

A public high school student was accused by a classmate of smoking marijuana on school grounds. The school resource officer detected no smoke aroma on the student and found no marijuana contraband in the student's pockets or bag. The officer then placed the student in a locked classroom and went to deal with another incident. The officer forgot about the student, who remained in the room for two hours doing homework until a teacher let him out.

The student sued the officer in federal court for violating a federal statute that allows recovery for false imprisonment by an officer of the law, which includes school resource officers. At trial, the student presented evidence that the experience required him to see a counselor twice a week and has caused him emotional harm. After the close of evidence, the judge properly instructed the jury that the statute allows an individual to recover compensatory damages for loss of liberty and physical or emotional injury. The jury returned a verdict in favor of the student and awarded him \$5 million in compensatory damages, which is 100 times more than any other plaintiff has received under this statute.

The officer's attorney believes that this award of damages is not supported by the evidence.

What should the officer's attorney do to most efficiently challenge the damages award?

- A. Move for a new trial of the entire case.
- B. Move for additur.
- C. Move for judgment as a matter of law.
- D. Move for remittitur.

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.

A losing party can challenge an allegedly **excessive jury award** of damages through a **motion for remittitur**. A court will grant the motion when the evidence presented at trial is insufficient to support the amount awarded by the jury. The plaintiff will then be given a choice between either (1) a **reduction in damages** *or* (2) a **new trial on damages**. Therefore, the officer's attorney should move for remittitur to efficiently challenge the damages award.

(Choice A) A motion for a new trial of the *entire* case would be inefficient since the officer's attorney only wants to challenge the award of *damages*, which can be done through a motion for remittitur.

(Choice B) Additur is a party's request that a trial judge increase an allegedly *inadequate* jury award of damages. Although additur is permitted in many state courts, it is not allowed in federal court because it violates the Seventh Amendment right to a jury trial.

(Choice C) A judgment as a matter of law (JMOL) is a judgment entered in favor of the movant because the evidence is legally insufficient for a reasonable jury to find in the nonmovant's favor. To make a motion for JMOL after a jury verdict, a party must have moved for JMOL before the case was submitted to the jury (not seen here).

Educational objective:

A motion for remittitur is used to challenge an allegedly excessive jury award of damages. If granted, the plaintiff must then choose between (1) a reduction in damages or (2) a new trial on damages.

References

- Fed. R. Civ. P. 59 (motion for remittitur).
- Hetzel v. Prince William Cty., 523 U.S. 208, 211–12 (1998) (explaining the requirements for remittitur).

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