

A plaintiff sued a defendant for injuries allegedly suffered when he slipped and fell on the defendant's business property.

At trial, without asking that the defendant's property manager be declared a hostile witness, the plaintiff called him solely to establish that the defendant was the owner of the property where the plaintiff fell. On cross-examination of the manager, the defendant's attorney sought to establish that the defendant had taken reasonable precautions to make the property safe for business invitees.

Should the defendant's cross-examination of the manager be permitted over the plaintiff's objection?

- A. No, because cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness.
- B. No, because the court has not declared the manager hostile.
- C. Yes, because the cross-examiner is entitled to explore matters relevant to any issue in the case, including credibility.
- D. Yes, because the manager is the agent of a party, as to whom the scope of cross-examination is unlimited.

Explanation:

Under Federal Rule of Evidence 611(b), the **scope of cross-examination** is **limited to** the subject matter of **direct examination** and matters affecting the **witness's credibility**. And though the court has discretion to permit inquiry into additional matters, a party is never entitled to a wider scope of cross-examination **(Choice C)**.

Here, the plaintiff called the defendant's property manager solely to establish that the defendant owned the property where the plaintiff fell. On cross-examination of the manager, the defendant's attorney sought to establish that the defendant had taken reasonable safety precautions. But since that issue was not raised on direct examination and does not affect the manager's credibility, the cross-examination should not be permitted.

(Choices B & D) The rule governing the scope of cross-examination is the same for *all* witnesses. So the fact that the court has not declared the manager hostile has no effect on that scope. Nor does the fact that the manager is a party's agent.

Educational objective:

The scope of cross-examination is limited to (1) the subject matter of direct examination and (2) matters affecting the witness's credibility. However, the court *may* permit inquiry into additional matters.

References

Fed. R. Evid. 611(b) (scope of cross-examination).

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