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TRIAL LAW

Admitting Liability: Is a Party Required to Accept an Admission?

A common defense tactic in personal injury cases is to admit liability and proceed to trial on the damages. By doing so, the defense is often able to express remorse for the negligent acts of the defendant and then argue the plaintiff is not injured as badly as he or she claims. This may take the “heat” out of the case and minimize the amount of evidence the plaintiff can introduce regarding the way the accident happened such as photographs of the vehicles, testimony from police officers and witnesses and accident reconstruction evidence. Missouri courts have consistently held that the parties are not required to accept an admission of liability by another party.

The Missouri Court of Appeals in *Ruppel v. Clayes*, 72 S.W.2d 833 (Mo. App. E.D. 1934) ruled that a party is not bound by the admission of his adversary but may prove the admitted fact. In so ruling, the *Ruppel* court recognized that

> [p]arties, as a general rule, are entitled to prove the essential facts, to present to the jury a picture of the events relied upon. To substitute for such picture a naked admission might have the effect of robbing evidence of much of its fair and legitimate weight. No exception lies to the admission of relevant evidence under such circumstances.

Id. at 836.

For nearly three quarters of a century, *Ruppel* has been followed by Missouri courts and has never been questioned. *Franklin v. Byers*, 706 S.W.2d 230, 231 (Mo. App. 1986); *Steele v. Goosen*, 329 S.W.2d 703 (Mo. banc 1959); *McKay v. Delico Meat Products Co*., 174 S.W.2d 149 (Mo. banc 1943). The rationale underlying this longstanding rule in Missouri is that "[a] colorless admission by the opponent may sometimes have the effect of depriving the party of the legitimate moral force of his evidence . . . " Wigmore on Evidence, 3d Ed. § 2591.

The most recent case to affirm the principle that despite an admission of liability the plaintiff may still present evidence is *Ingram v. Rinehart*, 108 S.W.3d 783 (Mo. App. W.D. 2003). In *Ingram*, the defendant admitted liability but the trial judge allowed counsel for the plaintiff to present evidence of fault including direct and demonstrative evidence on the issue of the defendant’s intoxication at the time of the accident, testimony from several witnesses describing the circumstances leading up to the accident itself and its aftermath, and photographs of the accident scene. *Id*. at 792. The Missouri Court of Appeals for the Western District affirmed the trial court and held:

> The party bearing the burden of proof is not bound to a party's admission. *Franklin v. Byers*, 706 S.W.2d 230, 231 (Mo. App. 1986); *Ruppel v. Clayes*, 72 S.W.2d 833 (Mo. App. 1934) (emphasis added). Instead, that party may elect to present evidence to prove the issue at jury trial. *Ruppel*, 72 S.W.2d at 835. Furthermore, that testimony and evidence was also admissible because it was

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> directly relevant to the disputed issues regarding plaintiff's special damages and their claim for punitive damages. There was no error admitting the challenged testimony and evidence.

Id. at 792.

The rule about admitting liability is utilized by plaintiffs, the rule can be used by defendants in some situations. For example, in *Steele*, the defendant wanted to show a movie of plaintiff engaged in various physical activities. *Steele*, 329 S.W.2d at 705. The plaintiff then admitted that he could perform numerous tasks despite his injuries. *Id*. The trial court allowed the movie to be played and the Missouri Supreme Court held that the defendant "was not bound by plaintiff's admissions nor bound to accept them as sufficient, he could make his proof in any legitimate manner." *Id*. (citing to *Ruppel*, 72 S.W.2d at 835).

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