

BarEssays.com Model Answer
February 2017 – Question 3 (Evidence)

According to the Federal Rules of Evidence, did the court properly admit:

1. The hospital intake form?

Relevance

Logical Relevance

Evidence is logically relevant if it has any tendency to make any fact of consequence more or less probable than it would be without the evidence.

Here, Pete sustained serious injuries as a result of Erin colliding a van with his car at an intersection. The hospital intake form tended to prove Pete's damages, a fact of consequence.

Thus, the hospital intake form was logically relevant.

Legal Relevance

Logically relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Here, the hospital intake form did not unfairly prejudice Erin or Donna's Pizza, and was not confusing or misleading. The probative value of the hospital intake form, to prove Pete's damages, outweighed any unfair prejudice.

Thus, the hospital intake form was legally relevant.

Authentication - Documents

Documents must be authenticated before they can be admitted into evidence. They can be authenticated by testimony of a witness with personal knowledge about the document.

Here, Nellie, pursuant to standard hospital procedure, recorded Pete's information on a hospital intake form. Nellie, with personal knowledge about the hospital intake form, could testify to authenticate the document.

Thus, the hospital intake form could be authenticated.

Best Evidence Rule

The original document must be used to prove the contents of documents when the contents of writings are at issue, unless an exception to the best evidence rule applies.

Here, the contents of the hospital intake form were material to Pete's claim. Since Pete moved the hospital intake form into evidence, there was no best evidence rule violation.

Thus, the best evidence rule was met.

Hearsay

Hearsay is (1) a statement (2) made by an out of court (3) declarant (4) offered for its truth. Hearsay is inadmissible unless a statement is not hearsay or an exception applies.

Here, the contents of the hospital intake form were written statements made out of court when Pete was at the hospital. They were offered for their truths that Pete's head struck the windshield and he was in a great deal of pain.

Thus, the statements were hearsay, and not admissible without hearsay exceptions.

Hospital Intake Form

Business Records

A business record is any writing, made in the regular course of business, or matters within the personal knowledge of an entrant who is under a duty to make the entry.

Here, Nellie wrote the hospital intake form in the regular course of treating Pete. Nellie recorded Pete's information pursuant to standard hospital procedures. The contents of the hospital intake form were within the personal knowledge of Nellie, the nurse who completed the form.

Thus, the hospital intake form was admissible as a business record.

Pete Told Nellie

Present Sense Impression

A present sense impression is a statement describing or explaining an event made while the declarant perceives the event (or immediately thereafter), and is an exception to the hearsay rule.

Here, Pete described to Nellie his head struck a windshield, and he was in great pain immediately after the collision.

Thus, what Pete told Nellie was admissible as a present sense impression.

Excited Utterance

A statement qualifies as an excited utterance when it is made under the stress of a startling event, regarding the cause or circumstances of the event, by a declarant with personal knowledge. Here, the collision was a startling event, and the portion of Pete's statement on his head striking the windshield related to the accident cause or circumstances, but the statement was made when Pete was at the hospital. Unless Pete was still under stress, the statement was inadmissible as an excited utterance.

Thus, the excited utterance hearsay exception might not apply.

Present Physical Condition

A statement of a declarant's then-existing state of mind, emotion, sensation, or physical condition is admissible when the evidence is offered to prove the declarant's state of mind, emotion, sensation, or physical condition at that time.

Here, the first part of Pete's statement explained what caused Pete's pain, not a present physical condition. The second part of Pete's statement described his pain, a present physical condition.

Thus, the second part of Pete's statement was admissible as a present physical condition, but the first part should not be admitted.

Conclusion

In conclusion, the court properly admitted the hospital intake form.

2. Pete's testimony about Erin's statements at the accident scene?

Logical/Legal Relevance

See rules above.

Here, Pete sued Donna's Pizza for injuries sustained from an accident. At the accident scene Erin told Pete: "I was in a hurry to make a pizza delivery and that is why I ran the red light." Erin's statements were logically relevant to prove Erin acted below the standard of care. Erin's statements were not confusing or misleading. The probative value of Erin's statements, to prove breach, outweighed any unfair prejudice.

Thus, Erin's statements were relevant.

Hearsay

See rules above.

Here, Erin, the declarant, made her statements out of court at the accident scene. Erin's statements were oral assertions offered for their truths that Erin was in a hurry to make a pizza delivery, and ran a red light.

Thus, the statements were hearsay, and not admissible without hearsay exceptions.

Vicarious Admission – Agent or Employee

Admissions made by one party may be imputed to another based on certain relationships between the parties. A statement made by an agent or employee is admissible if it was made during the scope of employment and concerning a matter within the scope of employment. A statement made by a person authorized to make a statement concerning the subject is admissible.

Here, Erin was an employee of Donna's Pizza. Erin admitted she was in a hurry and ran a red light at the accident scene. Erin drove a company van during the scope of employment, and the statement concerned making a pizza delivery for Donna's Pizza's benefit.

Thus, there was an admissible vicarious admission.

Admission by Party-Opponent

A prior out of court statement by a party to the current litigation that is used against that party. The statement need not have been against the declarant's interest at the time it was made; it must only be contrary to the declarant's present interest.

Here, Pete testified on Erin's statements that Erin ran a red light while in a hurry to make a pizza delivery. Erin was an employee at the time of the statements. The statements were attributed to Donna's Pizza, an adverse party.

Thus, Erin's statements were admissible under the admission by party-opponent.

Statement Against Interest

A statement against interest is a declaration against an unavailable declarant's pecuniary, proprietary, or penal interest when made, with personal knowledge of the facts. The declarant must be aware the declaration is against the declarant's interest and must have had no motive to misrepresent.

Here, Erin was in court so Erin was available to testify. Erin's statements were against Erin's and Donna's Pizza's pecuniary interest, and made prior to being sued, when Erin had no motive to misrepresent.

Thus, the statement was not admissible under the statement against interest exception to hearsay.

State of Mind – Hearsay Exception

A statement of present intent is admissible to prove conduct in conformity with the stated intent.

Here, Erin's statements on running a red light conformed with her intent to be in a hurry.

Thus, the state of mind exception to hearsay applied.

Conclusion

In conclusion, the court properly admitted the Erin's statements.

3. Pete's testimony about Donna's statements at the hospital?

Logical/Legal Relevance

See rules above.

Here, Pete sued Donna's Pizza for injuries sustained from an accident. Pete testified Donna told him at the hospital that Donna's Pizza would take care of all his medical expenses. Donna's statements were logically relevant to prove Donna's Pizza was at fault for the accident since Donna accepted responsibility for Pete's injuries. An offer to pay medical expenses might confuse or mislead a jury into focusing on Donna's Pizza's fault versus a humanitarian gesture. The probative value of Donna's statements, to prove fault, did not outweigh the unfair prejudice. Thus, Donna's statements were logically relevant, but not legally relevant.

Public Policies - Offer to Pay Medical Expenses

Payment of or an offer to pay medical expenses are inadmissible, but admissions of fact in conjunction with an offer to pay medical expenses, are admissible.

Here, Donna's offer to pay all of Pete's medical expenses did not contain any admissions of fact.

Thus, Donna's statements were not admissible.

Public Policies - Settlement Offers

A settlement offer made by any party is not admissible to prove (1) liability for, (2) invalidity of, or (3) amount of, a disputed claim.

Here, Donna offered to pay Pete's medical expenses. Donna's statements were an offer to settle Pete's injuries, but Pete was in the hospital, and had not yet sued Donna's Pizza.

Thus, Donna's statements were not a settlement offer.

Conclusion

In conclusion, the court did not properly admit Donna's statements.

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