
APPENDIX 1. THE CASE METHOD IN CASEBOOK COURSES

Appendix 1.A. Overview of the Case Method

In your first-year contracts course, you probably will study the case of *Hadley and Another v. Baxendale and Others*.¹ By examining the history of this case now, you can become acquainted with the methods by which you will study law in most of your classes.

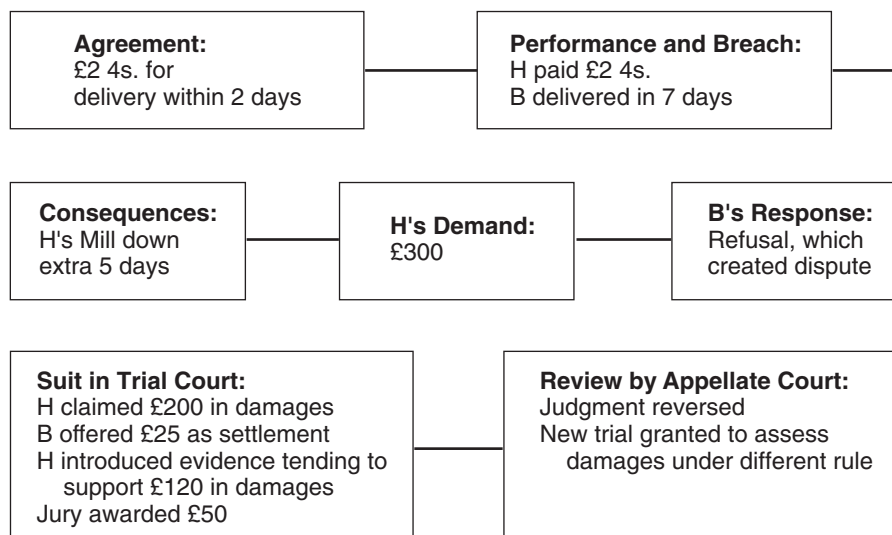
I. *Hadley v. Baxendale*: A Case Study

The dispute between the Hadleys and Baxendale began as a business transaction during an economic boom amidst England's industrial revolution. Operators of a flour mill in Gloucester entered into a contract with a carrier for the transportation of a broken engine shaft to a manufacturer in Greenwich, on the other side of England.

The operators of the mill, the Hadleys, were anxious to transport the broken shaft to the manufacturer as quickly as possible. The failure of the shaft had halted the milling of corn, and the broken shaft would serve as a model for the manufacture of a new shaft. An employee of the carrier, Pickford and Co., promised that the shaft would be delivered to the manufacturer within two days after the date that the carrier took possession of the shaft. For this, the mill operators paid £2 4s. The carrier could have transported the shaft as promptly as promised had it immediately used available means of land transportation. Presumably to reduce costs, however, it held the shaft for several days in London before loading it onto a canal barge along with a shipment of iron that was bound for the same manufacturer. Consequently, the carrier delivered the shaft to the manufacturer on the seventh day after the carrier received it, resulting in an additional delay of five days during which the mill was stopped.

The mill operators demanded that the carrier compensate for an estimated £300 in lost profits that the mill suffered because of the additional delay. The carrier refused, and the mill operators sued the carrier's managing director, Baxendale, in a trial court in Gloucester, claiming approximately £200 in damages. Although the carrier offered to settle the dispute for £25, the mill operators rejected the offer, and the case went to trial before a jury. The mill operators presented witnesses who testified to £120 in damages, and the jury awarded the mill operators £50 in a compromise verdict that became the judgment of the trial court.

The carrier appealed to the Court of Exchequer. The carrier ultimately persuaded a panel of three judges on this appellate court to reverse the judgment of the trial court and to grant a new trial because the trial judge had given the jury excessive latitude in awarding damages for lost profits.



Dispute and Litigation in *Hadley v. Baxendale*

In the appellate court's written opinion, the authoring judge explained that a jury may award only those damages that would flow naturally from the breach of such a contract or that would be reasonably within the contemplation of the parties because of special circumstances communicated at the time of contracting. The appellate judges assumed that the mill would ordinarily have a spare shaft to replace a broken one; consequently, they concluded that lost profits stemming from an idle mill would not be the natural consequence of the breach of the contract for prompt carriage. Whether the possibility of lost profits would nonetheless have been in the contemplation of the parties would depend on whether, at the time of contracting, the mill operators had communicated to the carrier the special circumstances that the broken shaft was the mill's only shaft and that the mill would be idle in its absence.

