

A plaintiff, the owner of a condominium building, sued a defendant, a young architect, in federal court. The plaintiff alleged that the defendant was negligent in designing the plaintiff's building and that defects in the building's structural design rendered it unsafe and uninhabitable. At trial, the plaintiff called a structural engineer as an expert witness and asked her several questions about her education and experience. The court found that the engineer was qualified to testify as an expert and permitted her to offer an opinion on the soundness of the building's design. On cross-examination, the defendant asked the engineer if it was true that she had failed three engineering classes while in graduate school. The plaintiff has objected to the question.

Should the court allow the defendant's question?

- A. No, because the court already decided that the engineer is an expert.
- B. No, because the engineer's character has not been placed in issue.
- C. Yes, because a party may inquire into specific instances of conduct that bear on a witness's truthfulness during cross-examination.
- D. Yes, because it goes to the weight to be given to the engineer's testimony.

Explanation:

Under Federal Rule of Evidence 104, the court must decide if a witness is qualified to testify as an expert. To make this decision, the court considers the witness's specialized knowledge, skill, experience, education, or training in a subject that pertains to an issue being litigated. A **finding that a witness is qualified as an expert** typically means that the witness **may offer an opinion on an ultimate issue**. But such a finding **does not preclude** the **opposing party from inquiring** into matters that might **affect the weight** given to the witness's testimony.

Here, the court found that the engineer was qualified as an expert and allowed her to testify as to the soundness of the building's design—an ultimate issue in the case. However, that finding does not preclude the defendant from inquiring into matters that might affect the weight of the engineer's testimony. Therefore, the court should allow the defendant to ask the engineer about failing three engineering classes in graduate school—a matter that may diminish the weight given to the engineer's testimony **(Choice A)**.

(Choices B & C) The engineer's character for truthfulness was placed in issue when the plaintiff called the engineer as a witness. However, the defendant's question pertained to the weight to be given to the engineer's testimony—not her character for truthfulness.

Educational objective:

A court must determine whether a witness is qualified to testify as an expert. But a finding that the witness meets the requirements for expert testimony does not preclude the opposing party from inquiring into matters that might affect the weight of the witness's testimony.

References

Fed. R. Evid. 104 (preliminary questions).

Admissibility of expert testimony

