

A woman brought a diversity action against a pharmaceutical company in a federal court in State A for strict products liability arising under State A law. The woman claims that the company defectively manufactured her medication, which caused her to suffer a stroke that led to complete paralysis of the left side of her body.

The company moved for summary judgment, arguing that a State A statute forbids strict products liability lawsuits against pharmaceutical companies. The federal court granted the motion and entered summary judgment dismissing the woman's action with prejudice.

Fourteen days after the federal court entered summary judgment, the highest court in State A held that the State A statute granting immunity to pharmaceutical companies only applies to strict products liability actions alleging a design defect.

What is the best course of action the woman's lawyer could take?

- A. File a motion for judgment as a matter of law.
- B. File a motion to amend the summary judgment.
- C. File a motion to correct the mistake in the summary judgment.
- D. Refile the strict products liability action against the pharmaceutical company.

Explanation:

Motion to alter or amend final judgment

Motion must be made within 28 days on any of following grounds:

- Judgment based on manifest error of law or fact (eg, court applied wrong law)
- Necessary to prevent manifest injustice (eg, attorney or juror misconduct)
- Discovery of new evidence that was unavailable during trial
- Intervening change in controlling law

A party can file a **motion to alter or amend** a final judgment (eg, a summary judgment) within 28 days after entry of that judgment. This motion can be based on several grounds (see image above), including an **intervening change** in the **controlling law**.

Here, a State A federal district court entered summary judgment in favor of the pharmaceutical company because a State A statute forbade strict products liability lawsuits against pharmaceutical companies. Fourteen days later, the highest court in State A held that the statute only grants such immunity in strict products liability actions alleging a *design defect*. Since the woman alleges a *manufacturing* defect, the best course her lawyer could take is to quickly file a motion to amend the summary judgment. This will allow her case to proceed in federal court.

(Choice A) A party can move for *judgment as a matter of law* (JMOL) only after the nonmovant has had an opportunity to present evidence at trial (not seen here). Additionally, there is no indication that the woman has offered proof that the company defectively manufactured the medication at issue that would entitle her to JMOL.

(Choice C) A motion to correct a mistake is appropriate when a judgment contains a clerical mistake or a mistake arising from an oversight or omission. However, no such mistakes exist in the summary judgment at issue here. Instead, the summary judgment was based on substantive controlling law that has since changed.

(Choice D) The woman could refile her strict products liability action against the pharmaceutical company. However, this would not be the best way to challenge the summary judgment since this would likely be more expensive and time-consuming than moving to amend the judgment.

Educational objective:

A party can move to alter or amend a final judgment, including a summary judgment, within 28 days after entry of the judgment. One ground for such a motion is that there has been an intervening change in the controlling law.

References

- Fed. R. Civ. P. 59(e) (motion to alter or amend a judgment).

- 47 Am. Jur. 2d Judgments § 636 (2020) (explaining the grounds for a motion to alter or amend a final judgment).

Copyright © UWorld. All rights reserved.