

The plaintiff sued a company for injuries suffered in the crash of the plaintiff's dune buggy, allegedly caused by a defective auto part manufactured by the company. The company claims that the part was a fraudulent imitation, not produced by the company.

Which of the following is NOT admissible on the issue of whether the part was manufactured by the company?

- A. A judgment for another plaintiff against the company in another case involving substantially similar facts.
- B. Testimony that the part was purchased from a parts house to which the company regularly sold parts.
- C. The fact that the defective part bears the company's insignia or trademark.
- D. The part itself and a concededly genuine part manufactured by the company for the jury's comparison.

Explanation:

Evidence is relevant if it has any tendency to make a material fact more or less probable than it would be without that evidence. **Relevant evidence** is **admissible** unless excluded by a rule, law, or constitutional provision. For example, Federal Rule of Evidence 403 allows a court to **exclude** relevant evidence when its **probative value** is **substantially outweighed** by the **danger** of:

unfair prejudice – evidence tends to encourage the jury to decide the case on improper grounds

confusing the issues – evidence leads the jury to focus on a nonmaterial matter

misleading the jury – evidence creates misconceptions in the jurors' minds

undue delay or wasting time – caused by presentation of voluminous evidence *or*

needless cumulation – similar evidence on the same issue has already been admitted.

Here, another plaintiff's judgment against the company is not probative of whether the company manufactured the part at issue in *this* case. Even if it was, the other judgment may mislead the jury or unfairly prejudice the company by encouraging the jury to decide the present case on improper grounds (ie, a prior ruling). This danger would substantially outweigh the minimal probative value of this evidence, so it is NOT admissible.

(Choices B & C) Testimony that the defective part was purchased from a parts house to which the company regularly sold parts is highly probative on the issue of whether the part was manufactured by the company—as is the fact that the part bears the company's insignia or trademark. Therefore, this evidence is admissible.

(Choice D) The jury or an expert witness may compare an item that has been authenticated (eg, the genuine part) with a disputed specimen (eg, the defective part) to determine if the disputed specimen is also genuine. Therefore, the defective and genuine parts are admissible for this purpose.

Educational objective:

Evidence is relevant if it has any tendency to make a material fact more or less probable than it would be without that evidence. Although relevant evidence is generally admissible, it can be excluded if its probative value is substantially outweighed by dangers like misleading the jury or unfair prejudice.

References

Fed. R. Evid. 401 (test for relevance).

Fed. R. Evid. 403 (excluding relevant evidence for certain dangers)

Copyright © 1997 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.

**Excluding relevant evidence
(FRE 403)**

