

Suit and Settlement Problems

1. Plaintiff and defendant agree that defendant is liable, but they disagree on the amount of damages. Plaintiff thinks that damages are \$9000, and defendant thinks damages are \$8000. Assuming zero litigation costs and risk neutrality, will the parties settle? Why or why not?
2. Same as 1, except now plaintiff thinks that damages are \$8000, and defendant thinks damages are \$9000.
3. Same as 1, except each party must incur \$1000 in costs to take the case to trial. What does this suggest about the relationship between litigation costs and settlement?
4. Same as 1, except each party's litigation costs are only \$250.
5. Plaintiff and defendant agree that damages are \$10,000. They are uncertain, however, about liability. Plaintiff thinks that his probability of prevailing is 0.6 (60%), and defendant thinks that plaintiff's probability of prevailing is only 0.4 (40%). Assuming zero litigation costs and risk neutrality, will the parties settle? Why or why not? What does this suggest about uncertainty and settlement?
6. Same as 5, except litigation costs are \$500 each.
7. Same as 5, except litigation costs are \$1500 each.
8. If one made the more realistic assumption that parties are risk averse, how would that affect problems 5-7?
9. Plaintiff is considering suit. Plaintiff and defendant agree that damages are \$1000 and that the plaintiff has a 75% chance of prevailing. Litigation costs are \$1000 for each party. Assuming that the parties are risk neutral, if plaintiff sues, will the parties settle? Will the plaintiff sue? What does this suggest about litigation costs and suit?
10. Same as 9 except litigation costs are only \$800.

Bonus. Plaintiff thinks there is a 25% chance defendant will be found not liable, a 25% chance that defendant will be found liable for \$10,000 in damages, a 25% chance that defendant will be found liable for \$50,000 in damages, and a 25% chance that defendant will be found liable for \$100,000 in damages. Defendant, on the other hand, thinks there is a 40% chance that it will be found not liable, a 20% chance that it will be found liable for \$10,000, a 20% chance that it will be found liable for \$50,000, and a 20% chance that it will be found liable for \$100,000. Each party must incur \$30,000 to bring the case to trial. Will the parties settle? Why or why not?

Fee Shifting Problems

11. Review Settlement Suit & Settlement Problem #9. How would the result be different in a jurisdiction that had adopted the "English rule." What does this suggest about the English Rule and the incentive to sue? About the relative desirability of the American and English rules?

12. Same as 9, except the parties agree that the plaintiff has only a 25% chance of prevailing at trial.

Does plaintiff sue under the American rule?

Does plaintiff sue under the English rule?

What does this suggest about the English Rule and the incentive to sue?

What does this suggest about the relative desirability of the American and English rules?

13. Same as 12, (i.e. plaintiff has 25% chance of prevailing and litigation costs are \$1000 for each party) except parties agree that the plaintiff's damages are \$11,000.

14. What if plaintiff in 13 is risk averse?

15. Same as 13, (i.e. damages are \$11,000 and litigation costs are \$1000) except parties agree that plaintiff's probability of prevailing is only 10%.

16. Suppose litigation costs are \$1000, and damages are agreed to be \$10,000. Plaintiff thinks that he has a 60% chance of prevailing while defendant thinks that plaintiff has only a 41% chance of prevailing. Will the parties settle under the American rule? under the English rule? What does this suggest about the relative desirability of the American and English rules?

17. Based on problems 11-16, how would you summarize the advantages and disadvantages of the English rule? If you were a legislator, would you vote for the English rule?