

A plaintiff sued a defendant in federal court for injuries arising out of an accident involving the parties. The plaintiff alleged and presented evidence at trial demonstrating that her injuries had left her legs permanently paralyzed. The jury found in favor of the plaintiff and awarded her \$5 million in damages. Two months after the court entered judgment, the defendant was given a video made that day showing the plaintiff jogging with her doctor.

What is the best way for the defendant to seek relief from the judgment?

- A. Move for a new trial or in the alternative for remittitur to reduce the award in light of the shortened duration of the plaintiff's injuries.
- B. Move for relief from the judgment on the ground that the judgment was based on the jury's mistaken belief that the plaintiff's injuries would be permanent.
- C. Move for relief from the judgment on the ground that the plaintiff committed a fraud in obtaining damages for permanent injuries.
- D. Move for relief from the judgment on the ground that there is newly discovered evidence that the plaintiff's injuries were not permanent.

Explanation:

Relief from final judgment

(FRCP 60(b))

Grounds for relief	Time to file
<ul style="list-style-type: none"> • Mistake, inadvertence, surprise, excusable neglect • Newly discovered evidence • Fraud, misrepresentation, misconduct 	Within one year
<ul style="list-style-type: none"> • Void judgment (eg, lack of jurisdiction) • Judgment: <ul style="list-style-type: none"> – satisfied, released, discharged – based on reversed or vacated judgment <i>or</i> – will violate equity if applied prospectively • Other reason justifying relief (rare) 	Within reasonable time

FRCP = Federal Rule of Civil Procedure.

Under Federal Rule of Civil Procedure (FRCP) 60(b), a party can seek **extraordinary relief** from a district court's final judgment in **limited circumstances**. This motion may generally be made within a reasonable time, but it *must* be made **within one year** from the entry of the final judgment when the motion asserts any of the following grounds for relief:

- The judgment was due to mistake, inadvertence, surprise, or excusable neglect by the *parties* or the *court* **(Choice B)**.
- The party has discovered new evidence that existed at the time of the trial and could not have reasonably been discovered in time to move for a new trial—ie, within 28 days of the final judgment.
- The **opposing party** engaged in misrepresentation, misconduct, or **fraud**.

Here, the court entered a final judgment awarding the plaintiff \$5 million for injuries that allegedly left her legs *permanently* paralyzed. Two months later, the defendant received a video showing the plaintiff jogging. Since this video shows that the plaintiff committed a *fraud* in obtaining damages, the defendant should move for relief from the judgment on this ground.

(Choice A) Motions for new trial and motions for remittitur must be filed within *28 days* after a final judgment is entered. Since this deadline has passed, the defendant cannot obtain relief through these motions.

(Choice D) Evidence is "newly discovered" if it existed at the time of the trial and could not have reasonably been discovered in time to move for a new trial. Therefore, the video created two months *after* trial is not newly discovered evidence within the meaning of FRCP 60(b).

Educational objective:

A party may obtain extraordinary relief from a final judgment within one year from the entry of a judgment that is based on (1) mistake, inadvertence, surprise, or excusable neglect by the parties or court, (2) newly discovered evidence, or (3) the opposing party's fraud, misrepresentation, or misconduct.

References

- Fed. R. Civ. P. 60(b)–(c) (extraordinary relief from judgment).

Copyright © 2019 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.