

266 So.3d 1279

District Court of Appeal of Florida, Fifth District.

Tammy **SENTZ** f/k/a Tammy Williams and
GEICO General Insurance Company, Appellants,

v.

Richard **TRACY**, Appellee.

Case No. 5D18-964

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Opinion filed March 29, 2019

Synopsis

Background: Following motor vehicle accident, plaintiff driver brought action against boat trailer driver. The Circuit Court, Marion County, [Lisa Herndon, J.](#), awarded fees to boat trailer driver after denying plaintiff's requests for admission. Plaintiff appealed.

[Holding:] The District Court of Appeal held that boat trailer driver was not entitled to an award of attorney fees.

Reversed and remanded.

West Headnotes (3)

[1] Pretrial Procedure

🔑 Nature and purpose

The purpose of requests for admissions is to define and limit the issues in controversy between the parties, thus reducing the expense and delay that might otherwise be unnecessarily involved in the trial, and thereby facilitating proof at trial; this is accomplished by compelling admissions to those matters over which there is no good faith controversy. [Fla. R. Civ. P. 1.370](#).

[Cases that cite this headnote](#)

[2] Pretrial Procedure

🔑 Subject matter

There is an important distinction between requests for admission that would resolve the ultimate issues in the case if admitted, and requests for admission that simply go to establishing a relevant fact in the case. [Fla. R. Civ. P. 1.370](#).

[Cases that cite this headnote](#)

[3] Pretrial Procedure

🔑 Costs and expenses upon improper failure to admit

Defendant boat trailer driver was not entitled to an award of attorney fees regarding plaintiff driver's requests for admission in action regarding motor vehicle accident, where requests for admission went to the ultimate issues in the case rather than relevant facts, and the issues were hotly contested at trial. [Fla. R. Civ. P. 1.370, 1.380\(c\)](#).

[Cases that cite this headnote](#)

*1280 Appeal from the Circuit Court for Marion County, [Lisa Herndon, Judge](#).

Attorneys and Law Firms

[Sharon C. Degnan](#), of [Kubicki Draper](#), Orlando, for Appellants.

[Robert Gregory King](#), of [King Law Firm](#), Ocala, for Appellee.

Opinion

PER CURIAM.

Appellants, Tammy **Sentz** f/k/a Tammy Williams and Geico General Insurance Company, appeal a final judgment awarding Appellee, Richard **Tracy**, attorney's fees pursuant to [Florida Rule of Civil Procedure 1.380\(c\)](#) in this motor vehicle accident case. Appellants argue that the trial court erred in awarding fees for denying Appellee's requests for admission because the requests went to issues for which there was a bona fide dispute. We agree and reverse.

At trial, the parties offered directly conflicting testimony concerning who was at fault for the accident that occurred after dark. Essentially, **Sentz** testified that she rear-ended Appellee's boat trailer because he was traveling under the speed limit and his brake lights were not operational, whereas Appellee testified that he was traveling the speed limit and his brake lights were working.

Leading up to trial, Appellee sent **Sentz** several requests for admission that asked her to broadly concede negligence, causation, and damages. Specifically, the requests asked **Sentz** to admit, *inter alia*, that she “did so negligently and carelessly maintain, operate and control the motor vehicle so that it collided with the vehicle operated by [Appellee].” Not surprisingly given the position **Sentz** would later take at trial, she denied the requests.

[1] [2] Florida Rule of Civil Procedure 1.380(c) authorizes the trial court to award expenses, including attorney's fees, against a party that fails to admit the truth of a request for admission made pursuant to Florida Rule of Civil Procedure 1.370. “The purpose of requests for admissions is to define and limit the issues in controversy between the parties, thus reducing the expense and delay that might otherwise be unnecessarily involved in the trial, and thereby facilitating proof at trial.” *Winn Dixie Stores, Inc. v. Gerringe*, 563 So.2d 814, 816 (Fla. 3d DCA 1990) (footnote omitted). “This is accomplished by compelling admissions to those matters over which there is no good faith controversy.” *Id.* Notably, there is “an

important distinction between requests for admission that would resolve the ultimate issues in the case if admitted, and requests for admission that simply go to establishing a relevant fact in the case.” *Haas Automation, Inc. v. Fox*, 243 So.3d 1017, 1028 (Fla. 3d DCA 2018) (citation omitted).

[3] In this case, Appellee's requests for admission went to the ultimate issues in *1281 the case rather than relevant facts. Moreover, the issues were hotly contested at trial as evidenced by the contradictory testimony of **Sentz** and Appellee. In our view, awarding attorney's fees under these circumstances would render rule 1.380(c) a prevailing party fee provision rather than an exception to the rule that the individual parties bear their own fees. See *Arena Parking, Inc. v. Lon Worth Crow Ins. Agency*, 768 So.2d 1107, 1113 (Fla. 3d DCA 2000); see also *R.J. Reynolds Tobacco Co. v. Ward*, 238 So.3d 408, 410 (Fla. 1st DCA 2018) (“[R]ule 1.380(c) serves as a vehicle to impose sanctions for unjustified denials, not as a substantive fee-shifting provision.”).

REVERSED and REMANDED.

COHEN, EISNAUGLE and SASSO, JJ., concur.

All Citations

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