ratings,  $F(1,431.5) = 7.65, p = .006$ . The non-significant fixed

effects estimate for FPS scores indicated that as FPS scores decreased, ratings of the plaintiff's witnesses increased ( $b = -.23$ ,  $SE = .18$ ,  $p = .20$ ).

**Model 5H: Effects of BMI on plaintiff witness ratings.** As in Model 3H, the interaction between plaintiff weight and decision context on plaintiff witness ratings was marginally significant,  $F(93.6,1) = 3.07$ ,  $p = .083$ . Again, estimated marginal means revealed little difference between plaintiff weight conditions in the non-deliberating sample (normal weight  $M = 4.66$ ,  $SE = .15$ ; obese  $M = 4.66$ ,  $SE = .15$ ). In the deliberating sample, participants rated the plaintiff's witnesses as less convincing in the obese condition ( $M = 3.83$ ,  $SE = .14$ ) than in the normal weight condition ( $M = 4.32$ ,  $SE = .13$ ). There was no significant main effect of participant BMI and BMI did not moderate the effects of plaintiff weight or decision context on plaintiff witness ratings ( $F_s < .47$ ,  $p_s > .47$ ).

**Effects of plaintiff weight, decision context, and individual differences on defendant witness ratings (SLA measure).** The null model for the deliberating sample indicated that approximately 17.6% of the variance in defendant witness ratings was attributable to differences between jury groups, and this random variance component was significant,  $ICC = .176$ , Wald  $Z = 2.53$ ,  $p = .011$ . Estimates of covariance parameters for the null model only including the non-deliberating sample could not be obtained, and thus the ICC could not be calculated. Again, the failure of the null model to yield estimates of covariance parameters may be due to a negligible amount of variance in defendant witness ratings between the nominal jury groups.

**Model 1I: Effects of gender on defendant witness ratings.** There were no significant main effects of plaintiff weight on defendant witness ratings in this model ( $F = .336$ ,  $p = .55$ ) or in Models 2I – 5I ( $F_s < .03$ ,  $p_s > .26$ ). There also were no significant main effects of decision

context on defendant witness ratings in this model ( $F = 1.88, p = .17$ ) or in any of the other models in this series ( $F_s < .95, p_s > .22$ ). Therefore, the non-significant results of the main effects of plaintiff weight and decision context will not continue to be reported in the following series of analyses. In the current model, the interaction between plaintiff weight and decision context also failed to approach significance ( $F = 2.94, p = .09$ ).

The main effect of gender was non-significant ( $F = .07, p = .79$ ), but the interaction between gender and decision context on defendant witness ratings was marginally significant,  $F(1, 447.3) = 3.18, p = .075$ . As **Figure 9** illustrates, female participants provided similar ratings of the defendant's witnesses in the non-deliberating ( $M = 4.84, SE = .10$ ) and deliberating ( $M = 4.81, SE = .09$ ) conditions. However, males in the non-deliberating condition perceived the defendant's witnesses as less convincing ( $M = 4.62, SE = .13$ ) than males in the deliberating condition ( $M = 4.97, SE = .12$ ). Tests of pairwise comparisons showed that, for male participants, the difference in defendant witness ratings between non-deliberating and deliberating conditions was significant ( $p = .048$ ). The interaction between gender and plaintiff weight on defendant witness ratings was non-significant, as was the three-way interaction ( $F_s < 1.43, p_s > .23$ ).

**Model 21: Effects of BJW-O on defendant witness ratings.** The interaction between plaintiff weight and decision context reached statistical significance in Model 21,  $F(1, 96.3) = 5.02, p = .027$ . Estimated marginal means indicated that participants in the obese condition viewed the defendant's witness as more credible when they deliberated ( $M = 5.01, SE = .11$ ) than when they considered the case individually ( $M = 4.63, SE = .13$ ; see **Figure 10**). Deliberations did not substantially affect defendant witness ratings in the normal weight condition (non-deliberating  $M = 4.87, SE = .12$ ; deliberating  $M = 4.73, SE = .11$ ).

Figure 9. Interaction between decision context and gender on defendant witness ratings in the total sample.