The appellate court concluded that the mill operators had informed the carrier only that they operated a mill and that the article to be transported was the broken shaft of a mill.² On this premise, the appellate court held that the trial judge should not have allowed the jury to consider any lost profits in its calculation of damages.

The case of *Hadley v. Baxendale* illustrates both how a case makes its way through the legal system and how you typically encounter the case only at the final destination in its legal journey. Reacting to a pressing commercial need, the mill operators entered into an agreement with the carrier to exchange money for certain services. Disappointed with the services rendered, the mill operators demanded compensation. Failing to secure the compensation through less formal means, they filed an action in a trial court to obtain a judgment compelling the carrier to pay compensation.

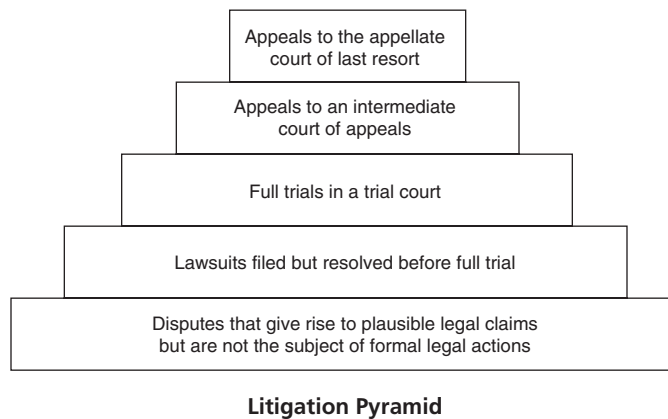
At trial, each party discovered that his claims or defenses were limited by his ability to present credible supporting evidence to the jury, to whom the court had delegated the task of finding facts. Hence, the mill operator's original demand dropped first from £300 to £200, and then to the £120 of losses for which it could produce evidence. Relying on centuries of development of law and custom, the court honored the contractual relationship and permitted the jury to award damages for the carrier's breach of the contract. The jury awarded less in damages than the trial court's instructions and the evidence would have allowed, but more than the carrier thought the law should permit. Accordingly, the carrier took the dispute before a court of higher authority, which ordered a new trial and ruled that the mill operator should not be entitled to recover for lost profits in the new trial. The higher court explained its decision in a written judicial opinion.

II. The Litigation Pyramid

In only a tiny percentage of disputes do the parties complete this process of full trial followed by review of the trial court's judgment in one or more appellate courts. Countless people become entangled in disputes that could give rise to legal claims, yet they seldom take the formal step of filing

lawsuits to test their claims. In even fewer cases do they fully litigate their disputes in the trial court. In most lawsuits, the parties manage to settle their disputes before trial by agreeing to a compromise, thus avoiding the expense and risks of full trial. In many others, a full trial of the facts is unnecessary to resolve the dispute, and the trial court grants judgment for one of the parties before trial.

In cases that result in judgment after a full trial, only a small percentage of losing parties seek review of the adverse judgment in an appellate court. When further review in an even higher appellate court is available, still fewer seek that review. Thus, the proportions of disputes that proceed to various levels of dispute resolution form a pyramid:



III. The Casebook Method of Study

Law school courses will direct your attention primarily to appellate court decisions. In nearly all first-year courses in law school, you will encounter the law in casebooks, each of which presents judicial opinions on various topics that relate to a general field of law such as property, contracts, crimes, procedure, or torts.

The cases in a casebook are the disputes that parties bring to courts for resolution. Most of the judicial opinions that analyze the cases are the opinions of appellate courts. These opinions are edited by casebook authors. The edited appellate opinions published in casebooks often summarize the facts of the dispute and the proceedings in lower courts as concisely as possible,³ sometimes providing no more than a bare outline of the human drama that has preceded the appellate litigation. Most appellate opinions focus instead on using the cases before them as vehicles for developing and articulating general legal rules or principles. In addition to resolving the dispute before the court, these rules provide guidance to courts and litigants in future

disputes of a similar nature, as well as to persons who desire to conform their actions to the law.

