Law and Economics Practice Problems

Civil Procedure: The Difference Between the European and American Systems for Paying
Attorneys’ Fees and the Implications for Settlement Ranges

1. Suppose that a plaintiff thinks that he could win $10,000 in a court case. The plaintiff
estimates his chance of winning to be 70 percent. The court costs to the plaintiff would be
$1,000. The defendant in the same case thinks she could lose $10,000, but she estimates her
chances of losing to be 60 percent. The court costs to the defendant would be $1,100.

Under the American system of each party paying his/her own court costs, will these parties settle
or go to court? If there is a settlement range, specify it.

Under the European system of the loser paying the winners court costs, will these parties settle or
go to court? If there is a settlement range, specify it.

2. Use the same information as #1 above, except this time assume that the plaintiff’s estimate of
the win/lose percentages are correct.

Under the American system of each party paying his/her own court costs, will these parties settle
or go to court? If there is a settlement range, specify it.

Under the European system of the loser paying the winners court costs, will these parties settle or
go to court? If there is a settlement range, specify it.