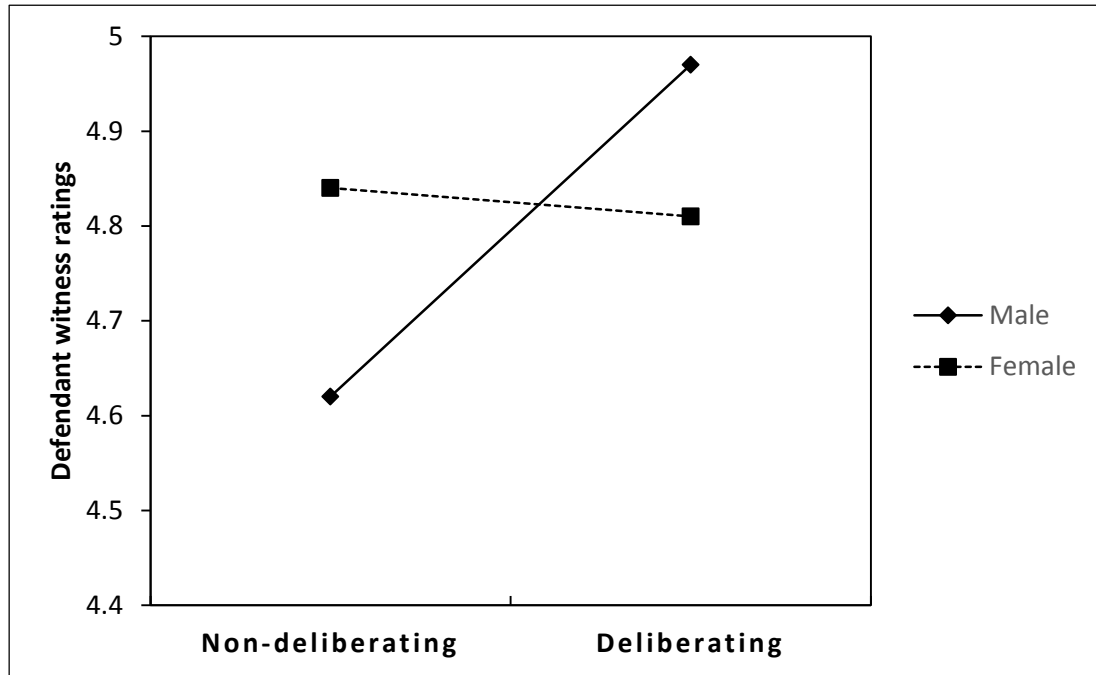
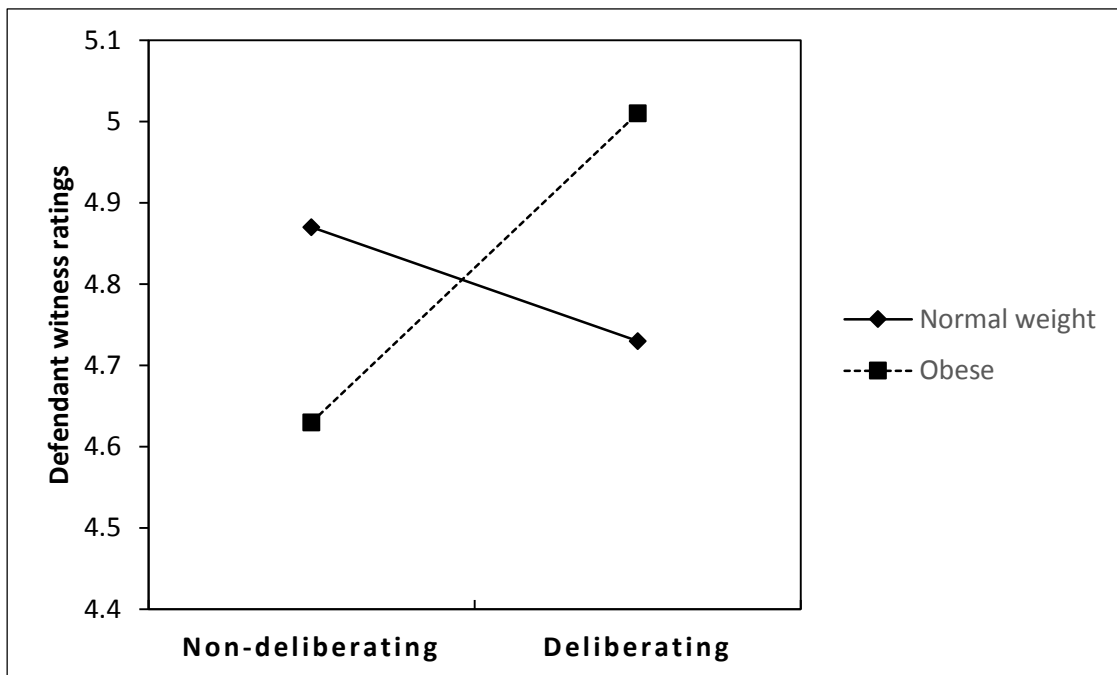


Figure 10. Interaction between decision context and plaintiff weight on defendant witness ratings in the total sample.



