

[Products Liability Law Daily Wrap Up, EVIDENTIARY ISSUES—  
HOUSEHOLD PRODUCTS—N.D. Tex.: Adverse admissions in deposition  
undercut lawn mower operator's claims, \(Sept. 21, 2016\)](#)

Products Liability Law Daily Wrap Up

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By Pamela C. Maloney, J.D.

Adverse admissions made by a lawn mower operator during his deposition testimony were neither disavowed nor contradicted by other testimony or evidence, and, therefore, the statements constituted both a judicial admission and evidence absolving the manufacturer of liability as a matter of law for the operator's injuries, a federal district court in Texas ruled (*Chambers v. Troy-Bilt, LLC*, September 20, 2016, Stickney, P.).

According to the operator, the riding lawn mower, which had been designed, manufactured, and marketed by Troy-Bilt, LLC, exploded and caught fire while he was putting it back in his garage after cutting his grass. In his product liability action against the manufacturer, the operator alleged the fire and explosion originated in the engine/fuel compartment of the mower. He sought recovery for his injuries which included second and third degree burns that required treatment multiple procedures, and damages to or destruction of the contents of his garage. The manufacturer moved for summary judgment arguing, among other claims, that the lawn mower operator's deposition testimony, which was contrary to the essential causation facts and elements of his product-related claims, qualified as a judicial admission.

**Deposition as judicial admission.** According to the lawn mower operator, it was irrelevant that some Texas courts allowed a party's statement in a deposition to serve as a judicial admission because federal procedural law governed the issue of whether his deposition statements qualified as a judicial admission. Under the federal rules, any adverse statement he had made during his deposition were evidentiary admissions subject to rehabilitation at trial and, therefore, the manufacturer could not obtain dispositive relief by citing deposition testimony out of context. The operator further argued that because the jury could believe his wife's testimony regarding the events that lead to the fire over his own statements and because there was no valid challenge to the testimony given by his mechanical engineering expert regarding the source of the fire, a question of material fact as to the cause of the fire remained in dispute.

The court found, however, that the operator's deposition testimony was clear, unequivocal, and deliberate, while his wife's testimony was too speculative to create a genuine issue of material fact. In addition, the operator's expert had testified that if everything in the operator's deposition was correct, there would be insufficient temperature at the exhaust of the mower to provide an ignition source to ignite a gasoline vapor. Thus, regardless of whether the operator's deposition testimony was considered judicial or evidentiary, the result was the same, *i.e.*, the operator could not create an issue of fact in the face of an evidentiary admission unless he contradicted and explained the disavowed statement. Because the operator never contradicted the admissions in his deposition nor offered any explanation disavowing those admissions, the manufacturer could rely on those statements in support of its motion for summary judgment. Finding no genuine issue of material fact as to the cause of the fire, the court granted the manufacturer's motion.

The case is No. [3:14-CV-569-BF](#).

Attorneys: Stephen W. Shoultz (Law Office of Stephen W. Shoultz) for Terry Chambers. D. Randall Montgomery (D. Randall Montgomery & Associates PLLC) and Peter A. Holdsworth (Wegman Hessler & Vanderburg) for Troy-Bilt LLC.

Companies: Troy-Bilt LLC

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