

A man sued his employer in federal court for sexual harassment in violation of a federal statute. The man planned to have several of his coworkers testify that they witnessed the employer make sexual advances toward the man on several occasions. However, at their depositions, the coworkers testified that they never witnessed the employer engage in inappropriate behavior. The man had no other evidence to support his claim, so the court entered summary judgment in favor of the employer.

Two years later, one of the coworkers who was supposed to testify on the man's behalf told the man that the employer had paid the coworkers a sum of money to lie at their depositions. The man immediately filed a motion in the same federal court to obtain relief from the entry of summary judgment.

How is the court likely to rule on his motion?

- A. Deny the motion, because it was not made within one year of the entry of summary judgment.
- B. Deny the motion, because the man failed to appeal.
- C. Grant the motion, because it was made within a reasonable time.
- D. Grant the motion, because the employer engaged in misconduct.

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.

A court's final judgment and orders will typically not be disturbed. This promotes confidence in their finality so they can be enforced without perpetual reexamination of the case. However, Federal Rule of Civil Procedure (FRCP) 60(b) allows a party to obtain **extraordinary relief** from a judgment or order in **limited circumstances**. An FRCP 60(b) motion may generally be made within a reasonable time, but three of the grounds for relief must be raised **within one year** of the court's judgment:

- The judgment was due to mistake, inadvertence, surprise, or excusable neglect by the parties or the court.
- The moving party discovered new evidence that (1) existed at the time of the trial and (2) could not have reasonably been discovered in time to move for a new trial (ie, within 28 days of the entry of final judgment).
- An **opposing party engaged in** fraud, misrepresentation, or **misconduct**.

Here, the man's motion seeks relief from the judgment due to the employer's *misconduct* in paying the coworkers to lie at their depositions. As a result, this motion was due within *one* year after the court entered summary judgment in the employer's favor. Since the motion was filed *two* years later, it was untimely and will likely be denied (**Choices C & D**).

(Choice B) A party need not file an appeal to request relief under FRCP 60(b).

Educational objective:

Federal Rule of Civil Procedure 60(b) allows a party to obtain extraordinary relief within *one* year of the entry of a final judgment or order based on (1) mistake, inadvertence, surprise, or excusable neglect, (2) newly discovered evidence, or (3) an opposing party's fraud, misrepresentation, or misconduct.

References

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

Copyright © UWorld. All rights reserved.