

A patient brought a diversity action against a doctor in federal court for medical malpractice. The patient alleges that the doctor negligently administered medication to the patient after surgery, which caused further complications. During discovery, the patient's attorney sent the doctor 30 requests for admission. One request stated, "Please admit that the medication administered to the patient poses a higher risk to individuals in the patient's age group." The doctor served a written response 21 days later, in which she specifically denied that the medication poses a higher risk to such individuals.

The case proceeded to trial. The patient offered several of the doctor's records into evidence that demonstrated the doctor knew at the time she prescribed the medication that it was unsafe for individuals in the patient's age group. At the conclusion of trial, the jury returned a verdict for the patient, specifically finding that the patient proved that the medication is unsafe for individuals in the patient's age group. The patient then moved for sanctions against the doctor to pay the reasonable expenses incurred in proving this matter.

Is the court likely to grant the patient's motion?

- A. No, because the patient's motion for sanctions after the jury returned its verdict was untimely.
- B. No, because the requests for admission exceeded the number allowed.
- C. Yes, because requests for admission are proper to obtain the truth about facts.
- D. Yes, because the patient proved that the matter was true.

## Explanation:

### Request for admission

- Definition – request served on other party to admit truth of facts, application of law to facts, opinions, or genuineness of documents
- Limit – none
- Response – written response due within 30 days of service

**Requests for admission** allow a party to ask another party to admit the truth about matters within the scope of discovery relating to facts, the application of law to facts, opinions about either, or the genuineness of documents. This **discovery method** seeks to expedite litigation and decrease costs by alleviating the need to prove undisputed matters at trial.

If the responding party **fails to admit a matter** that is **later proven true**, then the requesting party can move for the responding party to **pay reasonable expenses incurred**, including attorney's fees, in making that proof. The court *must* grant this motion unless one of these conditions applies:

- The court had sustained a prior objection to the request.
- The admission sought was of no substantial importance.
- The responding party reasonably believed that it would prevail on the matter.
- Another good reason existed for the failure to admit.\*

Here, the doctor responded to the patient's request for admission by denying that the medication poses a higher risk to individuals in the patient's age group. However, the jury found that the patient proved that this matter was true. And since none of the above conditions apply, the court is likely to grant the patient's motion.

\*Courts have found a good reason when the responding party could not reasonably obtain information that would allow it to admit that the matter was true.

**(Choice A)** The requesting party may move for sanctions after the matter that the responding party failed to admit is proven true. Therefore, the motion here was timely because it was made after the jury's verdict found that the patient's claim that the medication posed a higher risk to individuals in the patient's age group was true.

**(Choice B)** The requests for admission did not exceed the number allowed since a party may serve an *unlimited* number of requests for admission.

**(Choice C)** Requests for admission are proper to obtain the truth about facts. But the reason that the patient's motion will be granted is that he proved the medication is unsafe for individuals in his age group—a fact the doctor denied.

### Educational objective:

A party that fails to admit a matter later proven true must generally pay the reasonable expenses incurred in making that proof.

### **References**

- Fed. R. Civ. P. 37(c)(2) (sanction for failure to admit).
- 8B Charles Alan Wright et al., Federal Practice and Procedure § 2290 (3d ed. 2020) (explaining the process to obtain a sanction for failure to admit).

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