

At the conclusion of a federal civil trial, a 10-person jury returned a verdict in favor of the plaintiff for \$22 million. Immediately after reading the verdict, the court polled the jurors individually to see if the verdict was unanimous. Every juror except for two stated that he or she agreed with the verdict.

After the poll was completed, the defendant moved for a new trial. The court denied the motion and directed the jurors to deliberate further. The plaintiff objected on the record. After two hours, the jury returned a verdict in favor of the defendant. The court polled each juror again, and every juror stated that he or she concurred in the verdict. The court entered a final judgment consistent with the verdict.

The plaintiff appealed, arguing that the trial court abused its discretion by polling the jurors and directing them to deliberate further after returning the first verdict.

Is the appellate court likely to overturn the judgment?

- A. No, because a trial court's discretionary decisions on issues pertaining to the jury are unreviewable.
- B. No, because the trial court had the power to poll the jury members and direct them to deliberate further.
- C. Yes, because the first verdict was overwhelmingly in favor of the plaintiff.
- D. Yes, because the trial court should have ordered a new trial when the jury failed to return a unanimous verdict.

Explanation:

Unless otherwise stipulated, a jury must reach a **unanimous verdict**. To **determine** whether a verdict is unanimous, the court may **poll the jurors individually** after a verdict is returned but before the jury is discharged. This must be done upon a party's request, or the court may do so on its own initiative (ie, *sua sponte*). If the poll reveals that the verdict is **not unanimous**, the court can either **order a new trial** OR direct the jury to **deliberate further**—as the court did here **(Choice D)**. Therefore, the appellate court will likely affirm this judgment.

(Choice A) An appellate court may review a trial court's discretionary decisions on all issues (including issues pertaining to the jury) for abuse of discretion. Under this highly deferential [standard of review](#), the trial court's ruling will only be reversed if it was clearly arbitrary or unreasonable. Since the trial court reasonably directed the jury to deliberate further, it did not abuse its discretion.

(Choice C) The fact that the first verdict was overwhelmingly in favor of the plaintiff is irrelevant because the verdict must be unanimous in the absence of a stipulation. Since there is no indication that the parties stipulated to a non-unanimous verdict, the trial court had the power to direct the jury to deliberate further.

Educational objective:

A court must on a party's request, or may on its own initiative, poll the jurors individually after a verdict is returned but before the jury is discharged. If the poll reveals that the verdict is *not* unanimous, the court can (1) direct the jury to deliberate further or (2) order a new trial.

References

- Fed. R. Civ. P. 48(c) (polling jurors).

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