

Taking a Case to Court

Taking a Case Through Court

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 - The court, with or without a jury, would determine the facts and the law, and then issue a decision.
 - In general, the losing party has the right to appeal that decision to the Appellate Court.

Taking a Case Through Court

- A dispute between Sam and Richard would normally go to the State District Court.
- The Appellate court would then review that decision, asking two questions:
 - Was the law properly stated?
 - Did the judge properly let the jury decide the facts (or, if he decided it himself, did he have a basis for deciding the facts)? Note that this is not the same as a new review of the facts.

Taking a Case Through Court

- The losing party may then appeal to the Supreme Court, who has no obligation to hear the case.
- It will generally hear it only if it believes it is important to clarify the law. (Death Penalty cases are a common exception).

Federal Court

- When can you go to a Federal Court?
 - Federal Issues.
 - The US is a party.
 - Diversity Cases

Butterfield v. Forrester.
(1809, tried at Old Bailey)

- Forrester has been making repairs on his house and had blocked the road, but noting detours.
- Butterfield, riding a horse along the highway, is somewhat intoxicated and riding hard, runs into the construction at 8:00 PM on an August Evening and is thrown from his Horse.

Butterfield v. Forrester.
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- He sues under the usual negligence issue. The highway, is somewhat intoxicated and riding hard, runs into the construction at 8:00 PM on an August Evening and is thrown from his Horse.

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A person is liable for any damages caused by his own negligence.

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- That is, even if Forrester is negligent, Butterfield cannot collect if he is also negligent.

Butterfield v. Forrester.
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- The judge instructs the jury that, if a person acting with **reasonable and ordinary** care could have avoided the accident, then they should find for the defendant.
 - That is, even if Forrester is negligent, Butterfield cannot collect if he is also negligent.
- The jury finds Butterfield is negligent for riding while inebriated. Thus no damages.

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- The court holds that Forrester's negligence is compounded by Butterfield's contributory negligence.
- This sets new law. **Negligence is cancelled by contributory negligence.**

Division of Labor

- **The judge finds the law** (contributory negligence is a defense to negligence).
- **The jury finds the fact:** riding while inebriated is not ordinary and reasonable care (the reasonable man standard).

Davies v. Mann (1842)

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- Davies sues.

Davies v. Mann (1842)

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- Mr. Mann's wagon, coming at a “smartish” pace, runs into the ass and kills it.
- Davies sues. **Note that Mann is negligent, but Davies is also guilty of contributory negligence.**

Davies v. Mann (1842)

- The judge orders the jury to decide for Davies if they thought Mann could have avoided the accident by exercising ordinary care.
- The jury finds for Davies.

Davies v. Mann (1842)

- The judge orders the jury to decide for Davies if they thought Mann could have avoided the accident by exercising ordinary care. **This is inconsistent with Butterfield v. Forrester**
- The jury finds for Davies.

Davies v. Mann (1842)

- Mann appeals, citing *Butterfield*. The appeals court rules against Mann, on the grounds that Mann could have avoided the accident.
- Thus the law of negligence gets modified.

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- Mann appeals, citing *Butterfield*. The appeals court rules against Mann, on the grounds that Mann could have avoided the accident by exercising ordinary care. **Contributory negligence is a complete bar to recovery unless the defendant had the last clear chance to avoid the accident and did not take that chance.**
- Thus the law of negligence gets modified.

Is this economic efficiency?

- *Butterfield vs. Forrester*
 - Forrester had illegally blocked a public road.
 - Had Butterfield seen the accident, damages could have been avoided by going around the block.
 - The cost of Butterfield going around the block would have been less than the cost of the accident to Butterfield.

A Similar Example

- You are driving down a one way street, at reasonable speed. I turn into the street, driving the wrong way.
- I am clearly at fault, but if you become headstrong and insist on running into me, you cannot sue.

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- You are driving down a one way street, at reasonable speed. I turn into the street, driving the wrong way. You have the last clear chance to avoid the accident, and economic efficiency requires you take it. The “last clear chance” rule gives you an incentive to avoid the accident.
- I am clearly at fault, but if you become headstrong and insist on running into me, you cannot sue.

End

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