Alabama Rules of Evidence

Article IV. Relevancy and Its Limits

Rule 411.

Liability insurance.

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

Advisory Committee's Notes

Rule 411, providing a general exclusion of evidence of liability insurance coverage when offered to prove that the insured acted negligently or otherwise wrongfully, is adopted from Rule 411, Fed.R.Evid., without change. It is consistent with preexisting Alabama law. See *Cook v. Anderson*, 512 So.2d 1310 (Ala.1987); *Williamson v. Raymond*, 495 So.2d 609 (Ala.1986). In addition to generally excluding evidence of liability insurance coverage, Rule 411 also excludes evidence of noncoverage. See E. Cleary, McCormick on Evidence § 201 (3d ed. 1984); *Stephenson v. Steinhauer,* 188 F.2d 432, 438 (8th Cir. 1951).

Like other limited-purpose exclusionary rules, this rule applies only when the evidence of liability insurance is offered to prove negligence or other wrongful conduct of the subject person. This rule does not exclude evidence of liability coverage whenever the moving party is offering the evidence for some material purpose in the case other than to prove negligence or other wrongful conduct. *Thorne v. Parrish*, 265 Ala.193, 90 So.2d 781 (1956). See also C. Gamble, McElroy's Alabama Evidence § 189.04(1) (4th ed. 1991). As the language "such as" indicates, the list of permissible purposes for which evidence of insurance may be admitted, is merely illustrative. Those purposes specifically mentioned are to prove agency, to prove ownership, to prove control, and to prove bias or prejudice of a witness. If a bailor denies ownership of an instrumentality used by a negligent bailee, for example, the bailor's purchase of liability insurance coverage relating to the instrumentality may be admitted to prove the bailor's ownership. *Pinckard v. Dunnavant*, 281 Ala. 533, 206 So.2d 340 (1968); *Mobile Pure Milk Co. v. Coleman*, 26 Ala.App. 402, 161 So. 826, cert. denied, 230 Ala. 432, 161 So. 829 (1935). In further illustration, nothing in this general exclusionary rule precludes one from impeaching an opponent's witness on cross- examination by exploring the possible bias shown by that witness's interest in, or employment by, the opponent's insurance carrier. *Calloway v. Lemley*, 382 So.2d 540 (Ala.1980); *Pittman v. Calhoun*, 231 Ala. 460, 165 So. 391 (1935). But see *Otwell v. Bryant*, 497 So.2d 111 (Ala.1986) (holding that evidence showing bias may be so slight as to be excluded because of prejudice).

This rule is not intended to disturb that line of cases permitting the trier of fact to be privy to the fact of insurance coverage when that fact is inseparably connected to other evidence that is admissible. See *Crump v. Geer Bros*., 336 So.2d 1091 (Ala.1976).

Neither is Rule 411 intended to change Alabama's preexisting law regarding the questions that may be asked of prospective jurors on voir dire examination. See *Cooper v. Bishop Freeman Co*., 495 So.2d 559 (Ala.1986), overruled by *Burlington N. R.R. v. Whitt*, 575 So.2d 1011 (Ala.1990), cert. denied, 499 U.S. 948 (1991).