

A consumer from State A sued a fireworks manufacturer from State B in federal court. The consumer claimed that she suffered severe burns when the fuses on the manufacturer's fireworks malfunctioned. At the conclusion of trial, the jury awarded the consumer \$200,000 for her medical bills, \$50,000 for her lost wages, and \$5 million for her pain and suffering. The court entered judgment consistent with this verdict.

The consumer then filed a motion claiming that the amount of damages awarded for her medical bills and lost wages are inadequate and requesting that the court increase these awards. The manufacturer filed a motion claiming that the amount of damages awarded for pain and suffering is excessive and requesting that the court decrease that amount or order a new trial on damages. The court agrees with both parties' contentions.

How will the court likely rule on the parties' motions?

- A. Deny both motions.
- B. Deny the consumer's motion and grant the manufacturer's motion.
- C. Grant both motions.
- D. Grant the consumer's motion and deny the manufacturer's motion.

Explanation:

Altering jury's award of damages

(FRCP 59(e))

Type of alteration	Definition	Applicability
Remittitur	Defendant's request to <i>reduce</i> jury award of <i>excessive</i> damages	Plaintiff must be offered choice between: <ul style="list-style-type: none">• reduced damages <i>or</i>• new trial on damages
Additur	Plaintiff's request to <i>increase</i> jury award of <i>inadequate</i> damages	Never allowed in federal court

FRCP = Federal Rule of Civil Procedure.

Additur is a request that a court **increase** an allegedly ***inadequate* jury award** of damages. Additur is permitted in many state courts, but it is **not allowed in federal court** because it violates the Seventh Amendment **right to a jury trial**.^{*} That is because additur allows the court to grant an award of damages that was not found by the jury—the ultimate finder of fact. Therefore, the court will *deny* the consumer's request to increase the jury award of damages for medical bills and lost wages **(Choices C & D)**.

Remittitur, in contrast, is a request that the court **reduce** an allegedly ***excessive* jury award** of damages. If the request is granted, the opposing party must choose between (1) a **reduction in damages** or (2) a **new trial on damages**. Remittitur does *not* violate the Seventh Amendment because the jury has already determined the damages and the court is simply trimming the excess. Since the court agrees that the damages for pain and suffering are excessive, it will likely *grant* the manufacturer's motion regarding those damages **(Choices A & D)**.

^{*}The Seventh Amendment has never been applied to the states, so states need not provide a jury trial to civil litigants.

Educational objective:

A federal court cannot grant a request to *increase* an allegedly inadequate jury award of damages (ie, additur), but it can *reduce* an allegedly excessive jury award or order a new trial on damages (ie, remittitur).

References

- Fed. R. Civ. P. 59 (motions for additur and remittitur).

- *Dimick v. Schiedt*, 293 U.S. 474, 486–87 (1935) (holding that additur violates the Seventh Amendment).
- *Hetzel v. Prince William Cty.*, 523 U.S. 208, 211–12 (1998) (explaining the requirements for remittitur).

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