

A man took skydiving lessons over the course of several days. During the man's first solo jump out of an airplane without being attached to an instructor, the man panicked and ripped his backpack containing the parachute. The man was not able to release his parachute and died upon impact.

The man's estate brought a diversity action in federal court against the skydiving company requesting \$3 million in damages. The estate demanded a jury trial. At the conclusion of trial, the judge gave the jury a verdict form that instructed the jury to determine which party should prevail and to answer specific questions related to each factual issue. When asked whether the man was contributorily negligent, the jury answered "Yes." When asked to give the percentage of the man's negligence, the jury answered "0%." The jury awarded the man's estate \$3 million.

The applicable law requires damages to be reduced by the percentage of the plaintiff's contributory negligence.

What action should the court take upon receiving the jury's verdict and answers?

- A. Direct the jury to further consider its answers and verdict.
- B. Disregard the jury's verdict and enter a judgment that is equitable.
- C. Enter a judgment in favor of the man but reduce the amount awarded based on the evidence.
- D. Enter a judgment in favor of the man for \$3 million.

Explanation:

General verdict with answers

(FRCP 49(b))

Answers *consistent* with verdict Judge must enter judgment consistent with verdict & answers

Answers *inconsistent* with verdict Judge must:

- order new trial
- direct jury to further consider its answers & verdict *or*
- disregard verdict & enter judgment consistent with answers

Answers *inconsistent* with each other & verdict Judge must:

- order new trial *or*
- direct jury to further consider its answers & verdict

FRCP = Federal Rule of Civil Procedure.

The presiding judge in a jury trial has the discretion to choose which **type of verdict** to use—a general verdict, special verdict, or general verdict with answers. If the judge selects a **general verdict with answers** and the jury's **answers are *inconsistent*** with **each other** and the **verdict**, the judge must order a new trial or direct the **jury to further consider** its answers and verdict.

Here, the judge selected a general verdict with answers by instructing the jury to determine which party should prevail and answer specific questions related to the factual issues in the case. The jury found that the man was contributorily negligent and 0% negligent (inconsistent answers). The jury also awarded the man the full amount demanded with no reduction for his negligence, despite finding him contributorily negligent (answer inconsistent with verdict). Therefore, the court should direct the jury to further consider its answers and verdict **(Choice D)**.

(Choice B) When the jury's answers are inconsistent with the verdict, the judge may disregard the verdict and enter a judgment consistent with the answers. But a judge cannot enter a judgment that he/she thinks is equitable (ie, fair) because the jury is responsible for determining the factual issues.

(Choice C) A court may **alter** an allegedly excessive award of damages through remittitur, which gives the winning party a choice between a reduction in damages or a new trial on damages. However, the jury must first return a consistent verdict.

Educational objective:

A general verdict with answers requires that the jury decide which party should prevail and answer specific questions on each factual issue. If the answers are inconsistent with each other and the verdict, the judge must either order a new trial or direct the jury to further consider its answers and verdict.

References

- Fed. R. Civ. P. 49(b) (general verdict with answers).