

A computer company fired one of its female employees from her sales position for failing to meet her sales quotas.

The female employee sued the company in federal court, alleging that the company violated a federal law that prohibits sex discrimination in the workplace. Specifically, the female employee claimed that she failed to meet her quotas because the company did not introduce her to potential sales leads or provide her training opportunities in the same way that it did for its male employees. The company conceded that it did not provide the female employee these opportunities but argued that the federal law did not apply to these actions.

After discovery but before trial, the female employee filed a motion for summary judgment. The trial court granted the motion based on its conclusion that the federal law did apply to the company's actions.

The company appealed the trial court's grant of summary judgment.

On appeal, what standard of review will the appellate court apply?

- A. Abuse of discretion.
- B. Clear and convincing.
- C. Clearly erroneous.
- D. De novo.

Explanation:

Appellate standards of review

Standard	Level of review	Applicability
De novo	<ul style="list-style-type: none">• No deference to trial judge's legal determination• Reverse if reasonably believe trial judge misinterpreted law	Pure legal issues, eg: <ul style="list-style-type: none">• conclusions of law• content of jury instructions
Clear error	<ul style="list-style-type: none">• Highly deferential to trial judge's factual findings• Reverse if no reasonable judge would have made this finding	Factual issues in <i>bench</i> trials, eg: <ul style="list-style-type: none">• credibility of witnesses• factual determinations
Substantial evidence	<ul style="list-style-type: none">• Highly deferential to jury's factual findings• Reverse if no reasonable jury would have made this finding	Factual issues in <i>jury</i> trials, eg: <ul style="list-style-type: none">• credibility of witnesses• jury's verdict
Abuse of discretion	<ul style="list-style-type: none">• Highly deferential to trial judge's discretionary decisions• Reverse only if decision was unreasonable/arbitrary	Discretionary rulings by judge, eg: <ul style="list-style-type: none">• grant/denial of new trial• admissibility of evidence

A party can **appeal** an adverse **final judgment** issued by the trial court. The **standard of review** used to review that judgment depends on the issues in dispute. **Pure legal issues** are reviewed **de novo**, which allows the appellate court to decide the issue anew **without deferring** to the lower court's legal interpretation. And the judgment will be reversed if the appellate court reasonably believes that the lower court misinterpreted the law.

A final judgment is the last decision issued by a court that settles the parties' rights and resolves all issues in dispute. This includes summary judgments, where a judgment is entered without a full trial because (1) there is no genuine issue of material fact and (2) the moving party is entitled to judgment as a matter of law. As a result, a grant of summary judgment is a pure legal issue that the appellate court will review de novo.

(Choice A) A trial court's discretionary (not purely legal) rulings are reviewed for abuse of discretion. Under this highly deferential standard, the trial court's decision will only be reversed if it was clearly arbitrary or unreasonable.

(Choice B) "Clear and convincing" is an evidentiary **burden of proof**—not an appellate standard of review—that is often used in civil suits involving fraud, child custody, and restraining orders. It requires the party with this burden to show that its contention is highly or substantially likely to be true.

(Choice C) The clearly-erroneous standard of review is used to review the trial court's *factual* (not legal) findings in a bench trial. This standard gives great deference to the trial court, so the court's factual finding will only be reversed if no reasonable judge would have made such a finding.

Educational objective:

The de novo standard of review applies to pure legal issues—eg, grant of summary judgment. Under this standard, no deference is given to the trial court's legal interpretations, and its ruling will be reversed if the appellate court reasonably believes that the trial court misinterpreted the law.

References

- Fed. R. Civ. P. 56 (summary judgment).
- *Borchardt Rifle Corp. v. Cook*, 684 F.3d 1037, 1041–42 (10th Cir. 2012) (holding that de novo review applies to appellate review of trial court's summary judgment decision).