

A woman is suing a pilot for injuries suffered in the crash of a small airplane, alleging that the pilot had owned the plane and negligently failed to have it properly maintained. The pilot has asserted in defense that he never owned the plane or had any responsibility to maintain it. At trial, the woman calls a witness to testify that he had sold to the pilot a liability insurance policy on the plane.

Is the witness's testimony admissible?

- A. No, because of the rule against proof of insurance where insurance is not itself at issue.
- B. No, because the policy itself is required under the original document rule.
- C. Yes, as some evidence of the pilot's ownership of or responsibility for the airplane.
- D. Yes, to show that the pilot had little motivation to invest money in maintenance of the airplane.

Explanation:

Liability insurance

(FRE 411)

Evidence that person was or was not insured against liability is *inadmissible* to prove person acted negligently or wrongfully

Evidence of liability insurance is *admissible* for nonsubstantive purpose—eg:

to impeach witness with evidence of self-interest, bias, or prejudice

to prove agency, ownership, or control

FRE = Federal Rule of Evidence.

Under Federal Rule of Evidence 411, evidence of **liability insurance** or the lack thereof is **inadmissible** to prove **negligence** or wrongdoing. For example, such evidence is inadmissible to support a negligence claim by arguing that the defendant had little motivation to maintain an insured vehicle **(Choice D)**. But such evidence is **admissible** for other purposes, such as proving **ownership or control** of the insured item **(Choice A)**.

Therefore, the witness's testimony that he sold the pilot a liability insurance policy on the airplane is admissible as evidence of the pilot's ownership of or responsibility for that airplane.

(Choice B) The [best evidence rule](#) generally requires that an original writing, recording, or photograph be produced to prove its *contents*. But the rule does not apply here because the woman only seeks to show that the pilot had an insurance policy on the plane—not to prove the contents of that policy.

Educational objective:

Evidence of liability insurance or the lack thereof is inadmissible to prove negligence or wrongdoing. But a court may admit such evidence for another purpose, such as to prove ownership or control of the insured item.

References

Fed. R. Evid. 411 (liability insurance).

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