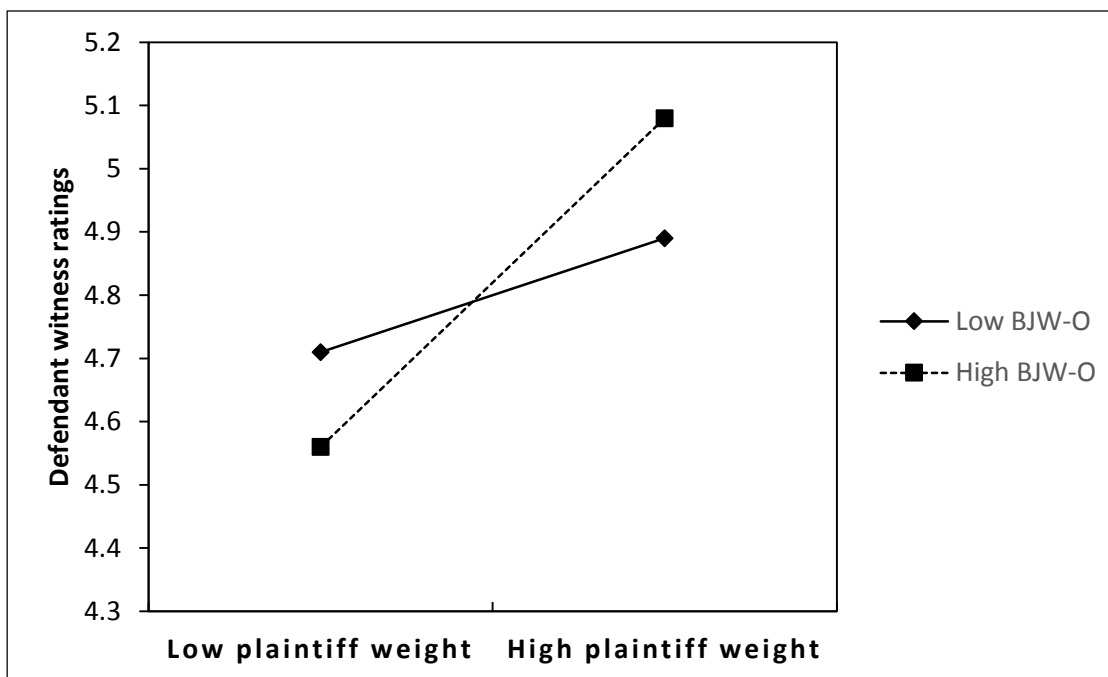
Participants' scores on the BJW-O scale significantly impacted defendant witness ratings,  $F(1, 442.9) = 12.02, p < .001$ . Estimates of fixed effects indicated that scores on the BJW-O scale were positively related to ratings of the defendant's witnesses' convincingness ( $b = .45, SE = .18, p = .001$ ). The interaction between plaintiff weight and BJW-O scores on defendant witness ratings was marginally significant,  $F(1, 442.9) = 2.93, p < .087$ . As **Figure 11** illustrates, BJW-O scores had a greater impact on defendant witness ratings in the obese condition (low BJW-O  $M = 4.89, SE = .11$ ; high BJW-O  $M = 5.08, SE = .11$ ) than in the normal weight condition (low BJW-O  $M = 4.71, SE = .11$ ; high BJW-O  $M = 4.56, SE = .10$ ). That is, those with stronger just world beliefs found the defendant's witnesses more convincing than those with weaker beliefs, but only when they were exposed to the obese plaintiff. Tests of pairwise comparisons could not be used to further inform the significance of this effect, as the main difference emerged between means calculated at +1 and -1 standard deviations of the centered BJW-O variable in the obese condition only (as opposed as between obese and normal weight conditions at either low or high BJW-O scores). BJW-O scale scores did not moderate the effects of decision context on defendant witness ratings, and the three-way interaction between BJW-O, plaintiff weight, and decision context also was non-significant ( $F_s > .45, p_s < .50$ ).

**Model 3I: Effects of BPWE on defendant witness ratings.** The interaction between plaintiff weight and decision context on defendant witness ratings again reached statistical significance,  $F(1, 94.8) = 5.58, p = .020$ . Consistent with the interaction that emerged in Model 2I, participants exposed to the obese plaintiff viewed the defendant's witnesses as more convincing when they deliberated in groups ( $M = 4.95, SE = .11$ ) than when they did not deliberate ( $M = 4.56, SE = .12$ ). Those exposed to the normal weight plaintiff provided similar ratings of the defendant's witnesses, regardless of decision context assignment (non-deliberating  $M = 4.90, SE = .12$ ;

deliberating  $M = 4.74$ ,  $SE = .11$ ). Tests of pairwise comparisons confirmed that the difference between deliberating and non-deliberating jurors in the obese condition was significant ( $p = .021$ ).

Model 3I yielded a main effect of BPWE on defendant witness ratings,  $F(1, 441.5) = 13.68$ ,  $p < .001$ . Estimates of fixed effects indicated that scores on the BPWE scale were positively related to ratings of the convincingness of the defendant's witnesses ( $b = .31$ ,  $SE = .12$ ,  $p = .009$ ). Two significant interactions provide further insight into the additional factors underlying this main effect. First, BPWE moderated the effects of decision context on defendant witness ratings,  $F(1, 441.5) = 4.33$ ,  $p < .038$ . Estimated marginal means were calculated at +1 and -1 standard deviations of the centered BPWE variable to help clarify this interactive effect. Decision context had a negligible effect on defendant witness ratings among those higher in

Figure 11. *Interaction between plaintiff weight and BJW-O scores on defendant witness ratings in the total sample.*



BPWE (non-deliberating  $M = 5.02$ ,  $SE = .11$ ; deliberating  $M = 4.93$ ,  $SE = .10$ ; see **Figure 12**).

