

A construction contractor brought a breach-of-contract claim in federal court against a homeowner who had hired the contractor to build an apartment over an existing garage. The action turned on the scope of the work covered by the contract. The contractor and the homeowner were the only witnesses at the bench trial, and they strongly disagreed about the scope of the work. At the end of the trial, the judge stated findings of fact on the record but never issued a written opinion. Neither party objected to the findings. The judge found in favor of the homeowner, and the contractor appealed.

Is the appellate court likely to overturn the findings?

- A. No, because the appellate court must give due regard to the trial judge's opportunity to determine witness credibility.
- B. No, because the contractor failed to object to the findings when the judge stated them in open court.
- C. Yes, because a judge must set forth findings of fact in a written opinion or memorandum of decision.
- D. Yes, because there were disputed issues of fact at trial.

Explanation:

In a **bench trial**, the **judge** acts as both the **finder of fact** and **interpreter of the law**. As a result, Federal Rule of Civil Procedure (FRCP) 52 requires that the judge provide those factual findings and legal conclusions on the record (orally or in writing) after the close of evidence. The appellate court can then review the trial judge's decision under the following standards:

- **de novo** (no deference) – where a judge's **conclusions of law** (eg, elements of a claim) will be **reversed if** the appellate court reasonably believes that the judge **misinterpreted** the applicable law
- **clear error** (high deference) – where a judge's **findings of fact** (eg, witness credibility) will be **reversed only if** they were **clearly erroneous** such that *no* reasonable judge would have made them

Under clear-error review, the appellate court must give due regard to the trial judge's opportunity to determine witness credibility because the judge is the one who heard the witnesses' testimony. As a result, the appellate court will likely affirm the trial judge's findings of fact in this suit.

(Choice B) FRCP 52 allows a party to challenge a trial judge's factual findings on appeal even if no objection was made on the record at the bench trial (as seen here). This is an exception to the general rule requiring a party to formally object at trial to preserve an issue for appeal.

(Choice C) In a bench trial, a judge may set forth findings of fact in a written opinion or memorandum of decision but is not *required* to do so. The findings need only be stated on the record—orally or in writing.

(Choice D) A judge is responsible for resolving disputed issues of fact in a bench trial. Therefore, the presence of such disputes is not a basis to overturn the judge's findings.

Educational objective:

In a bench trial, the judge serves as the finder of fact *and* the interpreter of law. An appellate court reviews the judge's findings of fact for clear error (high deference) and conclusions of law de novo (no deference).

References

- Fed. R. Civ. P. 52(a) (findings of fact and conclusions of law).
- United States v. U.S. Gypsum Co., 333 U.S. 364, 394–95 (1948) (explaining clear-error appellate review).

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Jury trial

v.

Bench trial



Jury acts as finder of fact.
Judge acts as interpreter of law.

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Judge acts as finder of fact
and interpreter of law.