

An employee was fired after working for a state agency for 29 years. The employee sued the agency in federal court for employment discrimination. The employee agreed with the agency to settle the action in return for 12 monthly settlement payments. The agreement, however, was based on the employee's mistaken assumption that the settlement payments would constitute "earnable salary" under state law, entitling the employee to retire with 30 years of service at a higher pension rate.

Fifteen months after the court entered a judgment dismissing the employee's claim with prejudice, the employee learned that the payments did not constitute earnable salary under state law. The employee promptly moved to reopen the judgment on the ground of mistake.

Should the court grant the motion?

- A. No, because mistake is not a ground on which a court may reopen a judgment.
- B. No, because the employee did not file the motion within one year of the court's entry of judgment.
- C. Yes, because the agency would be unjustly enriched if it did not have to pay the employee a higher pension rate for 30 years of service.
- D. Yes, because the employee filed the motion promptly after learning of the mistake.

Incorrect

Correct answer B

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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

A party can seek **extraordinary relief** from a district court's final judgment—including reopening a judgment—in **limited circumstances**. This motion for relief may generally be made within a reasonable time, but it *must* be made **within one year** from the entry of the final judgment when the motion asserts any of the following grounds:

The judgment was due to **mistake**, inadvertence, surprise, or excusable neglect **by the parties** or the court (**Choice A**).

The moving party discovered new evidence that (1) existed at the time of the trial and (2) could not have reasonably been discovered in time to move for a new trial (ie, within 28 days of the entry of final judgment).

An opposing party engaged in fraud, misrepresentation, or misconduct.

Here, the federal court entered a judgment dismissing the employee's claim with prejudice based on the employee's and agency's settlement. The employee learned *15 months* later that the settlement had been based on the employee's mistaken assumption about the effect of the settlement payments. Although the employee then moved to reopen the judgment based on this mistake, the employee did not file the motion within one year of the court's entry of judgment (**Choice D**). Therefore, the court should *not* grant the employee's motion.

**(Choice C)** Although the agency may be unjustly enriched if it does not have to pay the employee a higher pension rate for 30 years of service, the court cannot grant the employee's motion to reopen the judgment because it was untimely.

**Educational objective:**

A party can file a motion for extraordinary relief within one year from the entry of a final judgment that is based on (1) mistake, inadvertence, surprise, or excusable neglect, (2) newly discovered evidence, or (3) the opposing party's fraud, misrepresentation, or misconduct.

**References**

Fed. R. Civ. P. 60(b)–(c) (setting forth when extraordinary relief from judgment may be granted).

11 Charles Alan Wright et al., Federal Practice and Procedure § 2858 (3d ed. 2021) (explaining the requirements for a posttrial motion for extraordinary relief based on mistake, inadvertence, surprise, or excusable neglect).

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