Participants lower in BPWE, however, perceived the defendant's witnesses as more convincing in the deliberating condition ( $M = 4.77$ ,  $SE = .10$ ) than in the non-deliberating condition ( $M = 4.44$ ,  $SE = .11$ ). Tests of pairwise comparisons indicate that the difference in defendant witness ratings between deliberating and non-deliberating conditions is significant among those with lower BPWE scale scores ( $p = .033$ ).

Second, BPWE moderated the effects of plaintiff weight on defendant witness ratings,  $F(1, 441.5) = 6.89$ ,  $p < .009$ . This interaction is depicted in **Figure 13**. In the normal weight condition, defendant witness ratings were similar among those with a stronger BPWE ( $M = 4.87$ ,  $SE = .11$ ) and those with a weaker BPWE ( $M = 4.77$ ,  $SE = .10$ ). In the obese condition, those scoring lower on the BPWE scale had less favorable perceptions of the defendant's witnesses ( $M = 4.44$ ,  $SE = .11$ ) than those scoring higher on the BPWE scale ( $M = 5.07$ ,  $SE = .10$ ). According to tests of pairwise comparisons, the difference between obese and normal weight conditions among those lower in BPWE is significant ( $p = .032$ ). There also appears to be a substantial difference between those lower and higher in BPWE in the obese condition only, though pairwise comparisons cannot be used to determine the statistical significance of this difference. The three-way interaction between BPWE, plaintiff weight, and decision context was non-significant ( $F = .30$ ,  $p = .58$ ).

**Model 4I: Effects of FPS on defendant witness ratings.** The interaction between plaintiff weight and decision context did not reach statistical significance in Model 4I ( $F = 2.79$ ,  $p = .098$ ). The main effect of FPS on defendant witness ratings was significant,  $F(1, 435.5) = 10.52$ ,  $p = .001$ , and was qualified by a significant interaction between decision context and FPS scores,  $F(1, 435.5) = 5.89$ ,  $p = .016$ . This interaction is depicted in **Figure 14**. Estimated marginal means



calculated at +1 and -1 standard deviations of the centered FPS score indicated that those with higher FPS scores provided similar ratings of the defendant's witnesses in non-deliberating ( $M = 5.05, SD = .11$ ) and deliberating ( $M = 4.91, SD = .10$ ) conditions. Those with lower FPS scores perceived the defendant's witnesses as less convincing in the non-deliberating condition ( $M = 4.47, SE = .12$ ) than in the deliberating condition ( $M = 4.83, SE = .10$ ). Tests of pairwise comparisons confirmed that there was a statistically significant difference in defendant witness ratings between non-deliberating and deliberating conditions for those with lower FPS scores ( $p = .020$ ). This effect is similar to that obtained in examining the interaction between decision context and FPS scores on total responsibility assessments, which indicated that those with lower FPS scores were more likely to find the defendant responsible for the negative medical outcome in only the non-deliberating condition.

Figure 12. *Interaction between decision context and BPWE scores on defendant witness ratings in the total sample.*

