The Global Business Environment

Just as statutes may require judicial interpretation when a dispute arises, so may treaties. The techniques that courts use in interpreting treaties correspond closely to the statutory interpretation techniques discussed in this chapter. *Olympic Airways v. Husain,* 540 U.S. 644 (U.S. Sup. Ct. 2004), furnishes a useful example.

In *Olympic Airways,* the U.S. Supreme Court was faced with an interpretation question regarding a treaty, the Warsaw Convention, which deals with airlines' liability for passenger deaths or injuries on international flights. Numerous nations (including the United States) subscribe to the Warsaw Convention, a key provision of which provides that in regard to international flights, the airline "shall be liable for damages sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking." A separate provision imposes limits on the amount of money damages to which a liable airline may be subjected.

The *Olympic Airways* case centered around the death of Dr. Abid Hanson, a severe asthmatic, on an international flight operated by Olympic. Smoking was permitted on the flight. Hanson was given a seat in the nonsmoking section, but his seat was only three rows in front of the smoking section. Because Hanson was extremely sensitive to secondhand smoke, he and his wife, Rubina Husain, requested various times that he be allowed, for health reasons, to move to a seat farther away from the smoking section. Each time, the request was denied by an Olympic flight attendant. When smoke from the smoking section began to give Hanson difficulty, he used a new inhaler and walked toward the front of the plane to get some fresher air. Hanson went into respiratory distress, whereupon his wife and a doctor who was on board gave him shots of epinephrine from an emergency kit that Hanson carried. Although the doctor administered CPR and oxygen when Hanson collapsed, Hanson died. Husain, acting as personal representative of her late husband's estate, sued Olympic in federal court on the theory that the Warsaw Convention made Olympic liable for Hanson's death. The federal district court and the court of appeals ruled in favor of Husain.

In considering Olympic's appeal, the U.S. Supreme Court noted that the key issue was one of treaty interpretation: whether the flight attendant's refusals to reseat Hanson constituted an "accident which caused" the death of Hanson. Noting that the Warsaw Convention itself did not define "accident" and that different dictionary definitions of "accident" exist, the Court looked to a precedent case, *Air France v. Saks*, 470 U.S. 392 (U.S. Sup. Ct. 1985), for guidance. In the *Air France* case, the Court held that the term "accident" in the Warsaw Convention means "an unexpected or unusual event or happening that is external to the passenger." Applying that definition to the facts at hand, the Court concluded in *Olympic Airways* that the repeated refusals to reseat Hanson despite his health concerns amounted to unexpected and unusual behavior for a flight attendant. Although the refusals were not the sole reason why Hanson died (the smoke itself being a key factor), the refusals were nonetheless a significant link in the causation chain that led to Hanson's death. Given the definition of "accident" in the Court's earlier precedent, the phrasing the Warsaw Convention, and the underlying public policies supporting it, the Court concluded that the refusals to reseat Hanson constituted an "accident" covered by the Warsaw Convention. Therefore, the Court affirmed the decision of the lower courts.

proceeding to do what she had planned. Usually, a declaratory judgment is awarded only when the parties' dispute is sufficiently advanced to constitute a real case or controversy.

APPENDIX

Reading and Briefing Cases Throughout this text, you will encounter cases—the judicial opinions accompanying court decisions. These cases are highly edited versions of their much longer originals. What follows are explanations and pointers to assist you in studying cases.

1. Each case has a *case name* that includes at least some of the parties to the case. Because the order of the parties may change when a case is appealed, do not assume that the first party listed is the plaintiff (the party suing) and the second the defendant (the party being sued). Also, because some cases have many plaintiffs and/or many defendants, the parties discussed in the court's opinion sometimes differ from those found in the case name.
2. Each case also has a *citation,* which includes the volume and page number of the legal reporter in which the full case appears, plus the year the case was decided. *Kasten v. Saint-Gobain Performance Plastics Corp.*, for instance, begins on page 1325 of volume 131 of the Supreme Court Reporter (one of the reporters for U.S. Supreme Court decisions) and was decided in 2011. (Each of the many different legal reporters has its own abbreviation. The list is too long to include here.) In the parenthesis accompanying the date, we also give you some information about the court that decided

the case. For example, "U.S. Sup. Ct." is the United States Supreme Court, "3d Cir." is the U.S. Court of Appeals for the Third Circuit, "S.D.N.Y." is the U.S. District Court for the Southern District of New York, "Minn. Sup. Ct." is the Supreme Court of Minnesota, and "Mich. Ct. App." is the Michigan Court of Appeals (a Michigan intermediate appellate court). Chapter 2 describes the various kinds of courts.

