

A man filed a federal diversity action against a bus company, seeking damages for injuries he had sustained in an accident while riding a bus owned by the company. The man demanded a jury trial.

After the parties' attorneys examined the prospective jurors and exercised their challenges, six jurors and two alternate jurors were chosen. During the trial, two jurors became ill and were replaced by the alternate jurors. At the conclusion of the trial, a third juror also became ill, and the court excused that juror.

The parties' attorneys stipulated to the return of a verdict from a five-person jury. The jury then deliberated and returned a verdict for the company. The man timely filed a motion for a new trial, arguing that the five-person jury was not large enough to return a verdict.

Should the court grant the motion?

- A. No, because the court properly excused the three jurors due to illness.
- B. No, because the parties stipulated to a verdict from a jury of fewer than six jurors.
- C. Yes, because there must be at least six jurors on a federal civil jury.
- D. Yes, because there must be at least 12 jurors on a federal civil jury.

Explanation:

Under Federal Rule of Civil Procedure (FRCP) 48, a **jury must begin** with **at least 6** and no more than 12 **members**. Each juror must participate in the verdict unless excused for good cause (eg, illness, family emergency). And **unless the parties stipulate otherwise**, the **verdict** must be unanimous and **returned by at least 6 jurors**. A court should grant a party's motion for a new trial if any of these requirements is not met.

Here, the jury began with 6 members and 2 alternates. During the trial, 2 jurors were excused for illness (good cause) and replaced by alternates, and a third juror was also excused for illness at the conclusion of the trial. This left 5 jurors to return a verdict. And though a verdict normally requires at least 6 jurors, the parties stipulated to a 5-person jury (**Choice C**). Therefore, the court should deny the man's motion for a new trial.

(Choice A) Even if jurors are properly excused for good cause, at least 6 jurors must return a verdict unless the parties stipulate otherwise.

(Choice D) FRCP 48 requires that a jury begin with a minimum of 6 jurors—not 12 (which is the maximum).

Educational objective:

FRCP 48 requires that a jury begin with at least 6 and no more than 12 members. The verdict must be unanimous and returned by a jury of at least 6 members—unless the parties stipulate otherwise.

References

- Fed. R. Civ. P. 48 (number of jurors and verdict).
- Fed. R. Civ. P. 47(c) (excusing a juror for good cause).

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Jury pool summoned



6-12 jurors impaneled



Unanimous verdict returned



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