

A firm sued a corporation in a federal district court for allegedly engaging in unfair trade practices in violation of a federal statute. The firm sought \$100,000 and an injunction. At the conclusion of a bench trial, the judge announced her findings of fact and conclusions of law on the record, and judgment was entered in favor of the corporation.

Twenty-eight days later, the firm discovered a legal theory it initially overlooked that entitles it to relief. That same day, the firm filed a motion for a new trial based on this newly discovered legal theory.

Is the court likely to grant the firm's motion?

- A. No, because the legal theory could have been asserted at trial.
- B. No, because the motion was not timely made.
- C. Yes, because the judge's factual findings and legal conclusions were not in writing.
- D. Yes, because the legal theory shows that the firm is entitled to relief.

## Explanation:

### Grounds for new trial

- Prejudicial trial error (eg, erroneous evidentiary ruling)
- Prejudicial misconduct by judge, attorney, party, or juror
- Verdict not supported by clear weight of evidence
- Verdict based on false/nonexistent evidence
- Excessive or inadequate damages
- Newly discovered evidence

A party can **move for a new trial** within 28 days after the entry of final judgment, as the firm did here **(Choice B)**. A court may grant a new trial on several grounds. But it will **not grant** a new trial based on a **newly discovered legal theory** that the party **could have raised at trial**—even if the theory entitles the party to relief **(Choice D)**. This encourages attorneys to fully investigate their case before trial is over so that the case can be resolved without perpetual reexamination.

**(Choice C)** After the close of evidence in a bench trial, the judge must provide—orally or in writing—findings of fact and conclusions of law on the record.

### Educational objective:

A new trial cannot be granted based on a newly discovered legal theory that could have been raised at trial.

### References

- Fed. R. Civ. P. 59 (motion for a new trial).
- 58 Am. Jur. 2d New Trial § 320 (2019) (explaining that a new legal theory or defense is not a basis for a new trial).