3. At the beginning of each case, there is a *statement of facts* containing the most important facts that gave rise to the case.
4. As part of the statement of facts, we give you the case's *procedural history*. This history tells you what courts previously handled the case you are reading, and how they dealt with it.
5. Next comes your major concern: the *body of the court's opinion*. Here, the court determines the applicable law and applies it to the facts to reach a conclusion. The court's discussion of the relevant law may be elaborate; it may include prior cases, legislative history, applicable public policies, and more. The court's application of the law to the facts usually occurs after it has arrived at the applicable legal rule(s), but also may be intertwined with its legal discussion.
6. At the very end of the case, we complete the procedural history by stating the court's *decision*. For example, "Judgment reversed in favor of Smith" says that a lower court judgment against Smith was reversed on appeal. This means that Smith's appeal was successful and Smith wins.
7. The cases' main function is to provide concrete examples of rules stated in the text. (Frequently, the text tells you what point the case illustrates.) In studying law, it is easy to conclude that your task is finished once you have memorized a black letter rule. Real-life legal problems, however, seldom present themselves as abstract questions of law; instead, they are hidden in particular situations one encounters or particular actions one takes. Without some sense of a legal rule's real-life application, your knowledge of that rule is incomplete. The cases help provide this sense.
8. You may find it helpful to *brief* the cases. There is no one correct way to brief a case, but most good briefs contain the following elements: (1) a short statement of the relevant facts; (2) the case's prior history; (3) the question(s) or issue(s) the court had to decide; (4) the answer(s) to those question(s); (5) the reasoning the court used to justify its decision; and (6) the final result. A brief of *Price v. High Pointe Oil Company, Inc.* (a case included earlier) might look this way:

Price v. High Pointe Oil Company, Inc.

Facts Beckie Price's house and all of her personal belongings were destroyed when High Pointe erroneously filled her basement with 400 gallons of oil through an oil fill pipe that formerly led to an oil furnace in the basement. Price had replaced the oil furnace with a propane furnace a year earlier and canceled her fill order with High Pointe. Somehow, though, her address was mistakenly included on a "keep full list." Despite the fact that Price's house was eventually rebuilt, her land was remediated, her personal belongings cleaned or replaced, and her expenses while she was displaced from her home covered, she sued High Pointe for negligence, including claims for noneconomic damages.

History A Michigan jury found for Price on the claim they heard and awarded her $100,000. The Michigan appellate court affirmed. High Pointe appealed to the Michigan Supreme Court.

Issues Should the Michigan common law include the recognition of noneconomic damages for the negligent destruction of real property?

Holdings Michigan common law has never allowed the recovery of noneconomic damages for the negligent destruction of real or personal property and the court will not adopt a new common law rule doing so in this case.

Reasoning The longstanding rule in Michigan is that the remedy for the negligent destruction of property is the market value of the property if it is destroyed or the repair cost of the property if it is only damaged. No cases have ever held differently. Two recent cases applied the exclusion of noneconomic damages to claims regarding personal property, and the Court found that the current case was not distinguishable from those cases.

Consistent with the proper caution courts should exercise when considering changing the common law, the Court further declined to modify that longstanding rule for a number of reasons. The rule is rational and can be justified by important considerations of public policy, including:

1. A reliance on the market for valuation of property;
2. Easy verifiability, quantifiability, and measurability of economic damages (and concomitant difficulty of those in noneconomic damages);
3. Avoidance of disparity among the valuation of the same property in different cases; and
4. Certainty for businesses that have frequent in contact with property and might damage it through negligence.

The Legislature is the appropriate entity to change the rule if it sees fit.

Result The Supreme Court of Michigan reversed the judgment of the Court of Appeals and remanded the case to the trial court to enter judgment in favor of High Pointe.