

## **United States v. Carroll Towing** (2<sup>nd</sup> Cir. 1947) – Learned Hand opinion

**Facts:** NYC harbor, wartime (1944). The Anna C. – a barge owned by the Connors Marine Company – was moored at a pier with several other barges. A tugboat (chartered by Grace Line and owned by Carroll Towing) was sent to move one of the other barges. In the process, the Anna C. broke away from the pier and was set adrift. It collided with a tanker (whose propeller tore open her side) and started leaking. Because no one was aboard to notice the leak, the Anna C. eventually sunk, along with her cargo of flour. (The bargee had been absent for 21 hours, from 5pm the prior day until the accident at 2pm, and the Court thought his excuse for being away was fabricated.)

**Procedural History:** On appeal in the 2<sup>nd</sup> Circuit – no real detail included.

**Issue:** Who's liable for the loss? (negligence analysis)

**Holding:** The barge owner (Connors Marine Company) should have had a bargee aboard during the daylight working hours to keep an eye on things, unless there was some legitimate excuse for his absence. Therefore, they're liable for the loss.

**Black-letter Law:** It's hard to say, exactly. The opinion says the holding is very narrow, and is limited to the fact of this case, but there's a lot of other stuff about how to analyze a negligence issue. Is this part black-letter law, or not?

**Reasoning:** Hand first states that there's "no general rule" for when the barge owner will be liable for injuries to other vessels if a barge breaks away from the mooring without a bargee/attendant on hand. He says **you can't make a general rule**, but lays out three factors to analyze to figure out if the barge owner was negligent:

- The probability of the event (P)
- The gravity of the resulting injury (L)
- The burden of taking adequate precautions (B)

These factors will vary depending on the time, place, and exact situation.

As a guideline, when the burden (B) is less than the probability of the event (P) times the gravity of the resulting injury (L), then the owner should have taken the precaution (and will be liable for not taking it, when injury results).

The opinion doesn't explicitly discuss all of this in terms of the formula, but it seems the **injury** was severe (the barge sank and lost its cargo) and the **probability** was relatively high (short days and wartime activity), whereas the **burden** (paying someone to stay on board and keep watch) was relatively low.

**Why did we read this case?** The "Hand Formula" for a negligence analysis: Is  $B < PL$ ? (burden < probability x likelihood)

**Questions:** Is the Hand Formula required? Is it part of the holding? How should judges apply it, exactly? What does it really add? How is it new/different?

*Please note our comments on this brief in red below.*

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*Note that this is a bit longer than most facts sections need to be. Often you just need enough facts to remember what happened, or more specifically, just include the facts that are really at issue in the case.*

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*Sometimes this happens, the case doesn't give you much information. But remember, it is important to understand where in the appellate process a given case is. You may need to look up the hierarchy of the court system to fully understand procedural history!*

**Issue:** Who's liable for the loss? (negligence analysis)

*The issue is almost always in question form.*

**Holding:** The barge owner (Connors Marine Company) should have had a bargee aboard during the daylight working hours to keep an eye on things, unless there was some legitimate excuse for his absence. Therefore, they're liable for the loss.

*This is in the student's own words which is important. When briefing, you don't just want to copy everything out of the case. Putting it in your own words makes the material more your own, and you will likely remember and understand it.*

**Black-letter Law:** It's hard to say, exactly. The opinion says the holding is very narrow, and is limited to the fact of this case, but there's a lot of other stuff about how to analyze a negligence issue. *Is this part black-letter law, or not?*

*It is absolutely okay not to fully understand what the black letter law is from the case. Do your best to figure it out, however, putting questions in your brief is a good way to make sure that you get your questions answered when you go to class. And if you don't get your questions answered in class, go talk to the professor in office hours.*

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without a bargee/attendant on hand. He says **you can't make a general rule**, but lays out three factors to analyze to figure out if the barge owner was negligent:

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**Why did we read this case?** The "Hand Formula" for a negligence analysis: Is  $B < PL$ ? (burden < probability x likelihood)

**Questions:** Is the Hand Formula required? Is it part of the holding? How should judges apply it, exactly? What does it really add? How is it new/different?

*Again, you want to make sure that these questions are answered in class.*

***A few more notes on written briefs:***

- ***Be careful not to make the brief too long.*** It is a reference document and should be a summary of what you read. It should not be a dissertation. If you find yourself making briefs that are much longer than one page, then you need to take a step back and ask yourself if you are "summarizing" the material or simply "re-typing" it. Now this "one-page" rule doesn't work for every class, but you can use it as a general rule.
- *It is also important to keep in mind that your brief may change for a given class depending on how your professor structures the class discussion. For instance, in Lee's criminal law class, the professor would always specifically ask students about both the Prosecution's arguments and then the Defense's arguments. So she altered her briefs to call this information out so she was ready to participate in class.*