

A plaintiff sued a defendant for negligence to recover damages that the plaintiff suffered as a result of a crash between the two parties. At trial, the plaintiff's attorney called the plaintiff's wife to testify as to what she witnessed on the day of the crash. On cross-examination of the wife, the defendant's lawyer elicited several responses that tended to show that the plaintiff's actions constituted contributory negligence. The plaintiff's attorney seeks to ask the wife several questions on redirect examination, but the defendant's attorney objected.

What is the strongest argument that the court must allow redirect examination of the wife?

- A. The plaintiff's attorney failed to provide all significant information on direct examination.
- B. The plaintiff's attorney seeks to reiterate the necessary elements of the claim.
- C. The plaintiff's attorney seeks to reply to all matters raised on cross-examination.
- D. The plaintiff's attorney seeks to reply to significant new matters raised on cross-examination.

Explanation:

Federal Rule of Evidence 611 gives trial courts the authority to exercise reasonable control over the mode and order of examining witnesses at trial. This includes the discretion to determine whether—and to what extent—redirect examination of witnesses should be permitted. But when a party raises a **significant new matter** while **cross-examining** a witness, the **court *must* allow** the opposing party to address that matter through **redirect examination**.

Therefore, the strongest argument for allowing redirect examination of the plaintiff's wife is that the plaintiff's attorney seeks to reply to significant new matters that were raised on cross-examination.

(Choice A) A party is expected to elicit all significant information during direct examination of a witness. Therefore, a court need not permit redirect examination to allow the party to provide information inadvertently omitted on direct examination.

(Choices B & C) Redirect examination is generally limited to significant *new* matters raised on cross-examination. Therefore, a party is not entitled to redirect examination to (1) reiterate information like the necessary elements of the claim or (2) reply to all matters addressed in cross-examination.

Educational objective:

When a party raises a significant new matter on cross-examination of a witness, the court must allow redirect examination by the opposing party to address that matter.

References

Fed. R. Evid. 611 (explaining the mode and order of examining witnesses).

Sequence & scope of witness examination