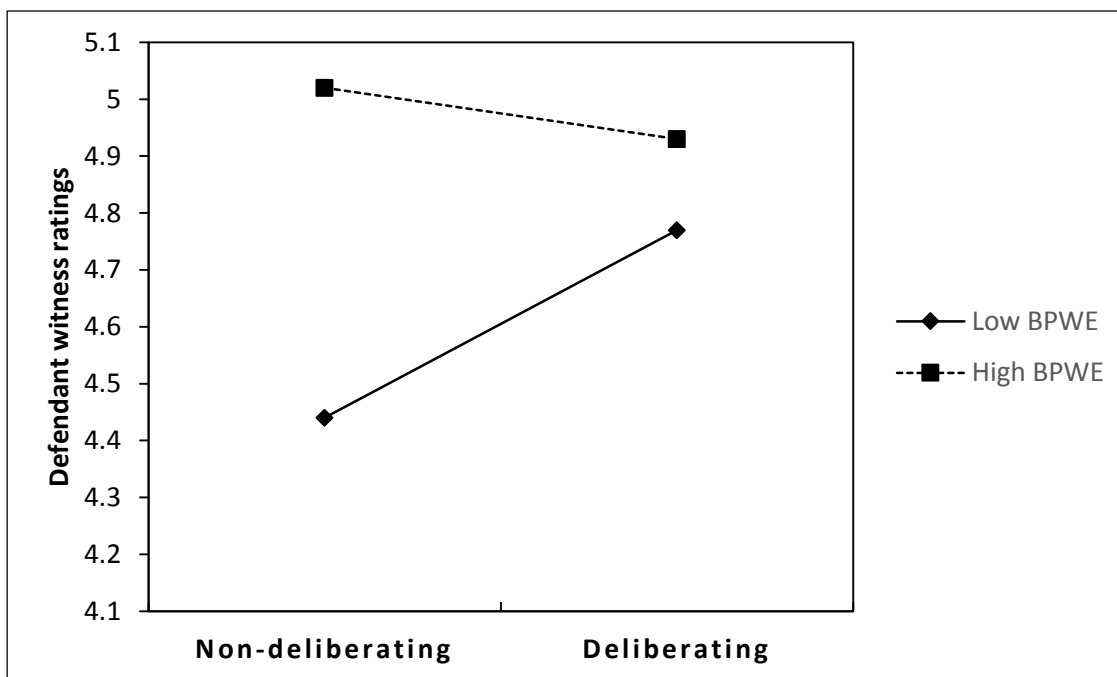


Figure 13. *Interaction between plaintiff weight and BPWE scores on defendant witness ratings in the total sample.*

