

A homeowner brought a federal diversity action against a manufacturer of gas grills, asserting products liability claims and seeking damages for injuries she had suffered when her grill exploded as she was lighting it. The manufacturer timely demanded a jury trial, and the court informed the parties that it would seat a seven-person jury. The parties agreed to a non-unanimous jury verdict.

The jury returned a verdict for the homeowner. The manufacturer asked the court to poll the jury, and the poll revealed a 4 to 3 vote in favor of the homeowner. The manufacturer objected to the verdict and has moved for a new trial.

How should the court proceed?

- A. Deny a new trial, because the manufacturer agreed to a non-unanimous verdict. (75%)
- B. Direct the jury to deliberate further until it can return a verdict supported by at least six jurors. (4%)
- C. Grant a new trial, because fewer than six jurors voted in favor of the homeowner. (5%)
- D. Grant a new trial, because the verdict was not unanimous. (14%)

Incorrect

Correct answer A

75% Answered correctly

34 secs Time Spent

2023 Version

## Explanation:

Under Federal Rule of Civil Procedure 48, a jury must begin with at least 6 and no more than 12 members. The **jury verdict must be unanimous** and **returned by at least 6 jurors unless the parties stipulate otherwise**. A party can challenge a verdict (eg, motion for new trial) if this requirement is not met.

Here, the jury returned a verdict in favor of the homeowner, but that verdict was not unanimous because a jury poll revealed a 4 to 3 vote in favor of the homeowner **(Choice D)**. But since the homeowner and the manufacturer had agreed (ie, stipulated) to a non-unanimous jury verdict, the manufacturer cannot challenge the verdict. Therefore, the court should deny the manufacturer's motion for a new trial.

**(Choices B & C)** A jury verdict must be *returned* by at least 6 jurors unless the parties stipulate otherwise. But there is no requirement that at least 6 jurors *support* that verdict—eg, by 6 jurors voting in favor of the homeowner.

## Educational objective:

A jury verdict must be unanimous and returned by a jury of at least 6 (but not more than 12) jurors, unless the parties stipulate otherwise.

## References

Fed. R. Civ. P. 48(b) (explaining jury-verdict requirements).

Copyright © 2021 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.



