

A plaintiff brought a diversity action against a defendant in federal court in State A. At a pretrial conference, the attorneys stipulated to a jury of 14 jurors and 4 alternates and submitted this request to the judge. State courts in State A allow 14-person juries.

Is the judge likely to comply with the parties' request?

- A. No, because a 14-person jury is not allowed in federal court.
- B. No, because there must be half as many alternate jurors as selected jurors.
- C. Yes, because state courts in State A allow 14-person juries.
- D. Yes, because the parties stipulated to a 14-person jury.

### Explanation:

Under Federal Rule of Civil Procedure 48(a), a **jury** in federal civil cases must have **at least 6** but **no more than 12 members**. The parties may stipulate to the size of the jury so long as the stipulation stays within the requisite range. Here, the parties asked the judge to seat 14 jurors, which exceeds the maximum amount of 12 possible jurors **(Choice D)**. Therefore, the judge is unlikely to comply with the parties' request.

**(Choice B)** An alternate juror is a person who steps in when a member of the jury is excused for good cause (eg, illness, family emergency). There is no requirement for the number of alternate jurors that must be selected, but federal courts generally select two or three.

**(Choice C)** Although state courts in State A allow 14-person juries, federal law controls **procedural issues** (eg, jury size) in diversity actions. Therefore, juries in federal civil cases must have 6 to 12 members.

### Educational objective:

A federal civil jury trial must begin with at least 6 and no more than 12 members. The parties may stipulate to the size of the jury so long as the stipulation stays within the requisite range.

### References

- Fed. R. Civ. P. 48(a) (number of jurors).

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