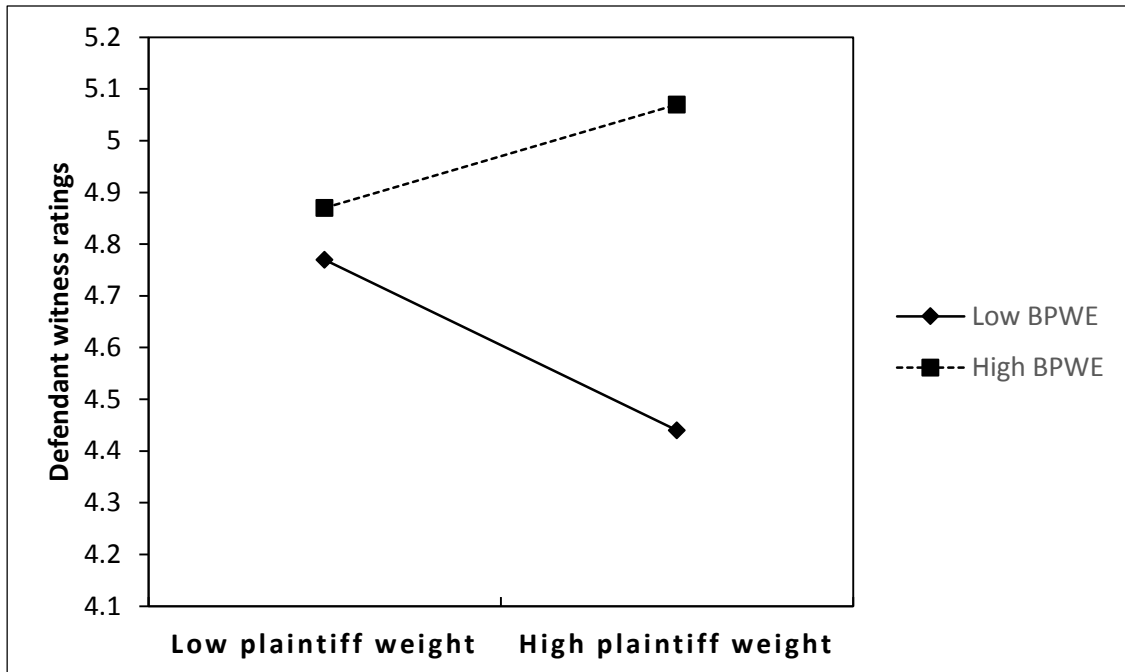
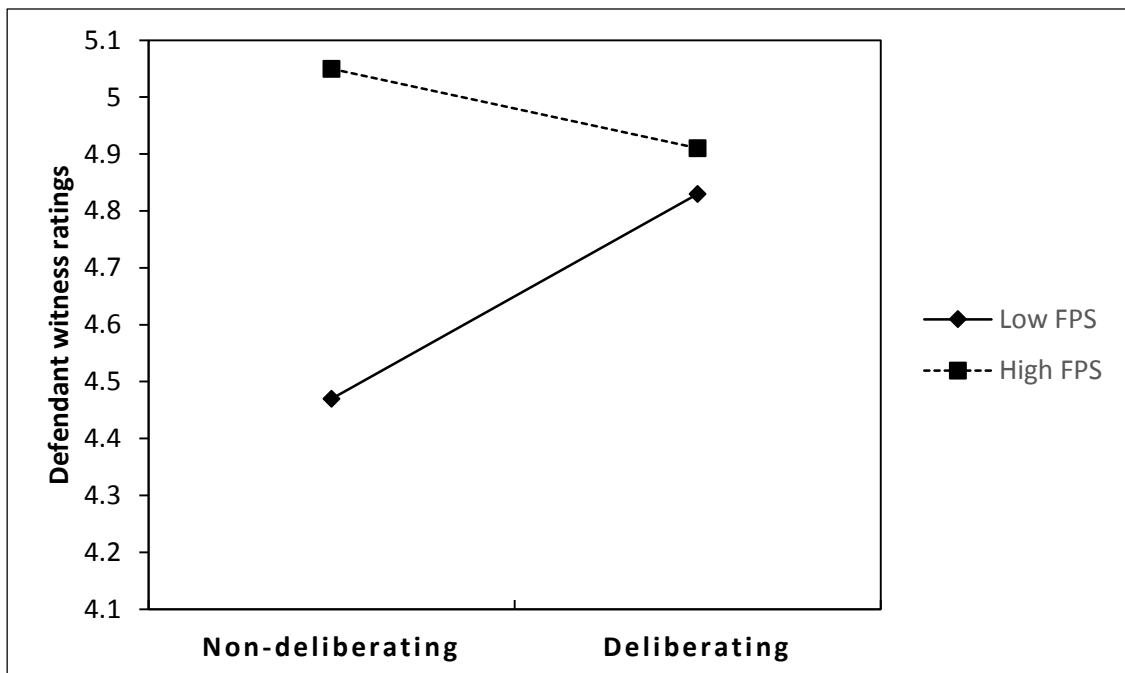
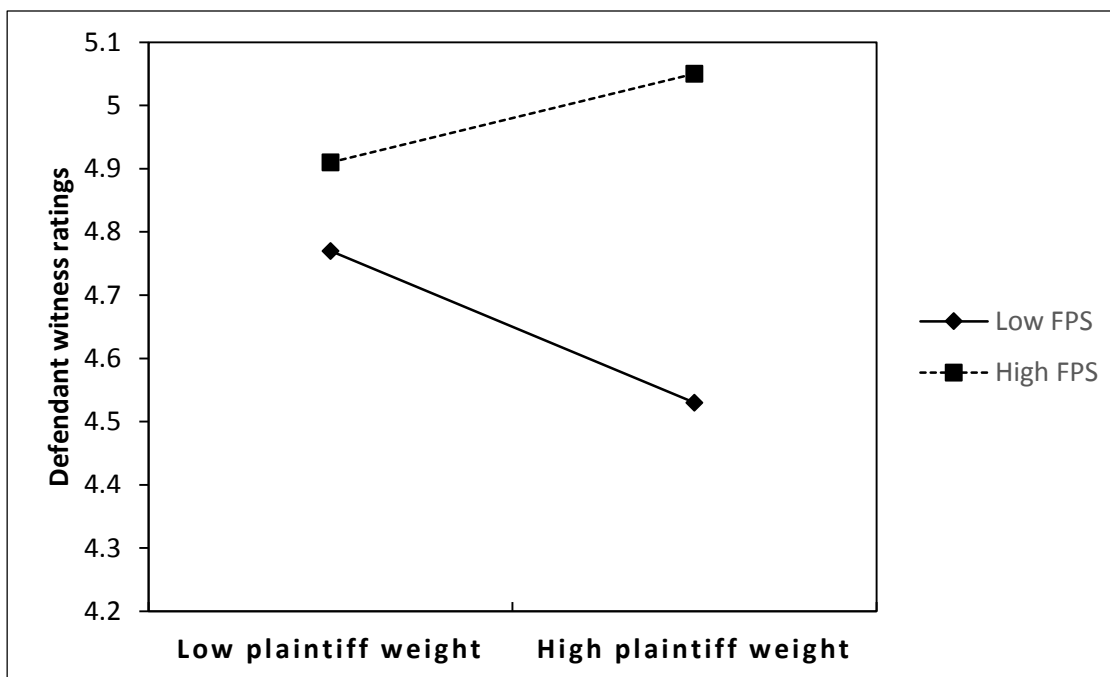


