

A jury sitting in a federal court case returned a verdict that found in favor of the plaintiff and awarded her \$100,000. The federal district court entered a final judgment consistent with the jury's verdict.

The defendant immediately filed a notice of appeal, alleging that the district court erred by failing to exclude several pieces of evidence from the jury's consideration. The appellate court docketed the case. The day after the appeal was docketed, the district court discovered that the final judgment listed a \$1,000,000 award for the plaintiff.

May the district court correct the mistake?

- A. No, because both parties must receive notice and an opportunity to be heard on this action.
- B. No, because leave of the appellate court is required once an appeal is docketed.
- C. Yes, because a district court may correct clerical mistakes on its own initiative.
- D. Yes, because a district court may freely alter and amend final judgments in the interest of justice.

## Explanation:

### Posttrial correction of mistakes

(FRCP 60(a))

Type of mistake	Definition	Time of correction
<b>Clerical</b>	Misstatement of court's intent <ul style="list-style-type: none"><li>Eg, court entered judgment for "\$10,000" instead of "\$100,000"</li></ul>	<ul style="list-style-type: none"><li>Before appeal docketed: on court's own initiative or by motion</li><li>After appeal docketed: with appellate court's leave</li></ul>
<b>Oversight/omission</b>	Exclusion misrepresents court's intent <ul style="list-style-type: none"><li>Eg, judgment failed to include required interest in award</li></ul>	

**FRCP** = Federal Rule of Civil Procedure.

A district court may **correct a clerical mistake** or a mistake arising from an **oversight or omission** in a judgment, order, or other part of the record. The court may do so on its own initiative or pursuant to a party's motion *before* an appeal from the judgment or order is docketed. But *after* an **appeal is docketed**, the district court can correct the mistake only with the **appellate court's leave** (ie, permission).

Here, a clerical mistake occurred since the jury's verdict awarded the plaintiff \$100,000 but the final judgment awarded her \$1,000,000. Since the appeal has been docketed, the district court cannot correct the mistake without leave of the appellate court.

**(Choice A)** A district court need not provide the parties with notice or an opportunity to be heard before it corrects a mistake.

**(Choice C)** The district court could have corrected the mistake on its own initiative had the appeal not been docketed.

**(Choice D)** A district court *cannot* freely alter or amend final judgments. It may do so only when (1) the judgment is based on a manifest error of law or fact, (2) the controlling law has changed, or (3) new evidence is discovered.

### Educational objective:

Before an appeal is docketed in the appellate court, a district court can correct a mistake in a judgment, order, or other part of the record on its own initiative or pursuant to a party's

motion. But after an appeal has been docketed, the district court can correct the mistake only with the appellate court's leave.

### **References**

- Fed. R. Civ. P. 60(a) (correction of mistake in judgment or order).

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