Request to Admit Update

C. William Busse Jr.
Busse & Busse, P.C. – Chicago

Two cases have been decided within the last year that will have a substantial impact on the scope of a Rule 216 request to admit.

Reasonableness of Medical Services and Requests to Admit

In *Szczeblewski v. Gosset*, 342 Ill.App.3d 344, 795 N.E.2d 368 (2003), the Fifth District Appellate court took up the issue of requests to admit the reasonableness of medical bills. In an interlocutory appeal, the Fifth District was asked to decide the following three certified questions:

1. Whether the causal connection to the occurrence, the reasonableness and necessity of the medical services and the reasonableness of the cost of medical services are facts susceptible to admission or denial within the meaning of Supreme Court Rule 216.

2. Whether the knowledge of defendants' attorneys and insurers regarding the causal connection to the occurrence, the reasonableness and necessity of the medical services, and the reasonableness of cost of medical services are facts imputable to defendant for purposes of Supreme Court Rule 216.

3. Whether a defendant responding to the request for the admission of fact as set forth above is required to seek to avail himself of any knowledge of his attorneys and/or insurers before making any claim of insufficient knowledge to admit or deny.

The suit arose out of a rear end automobile collision. The defendants admitted liability. The plaintiff then submitted a request to admit to the defendants' attorney and attached to it various medical bills. The plaintiff requested that the defendants admit or deny that the medical bills were reasonable and necessary treatment for the conditions occurring as a result of the accident and that the charges were fair and reasonable for the services performed. The defendant responded by stating he could neither admit nor deny the request in that it required him to give a medical opinion which he was not qualified to do. The defendant also stated that he had insufficient knowledge to admit or deny. The plaintiff filed a motion to compel which was denied. The court made the appropriate Rule 308 findings.

The Fifth District court held that a defendant's conduct, the necessity and reasonableness of the medical services a plaintiff received to treat his or her injuries, and the reasonable cost of the medical services received are all facts that are proper subjects for a Rule 216 request to admit.

In deciding whether the defendant had an obligation to avail himself of the knowledge of his attorneys and insurers when responding to questions regarding the reasonableness of medical services before making a claim of insufficient knowledge, the court stated that it was guided by prior interpretations of Rule 213 (written interrogatories to parties) which required a party to "answer fully and in good faith to the extent of his actual knowledge and the information available to him or his attorney." *Singer v. Treat*, 145 Ill.App.3d 585, 592, 495 N.E.2d 1264, 1268 (1986). The court also noted that Rule 36 of the Federal Rules of Civil Procedure specifically forbids a party

■ **C. William Busse, Jr.** is the President of the law firm of *Busse & Busse, P.C.* He concentrates his practice in the defense of automobile, fire, explosion and construction litigation and insurance coverage issues. Mr. Busse received his Juris Doctor in 1982 from the John Marshall Law School and a B.A. from Western Illinois University in 1975. He currently serves as co-chair of the Civil Practice Committee of the Illinois Association of Defense Trial Counsel. He is also past chair of the Civil Practice Committees of the Chicago Bar Association (Division III).

answering a request to admit to cite lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made a reasonable inquiry and the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

The court held that to ensure that the purpose of Rule 216 is accomplished, a party has a good-faith obligation to make a reasonable effort to secure answers to a request to admit from persons and documents within the responding party's reasonable control. In this case, the court held that would include a defendant's attorney and insurance company investigators or representatives.

"The court also noted that Rule 36 of the Federal Rules of Civil Procedure specifically forbids a party answering a request to admit to cite lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made a reasonable inquiry and the information known or readily obtainable by the party is insufficient to enable the party to admit or deny."

On remand, the trial court was ordered to allow the defendant an additional twenty-eight days to amend his answers to the request to admit if, after considering the opinion, the defendant believed that he was required to modify his previous answers.

Consequently, a defendant may no longer object to a request to admit the relatedness and reasonableness of medical treatment provided to a plaintiff. Prior to responding to the request by stating the party has insufficient knowledge, the party must make a reasonable effort to secure answers to the request to admit from persons and documents within the responding party's reasonable control

Questions of Law and Questions of Fact in a Request to Admit

In *Robertson v. Sky Chefs, Inc.*, 344 Ill.App.3d 196, 799 N.E. 2d 852 (2003), The First District Appellate court took up the issue of the distinction between questions of law and questions of fact in a request to admit. The result was devastating to the plaintiff.

The suit arose out of a collision between a motor vehicle the plaintiff was operating at an American Airlines terminal at O'Hare Airport. The defendant served upon the plaintiff a written request for admissions of fact pursuant to Supreme Court Rule 216. The request to admit propounded twelve questions with respect to the alleged incident. Among those questions were the following:

1. Do you admit that on June 2, 1999, that the plaintiff did not operate, maintain or control a certain motor vehicle on a working ramp at O'Hare Airport ... ?

2. Do you admit that on the aforesaid date and time the Defendant ... did not own or operate a certain motor vehicle, at O'Hare Airport on (the same) working service ramp ... ?

3. Do you admit that on the aforesaid dates, times and places ... did the defendant ... own (sic) a certain motor vehicle being operated, maintained and controlled by its

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agents, servants and/or employees which came into contact with the vehicle operated by the Plaintiff?

4. Do you admit on the aforesaid date the Defendant ... did not commit any of the following acts or omissions:

   (a) Operating, maintaining or controlling a motor vehicle on the aforesaid Service Ramp so that plaintiff was greatly injured;

   (b) Failing to keep proper and/or any lookout for traffic then and there lawfully proceeding on said Service Ramp;

   (c) Operating said motor vehicle in a reckless manner with disregard for safety of persons and other motor vehicles lawfully driven on said service ramp, in violation of Illinois statute 5/11-503;

   (d) Operating said motor vehicle on the aforesaid roadway at a rate of speed that was greater than was reasonable, proper and prudent, having regard of traffic, the condition of the roadway and the use of way;

   (e) Act in violation of Illinois statute 5/11-601(a) by operating a motor vehicle at a rate of speed that was greater than was reasonable, proper and prudent, having regard for traffic, the condition of the roadway and the use of way;

   (f) Failing to stop and/or turn the course and/or reduce the speed of said motor vehicle in time to avoid a collision with another vehicle on the aforesaid Service Ramp;

   (g) Failing to make proper and/or any use of the brakes of said motor vehicle in time to avoid causing a collision with another motor vehicle on the aforesaid Service Ramp.

The plaintiff failed to respond to the request to admit. The defendant then filed a motion for summary judgment asserting that due to the plaintiff's failure to respond to the request to admit, all the facts contained in that request were deemed admitted, thereby leaving no issue of material fact with respect to the defendant's alleged negligence. The plaintiff responded, claiming the questions the defendant propounded in the request to admit were improper in form and did not comply with Rule 216 in that they called for legal conclusions.

The court held that Rule 216 applied exclusively to the admission of facts or ultimate facts which might give rise to legal conclusions. Nevertheless, a party may not include legal conclusions in his request to admit and any question propounded in the request to admit which seeks the admission of a conclusion of law is improper in form.

The court held that requests #1, #2 and #3 were questions of fact. The court further held that questions #5(c) and #5(e) were questions of law but that the plaintiff's failure to respond to the remaining subparts of question #5 resulted in judicial admissions of facts. The court further held that the plaintiff's admission of these factual assertions by his failure to respond to them eliminated any basis for the defendant's alleged negligence. Consequently, summary judgment was proper in that there was no basis to support any finding of liability against the defendant.