Figure 14. *Interaction between decision context and FPS scores on defendant witness ratings in the total sample.*



The interaction between plaintiff weight and FPS scores approached significance,  $F(1, 435.5) = 3.42, p = .065$ . FPS scores had little impact on defendant witness ratings in the normal weight condition (low FPS  $M = 4.77, SE = .11$ ; high FPS  $M = 4.91, SE = .11$ ). In the obese condition, those with higher FPS scale scores perceived the defendant's witnesses as more convincing ( $M = 5.05, SE = .11$ ) than those with lower FPS scores ( $M = 4.53, SE = .11$ ; see **Figure 15**). Because this difference emerged between weight conditions *across* levels of FPS scores (rather than between conditions *within* levels of FPS scores), routine tests of pairwise comparisons to indicate the statistical significance between groups could not be conducted. The three-way interaction between decision context, plaintiff weight, and FPS scores was non-significant ( $F = .85, p = .36$ ).

Figure 15. Interaction between plaintiff weight and FPS scores on defendant witness ratings in the total sample.



**Model 5I: Effects of BMI on defendant witness ratings.** In Model 5I, the interaction between decision context and plaintiff weight on defendant witness ratings was marginally significant,  $F(1, 90.1) = 3.74, p = .056$ . Estimated marginal means revealed the same pattern emerging in models 2I and 3I, such that there was a greater difference between ratings of the defendant's witnesses between non-deliberating jurors ( $M = 4.66, SE = .12$ ) and deliberating jurors ( $M = 4.96, SE = .11$ ) in the obese condition than in the normal weight condition (non-deliberating  $M = 4.88, SE = .12$ ; deliberating  $M = 4.74, SE = .10$ ). Tests of pairwise comparisons revealed that the difference in defendant witness ratings between non-deliberating and deliberating jurors in the obese plaintiff sample was again only marginally significant ( $p = .072$ ).

There was a significant main effect of participant BMI on defendant witness ratings,  $F(1, 438.0) = 10.84, p = .001$ . The fixed effects estimate for BMI was marginally significant, and indicated that ratings of the defendant's witnesses' convincingness increased as participant BMI decreased ( $b = -2.19, SE = 1.22, p = .073$ ). Participant BMI did not moderate the effects of plaintiff weight or decision context on defendant witness ratings ( $F_s < .36, p_s > .55$ )

**Summary of results of analyses addressing RQ 2.** Analyses revealed that there were indeed many differences in deliberating and non-deliberating jurors' scores on SE and SLA measures. Deliberating jurors had weaker negative emotional reactions to the case than non-deliberating jurors. On all other SE and SLA measures with the exception of defendant witness ratings, deliberating jurors' scores indicated more support for the defendant and less support for the plaintiff than non-deliberating jurors' scores. In addition, plaintiff weight only impacted SE and SLA measures in the deliberating condition. When the plaintiff was depicted as obese, deliberating jurors had less favorable perceptions of the plaintiff, lower scores on the SLA scale, lower ratings of the plaintiff's witnesses, and higher ratings of the defendant's witnesses than

when the plaintiff was depicted as normal weight. These findings are consistent with those examining the effects of decision context and plaintiff weight on case outcome variables.

Decision context did not appear to moderate the effects of the individual difference variables on SE measures, but it did moderate the effects of certain individual difference variables on certain SLA measures. Men perceived the defendant's witnesses as less convincing in the non-deliberating than in the deliberating condition, which may explain why men awarded higher economic damages in the non-deliberating condition than in the deliberating condition (women's scores on SLA measures did not differ as a function of decision context). SLA scale scores and ratings of the defendant's witnesses did not differ across deliberating and non-deliberating conditions among participants with strong BPWE. Those with weaker BPWE, however, had higher SLA scale scores and lower ratings of the defendant's witnesses in the deliberating condition than in the non-deliberating condition. These patterns were replicated in examining the interactive effects of BPWE and decision context on verdict and assessments of total responsibility. In addition, decision context moderated the effects of FPS scores on defendant witness ratings, such that those with lower FPS scores found the defendant's witnesses to be less convincing in the non-deliberating than in the deliberating condition. This interaction mirrors the interaction between decision context and FPS scores on assessments of total responsibility.

Analyses revealed several significant or marginally significant interactions between plaintiff weight and scores on the BJW-O scale on SE and SLA measures. Specifically, plaintiff weight moderated the effects of BJW-O on perceptions of the defendant, SLA scale scores, plaintiff witness ratings, and defendant witness ratings. The pattern of all of these interactive effects was similar and supports prior research indicating that strong just world beliefs are

associated with anti-fat bias (Crandall, 1994; Crandall & Martinez, 1996). Overall, plaintiff weight had no influence on the aforementioned SE and SLA measures for participants lower in BJW-O. For those higher in BJW-O, responses indicated more favorable perceptions of the defendant and interpretation of attributional information more conducive to blaming the plaintiff in the obese condition compared to the normal weight condition. Again, these interactive effects cohere with the interactions between plaintiff weight and scores on the BJW-O scale on verdicts, economic damages, and assessments of total responsibility. Interestingly, there were no significant main effects of BJW-O scores on any of the SE and SLA measures in the total sample.

Plaintiff weight moderated the effects of other individual difference variables on SE and SLA measures pertaining to the defendant. These effects again are consistent with extant literature regarding the relationships between individual differences and anti-fat bias (e.g., Latner et al., 2008; Quinn & Crocker, 1999). Males had more positive perceptions of the defendant when the plaintiff was depicted as obese than when she was depicted as normal weight, and those high in BPWE provided more favorable ratings of the defendant's witnesses in the obese condition than in the normal weight condition. Analyses also indicated that the interactive effect between plaintiff weight and FPS scores on defendant witness ratings was marginally significant, such that those with higher FPS scores perceived the defendant's witnesses as more convincing in the obese plaintiff condition than in the normal weight condition.

