

A man from State A sued a woman from State B in a federal district court for negligence to recover \$100,000. In her answer denying liability, the woman requested a jury trial. The case proceeded to trial.

Before the judge instructed the jury, the man moved for judgment as a matter of law. The judge denied this motion. On March 1, the jury returned a verdict in favor of the woman, and the judge entered a final judgment consistent with the verdict that same day.

On March 21, the man filed a renewed motion for judgment as a matter of law. On April 15, the judge entered an order denying that motion. On May 1, the man filed a notice of appeal with the clerk of the district court.

Does the appellate court have jurisdiction to hear the appeal?

- A. No, because the man did not file the notice of appeal with the clerk of the appellate court.
- B. No, because the man failed to file the notice of appeal within 30 days of the entry of final judgment.
- C. Yes, because the man preserved the renewed motion for judgment as a matter of law.
- D. Yes, because the man timely filed the notice of appeal with the proper clerk.

Explanation:

A **notice of appeal** must be **filed** with the district court clerk **within 30 days** after the district court **enters final judgment** to allow an **appellate court** to acquire jurisdiction over the case.* But if a party files a **posttrial motion** within 28 days after the entry of final judgment, then the notice of appeal need not be filed **until 30 days** after the court enters an **order disposing of that motion**.

Here, the district court entered a final judgment against the man on March 1. The man timely filed a renewed motion for judgment as a matter of law (JMOL) within 28 days after entry of final judgment—on March 21. The judge denied this motion on April 15. The man then timely filed a notice of appeal with the clerk of the district court within 30 days after the denial—on May 1. Therefore, the appellate court has jurisdiction to hear this appeal **(Choice B)**.

*The time to file the notice of appeal is extended to 60 days if one of the parties is the United States, a federal agency, or a federal officer or employee sued in an official capacity.

(Choice A) A notice of appeal must be filed with the clerk of the *district* court, not the appellate court.

(Choice C) A party can file a renewed **motion for JMOL** within 28 days after the entry of final judgment only if the party moved for JMOL before the case was submitted to the jury (as seen here). However, the fact that the man preserved the renewed motion for JMOL does not grant the appellate court jurisdiction.

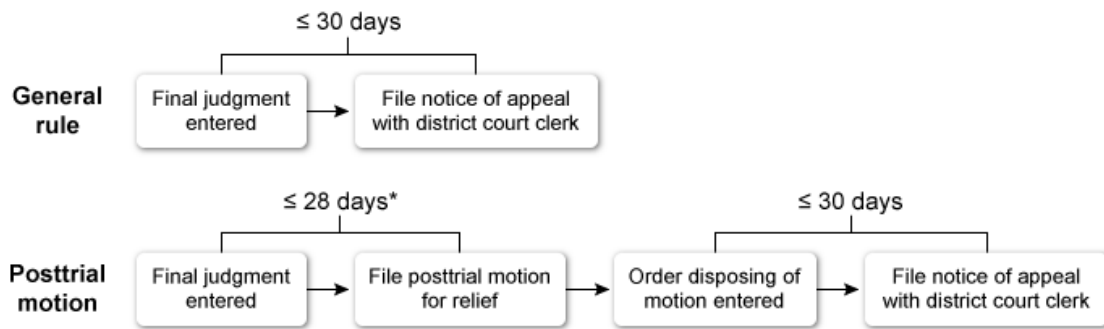
Educational objective:

A notice of appeal must be filed with the district court clerk within 30 days after the entry of final judgment unless a posttrial motion is filed within 28 days after final judgment is entered. In that case, the notice of appeal must be filed within 30 days after the court enters an order disposing of the motion.

References

- 28 U.S.C. § 2107 (timing of appeal).
- Fed. R. App. P. 4 (notice of appeal).

Deadline to file a notice of appeal



*Posttrial motion for attorney's fees must be made ≤ 14 days.