Judicial opinions may mystify you in your first weeks at law school. They are peppered with legal terminology that will become part of your working vocabulary only after weeks and months of study. Even worse, some of the judicial language, particularly in the older cases, will be antiquated or overly formal and should not influence your own legal writing style; yet you must immerse yourself in the language to understand the opinions.

Moreover, the opinions assume that the reader is familiar with the legal system and the legal method that courts use when working within that system. For example, you might wonder how an early English decision such as *Hadley v. Baxendale* is relevant to your study of law in the United States. Also confusing to some new law students is the relationship between “common law” and “statutory law,” both of which may be addressed in the same judicial opinion. Parts II and III of this book answer these and many other questions by introducing you to our legal system and to fundamental principles of legal method.

You undoubtedly will be preparing case briefs or undertaking a process for reading and understanding cases in preparation for the first day of class. You will learn that your professors discuss appellate opinions in a manner that suits their individual pedagogic preferences, which can help you select details for highlighting in your preparation for class discussion. Until you learn more about those preferences, or those of your legal writing professor, you may follow these steps when briefing cases.

Before you begin studying and briefing the case, briefly note the context with a few words at the top of your page. To identify context, consult the syllabus or your casebook’s section headings to note the current topic of study, which the assigned case must be illustrating. Then, read the opinion once for a general overview. During your second reading, study the opinion carefully and fill in the elements of your case brief, according to your understanding and interpretation of the opinion:

1. Identification of the Case (state the case name, authoring court, and year of decision)
2. Facts (summarize the facts that led to the legal dispute)
3. Procedural History (summarize the judgments or rulings of the lower courts preceding this court’s decision, and state this court’s ruling on appeal, such as affirmed, reversed, or remanded for further proceedings)
4. Issue(s) and Holding(s) (state the questions the court addresses, followed by the court’s conclusion on each question)
5. Reasoning (explain the court’s reasons for its conclusions by summarizing the legal rule or rules adopted by the court and the court’s application of those rules to the facts, including any policy considerations that inform its analysis)
6. Evaluation (explain your agreement or disagreement with the court’s conclusions and reasoning)

7. Synthesis (explain how this opinion's holding and reasoning compare to those of other assigned opinions that address the same issue and that you have previously briefed)

Actively engage with the case as you are reading and briefing it. Ask yourself how the decision is supported by existing legal authority or policy considerations, take a stand on whether you agree with the decision, and compare the decision with others in the casebook that address the same issue. If you desire further instruction in briefing cases for class, Appendix I provides comprehensive guidance on that topic, as well as three sample cases with which you can practice briefing and synthesizing cases. You will discover that the process for briefing cases is essential to understanding case law and preparing for class discussion, but it does not directly translate to a case summary for a legal document such as an office memorandum or a brief. Later chapters of this book will explore the analysis and presentation of cases in legal documents.

Checklist

- ✓ Recognize that few cases are litigated through appeal, but
- ✓ Embrace the case method as an important tool for studying law and legal method.
- ✓ Do your best to brief every case assigned for class discussion, with active engagement.
- ✓ Unless and until you learn that a professor prefers to analyze cases in a different manner, follow the guide to briefing cases set forth above in Section III and explained in greater detail in Appendix I.

Endnotes

1. 9 Ex. 341, 156 Eng. Rep. 145 (1854).
2. Interestingly, this represents a departure from the summary of the trial proceedings prepared by the court reporter, who had reported at the beginning of the appellate opinion that the mill operators had informed the carrier that the mill was stopped. Richard Danzig & Geoffrey R. Watson, *THE CAPABILITY PROBLEM IN CONTRACT LAW* 62 (2d ed. 2004) (characterizing the finding of the Court of Exchequer as "remarkable").
3. Indeed, many of the details of *Hadley v. Baxendale* described in this book do not appear in the report of the Court of the Exchequer, much less in a casebook's edited version of that report. The source of this book's more detailed recounting of the case is Danzig & Watson, *supra* note 2, at 48-90.