

# SUPREME COURT OF INDIANA

## Lutz v. Erie Insurance Exchange

848 N.E.2d 675 (Ind. 2006) · No. 49S02-0606-CV-205 · Decided June 8, 2006

### SUMMARY

The Indiana Supreme Court held that a party's pleadings are subject to judicial notice and that a factual admission in a pleading may constitute a binding judicial admission. Although the color of a traffic light was not independently subject to judicial notice, the court could notice McCormick's admission in her answer that she entered against a red light. The court concluded that any failure to instruct the jury that the light was red was harmless and affirmed the judgment.

### CASE DETAILS

|                       |                                                                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Indiana                                                                                                                                                                             |
| WRITING FOR THE COURT | Boehm, Justice; Shepard, Chief Justice; Dickson, Justice; Sullivan, Justice; Rucker, Justice                                                                                                         |
| JURISDICTION          | Indiana                                                                                                                                                                                              |
| DECIDED               | June 8, 2006                                                                                                                                                                                         |
| DOCKET                | 49S02-0606-CV-205                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Lutz appealed from a jury verdict awarding Erie Insurance Exchange, as subrogee, damages for vehicle repairs. The Indiana Court of Appeals affirmed, and the Indiana Supreme Court granted transfer. |
| STANDARD OF REVIEW    | The opinion applies Indiana Evidence Rule 201 to determine whether judicial notice was mandatory and reviews the asserted instructional error for prejudice or harmlessness.                         |
| PRECEDENTIAL VALUE    | Published, precedential opinion of the Supreme Court of Indiana                                                                                                                                      |
| PARTIES               | Carson Lutz v. Erie Insurance Exchange, as Subrogee of Paul McCormick                                                                                                                                |

### TOPICS

- judicial notice
- evidence
- civil procedure

### PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the court was required to take judicial notice of McCormick's pleading admission that she entered the intersection against a red light.
2. Whether the color of the traffic light itself was a proper subject of judicial notice.
3. Whether any error arising from the failure to give an instruction concerning the pleading admission required reversal.

## HOLDINGS

1. A party's pleadings are subject to judicial notice, even when the facts recited in the pleading are not independently appropriate subjects of judicial notice.
2. The color of a traffic light at a particular time and place is not a proper subject of judicial notice because it is neither generally known nor capable of accurate and ready determination from an unquestionable source.
3. Once judicially noticed, McCormick's admission in her answer that the light was red became a judicial admission binding on McCormick as a matter of law.
4. Any error in failing to give an instruction concerning McCormick's pleading admission was harmless because Lutz was not prejudiced.

## KEY QUOTATIONS

*"A party's pleadings are subject to judicial notice and a fact admitted in a party's pleading may be binding on that party as a judicial admission even if it is not subject to judicial notice."* (677)

*"McCormick's admission in her answer, once noticed, became a judicial admission as a matter of law."* (678)

*"Unless a pleading is withdrawn or superseded, any admission contained in the pleading is conclusive as to that party."* (678)

## FACTUAL BACKGROUND

During a funeral procession in Indianapolis, a police officer was directing traffic when McCormick's vehicle collided with Lutz's vehicle in an intersection. McCormick's insurer, Erie, paid \$4,533.42 for repairs and sued Lutz as subrogee. McCormick's answer to Lutz's third-party complaint admitted that she entered the intersection against a red light as directed by a uniformed police officer. At trial, McCormick could not recall the light's color, and the jury allocated 80% fault to Lutz, 10% to McCormick, and 10% to a nonparty.

## PROCEDURAL HISTORY

Erie sued Lutz for \$4,533.42 paid to repair McCormick's vehicle after a collision. Lutz filed a third-party complaint against McCormick, asserting that her negligence caused the accident. At trial, the court denied Lutz's request to take judicial notice of McCormick's pleading admission that she entered the intersection against a red

light. The jury allocated 80% fault to Lutz, 10% to McCormick, and 10% to a nonparty, and awarded Erie \$3,626.74. The Court of Appeals affirmed; the Supreme Court granted transfer, summarily affirmed issues not addressed, and affirmed the trial court's judgment.

#### DISPOSITION

affirmed

#### CASES CITED

- Lutz v. Erie Insurance Exchange, 838 N.E.2d 1181, 1187 (Ind. Ct. App. 2005)
- Owen v. State, 272 Ind. 122, 396 N.E.2d 376, 381 (1979)
- Brown v. Jones, 804 N.E.2d 1197, 1202 (Ind. Ct. App. 2004), trans. denied
- Sanders v. State, 782 N.E.2d 1036, 1038-39 (Ind. Ct. App. 2003)
- Sundstrand Corp. v. Standard Kollsman Industries, Inc., 488 F.2d 807, 811 (7th Cir. 1973)
- Brown v. Califano, 75 F.R.D. 497, 498 (D.D.C. 1977)