A plaintiff sued a defendant, alleging that she was seriously injured when the defendant ran a red light and struck her while she was walking in a crosswalk. During the defendant's case, a witness testified that the plaintiff had told him that she was "barely touched" by the defendant's car.

On cross-examination, should the court allow the plaintiff to elicit from the witness the fact that he is an adjuster for the defendant's insurance company?

A. No, because testimony about liability insurance is barred by the rules of evidence.

B. No, because the reference to insurance raises a collateral issue.

C. Yes, for both substantive and impeachment purposes.

D. Yes, for impeachment purposes only.

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 that a person was (or was not) covered by **liability insurance** is ***not*** **admissible** as **substantive proof** of negligence or wrongdoing. This helps ensure that the jury will not infer fault based on the existence or lack of coverage or base its verdict on the defendant's or insurer's ability to pay. However, this evidence *is* **admissible** for nonsubstantive **purposes**—eg, to impeach a witness.

Here, testimony that the witness is an adjuster for the defendant's insurance company shows that the defendant had liability insurance. Therefore, it cannot be admitted as substantive proof of the defendant's negligence **(Choice C)**. But it can be admitted for impeachment purposes—eg, to show that the witness, as an employee of the defendant's insurance company, may have a self-interest in minimizing the plaintiff's loss **(Choice A)**.

(Choice B) The reference to insurance shows the witness's potential self-interest or bias—an issue that is never collateral (ie, irrelevant). But even if it were, the collateral-evidence rule only bars the use of extrinsic evidence—ie, evidence from sources *other than* a witness's own testimony—to impeach a witness on such matters.

Educational objective:

Evidence of liability insurance coverage is not admissible as substantive proof that a party acted negligently or wrongfully. However, this evidence can be offered for nonsubstantive purposes like impeachment.

References

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