Finally, several main effects of individual difference variables on SE and SLA measures emerged, which were not qualified by interactions with decision context or plaintiff weight. Participant BPWE in particular impacted SE and SLA measures independent of the study

manipulations. Analyses revealed significant main effects of BPWE on perceptions of the plaintiff, perceptions of the defendant, and plaintiff witness ratings, such that those lower in BPWE scored more “pro-plaintiff” and “anti-defendant” on these measures than those higher in BPWE. Recall that participant BPWE influenced damage awards in a similar manner, though BPWE itself did not significantly impact verdicts or assessments of total responsibility. Scores on the FPS impacted perceptions of the plaintiff, plaintiff witness ratings, and SLA scale scores. Those with higher FPS scores had less favorable perceptions of the plaintiff and interpreted attributional information to be more consistent with blaming the plaintiff than those with lower FPS scores. Prior analyses also revealed that those with higher FPS scores were less likely to find the defendant liable and awarded fewer economic damages than those with lower FPS scores.

Participant BMI also impacted SE and SLA measures independent of plaintiff weight and decision context. Those with higher BMIs had more positive perceptions of the plaintiff, more negative perceptions of the defendant, higher SLA scale scores (indicating interpretation of attributional information in a manner consistent with blaming the defendant) and lower ratings of the defendant’s witnesses than those with lower BMIs. As reported earlier, those with higher BMIs were significantly more likely to find the defendant liable than those with lower BMIs. Interestingly, participant BMI did not moderate the effects of the weight manipulation on any of the SE or SLA measures.

In sum, analyses revealed many significant main effects of decision context and individual differences on SE and SLA measures; several significant two-way interactions between decision context and plaintiff weight, decision context and individual differences, and plaintiff weight and individual differences also emerged. These effects typically aligned with those emerging in analyses examining the effects of decision context, plaintiff weight, and individual

difference variables on case outcomes. Whether the interactions between individual differences, decision context, and plaintiff weight affect the relationships between CCM attributional components is an interesting question, but beyond the scope of this study.



### **Appendix U: Chi-Square Difference Tests Conducted to Eliminate Plaintiff Weight as a Moderator of Attributional Pathways in the Deliberating Sample**

As described in Chapter 10 and in Appendix R, chi-square difference testing was conducted to determine whether attributional pathways leading to assessments of total responsibility and verdicts differed as a function of plaintiff weight. These results indicated no significant differences between models estimated for the obese and normal weight conditions. However, plaintiff weight had a stronger impact on many SE, SLA, and case outcome variables in the deliberating condition compared to the non-deliberating condition. Due to these differences, chi-square testing was again utilized to determine whether the weight manipulation significantly impacted attributional pathways in the deliberating sample. As in the non-deliberating sample, comparisons were only conducted for the models specifying total responsibility and verdict as outcome variables; there were not enough cases to compare models for the obese and normal weight conditions with damages as the outcome variable. The same procedures for model specification described in Chapter 10 were used to compare models for the non-deliberating sample. The models examined the relationships between the endogenous variables (all SE measures), the exogenous variables (all SLA measures) and the outcome variables (total responsibility and verdict). Using weight condition as a grouping variable, “free” models were specified in which the coefficients were allowed to vary between the two weight conditions. For both total responsibility and verdict, the “free” models were compared to a series of thirteen “fixed” models in which one coefficient (for each pathway) was constrained to be equal across weight conditions.

To account for the nested nature of the data, Maximum Likelihood Estimation with robust standard errors (MLR) was used to estimate the model specifying total responsibility as the outcome variable. MLR requires a different procedure for chi-square difference testing than

MLE: the Sartorra-Bentler scaled chi-square difference test. The Sartorra-Bentler adjusted chi-square values are calculated using the Chi-Square Test of Model Fit scaling correction factor and degrees of freedom for the free model and the fixed model, which are then used to calculate a chi-square test statistic and the degrees of freedom for evaluating the test statistic (Muthén & Muthén, 2012). A chi-square distribution table can then be consulted to determine if the models significantly differ. The Sartorra-Bentler chi-square statistic was calculated to compare each of the fixed models to the free model using an online calculator (<http://www.uoguelph.ca/~scolwell/difftest.html>), and in each case the test statistic exceeded the chi-square critical value of 23.69 at 14 degrees of freedom. Thus, it can be concluded that the CCM models specifying total responsibility as the outcome variable did not significantly differ between weight conditions.

As in the model for the non-deliberating sample, WLSMV estimation was used for the model specifying verdict as the outcome variable in the deliberating sample. The “difftest” (described in Chapter 10) was used to compare the free model with all of the fixed models. The “difftest” procedure actually produces a Chi-Square Test for Difference Testing statistic pertaining to the two models. The Chi-Square Test for Difference Testing was non-significant for all comparisons ( $p_s > .16$ ), indicating that the attributional pathways deliberating jurors followed in arriving at individually-rendered verdicts did not differ between weight conditions. Therefore, all models of attributional pathways estimated below will include the entire sample of deliberating jurors, regardless of weight condition assignment.