

A designer sued a clothing store in a federal district court for selling clothes that featured the designer's trademarked designs without the designer's permission. As the trial approached, the judge ordered the parties' attorneys to attend a final pretrial conference.

Which of the following can the judge NOT do at the conference?

- A. Decide which party has the burden of proof.
- B. Establish a time limit for each party's presentation of evidence.
- C. Limit each party's use of expert testimony.
- D. Rule on the admissibility of evidence.

## Explanation:

### Pretrial conferences

(FRCP 16(c))

Purpose	Matters for consideration
<b>Expedite litigation</b>	<ul style="list-style-type: none"><li>• Eliminate frivolous claims &amp; defenses</li><li>• Obtain admissions &amp; stipulations</li><li>• Set timeline for summary judgment &amp; dispose of pending motions</li><li>• Schedule discovery, pretrial briefs &amp; future conferences</li></ul>
<b>Improve quality of trial</b>	<ul style="list-style-type: none"><li>• Amend pleadings</li><li>• Refer matters to magistrate or master</li><li>• Require separate trial for different claims</li><li>• Adopt special procedures for complex/unusual legal issues</li><li>• Rule on admissibility of evidence</li><li>• Avoid cumulative evidence &amp; limit expert testimony</li><li>• Establish order &amp; time limit for presentation of evidence</li></ul>
<b>Facilitate settlement</b>	<ul style="list-style-type: none"><li>• Facilitate just, speedy &amp; inexpensive resolution</li></ul>

**FRCP** = Federal Rule of Civil Procedure.

Federal Rule of Civil Procedure 16 permits a judge to order the attorneys and any unrepresented parties to attend one or more **pretrial conferences**. These conferences are designed to expedite litigation, improve the trial's quality, and facilitate settlement. During these conferences, the **judge has broad discretion** to consider and act on a wide range of issues, including:

- establishing a **time limit** for each party's **presentation of evidence (Choice B)**
- **limiting** each party's use of **expert testimony (Choice C)** *and*
- **ruling** on the **admissibility of evidence (Choice D)**.

However, the judge may *not* decide which party has the **burden of proof**. That is because a plaintiff (here, the designer) always has the burden to prove each element of the claim, often by a preponderance of the evidence.

### Educational objective:

During pretrial conferences, the judge has broad discretion to act on a wide range of issues—eg, (1) establish a time limit for each party's presentation of evidence, (2) limit each

party's use of expert testimony, and (3) rule on the admissibility of evidence. However, the judge may not decide which party has the burden of proof.

**References**

- Fed. R. Civ. P. 16 (pretrial conferences).

Copyright © UWorld. All rights reserved.