

A company incorporated and headquartered in State A brought a federal diversity action in State A against an attorney domiciled in State B. The complaint asserted that the attorney had sent defamatory emails to the company's customers in many different states, including State A. The attorney had few contacts with State A, and none of the contacts in that state were related to the alleged defamatory emails.

After being served in State B with the summons and complaint, the attorney determined that he was not subject to personal jurisdiction in State A and ignored the action. On the company's motion, the clerk entered a default in the action. After a hearing on damages, the court entered a default judgment for the company.

The attorney has moved for relief from the default judgment.

What is the attorney's best argument in support of the motion?

- A. The attorney has a meritorious defense to the action, which he should be allowed to assert.
- B. The attorney's failure to respond to the service of process was reasonable under the circumstances.
- C. The default judgment is void, because the court did not have personal jurisdiction over the attorney.
- D. The default judgment was entered as a result of the attorney's mistaken belief that he need not respond.

Incorrect

Correct answer C

Collecting Statistics

01 min, 16 secsTime Spent

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## Explanation:

### Relief from final judgment

(FRCP 60(b))

#### Grounds for relief

Mistake, inadvertence, surprise, excusable neglect

Newly discovered evidence

Fraud, misrepresentation, misconduct

Void judgment (eg, lack of jurisdiction)

Judgment:

satisfied, released, discharged

based on reversed or vacated judgment *or*

will violate equity if applied prospectively

Other reason justifying relief (rare)

**FRCP** = Federal Rule of Civil Procedure.

#### Time to file

Within one year

Within reasonable time

FRCP 60(b) allows a party to move for **extraordinary relief** from a final judgment—including a default judgment—on **limited grounds**. This includes a motion for relief from a **void judgment**. A judgment is void if the court that entered the judgment:

did not have subject-matter jurisdiction

**lacked personal jurisdiction** over the defendant—eg, when the plaintiff's claim does not arise from or closely relate to the defendant's minimum contacts with the forum state *or*

violated due process.

Here, the company filed an action against the attorney in State A federal court, but the attorney ignored the action. As a result, the clerk entered a default, and the court entered a default judgment for the company. However, the court did not have **personal jurisdiction** over the attorney because none of his contacts with State A arose from or related to the company's claim.\* Therefore, the attorney's best argument in support of his motion for relief is that the default judgment is void.

\*Personal jurisdiction can also be established over a defendant who (1) is served with process in the forum state, (2) consented to personal jurisdiction, or (3) is domiciled in the forum state—none of which occurred here.

**(Choice A)** A court may grant extraordinary relief based on mistake, inadvertence, surprise, or excusable neglect when the movant asserts a meritorious defense. But a meritorious

defense is not required for the court to grant relief from a void judgment, so this is not the attorney's best argument.

**(Choice B)** The attorney's failure to respond to the service of process may have been reasonable under the circumstances, but this does not provide a ground for relief from the default judgment.

**(Choice D)** A court may grant extraordinary relief from a final judgment due to the parties' or the court's mistake. However, a mistake does not include a party's erroneous tactical decisions. So had the attorney here incorrectly determined that the court lacked personal jurisdiction, then he would have had to accept the results of that decision.

**Educational objective:**

A motion for extraordinary relief from a final judgment will be granted if that judgment is void. A judgment is void when the court that entered the judgment (1) did not have subject-matter jurisdiction, (2) lacked personal jurisdiction, or (3) violated due process.

**References**

Fed. R. Civ. P. 60(b) (setting forth the grounds for a motion for extraordinary relief from a final judgment).

11 Charles Alan Wright et al., Federal Practice and Procedure § 2862 (3d ed. 2021) (explaining that a judgment is void if the rendering court lacked subject-matter or personal jurisdiction or violated due process).

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