

Directed verdict and jnov



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Standard for summary judgment, directed verdict, and JNOV: Whether a fair-minded jury could return a verdict for the plaintiff on the evidence presented (burden of production is judge's determination). Name in Rule 50 for directed verdict since 1991: Motion for judgment as a matter of law (JMOL) Name in Rule 50 for JNOV since 1991: Renewed motion for judgment as a matter of law Rule 50(a) If after a party has been fully heard on an issue in a jury trial the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue, the court may resolve the issue against the party and grant a motion for judgment as a matter of law against the party. Motion may be made at any time before case goes to jury. Rule 50(b) No later than 28 days after the entry of judgment or discharge of hung jury, movant may file renewed motion for judgment as a matter of law and may include an alternative or joint request for a new trial under Rule 59. Permitted only if JMOL motion was previously filed and on same grounds. Possible rulings on renewed motion for JMOL: 1. Allow jury's judgment to stand.

2. Order a new trial.

3. Direct the entry of judgment as a matter of law. Why a judge might deny JMOL but grant renewed JMOL: If the judge enters judgment pre-verdict, there is no verdict to go back to if it's reversed on appeal; there must be a new trial, as appellate court can't act like a jury and decide the case. Jury may decide that way anyway, so the judge needn't make the radical decision to take case away from jury. This way the parties may be more inclined to accept the verdict. Rule 60 Relief from a judgment or order:

(a) Court may correct clerical error in judgment.

(b) 6 other grounds for relief:

1. Mistake, inadvertence, surprise, or excusable neglect.
2. Newly discovered evidence not previously discoverable.
3. Fraud, misrepresentation, or misconduct.
4. Judgment is void.
5. Judgment is satisfied, released, or discharged.
6. Any other justifiable reason.

(c) 60(b) motion must be made in reasonable time and within a year for first 3 grounds. Rule 59 Court may grant a new trial " for any reason for which a new trial has heretofore been granted in an action at law in federal court." Standard of review in appellate court's reviewing denial of new trial: Abuse of discretion Remittitur Gives plaintiff option of new trial or taking smaller award. Held constitutional under 7th Amendment.

Additur Gives defendant option of new trial or paying higher award. Held unconstitutional under 7th Amendment. High-low agreement Type of partial settlement in which, before submission to jury, litigants enter into private agreement guaranteeing minimum recovery but capping liability. Rule 52 Court in bench trial must find facts specially (set aside later only if clearly erroneous) and state conclusions of law separately. Court may amend its findings or add to them or amend its judgment on motion within 28 days after entry of judgment. Court may enter judgment before all evidence is presented if it finds against a fully heard party on an issue that is dispositive of a claim or defense. Close of all Evidence After rebuttal that follows each side's presentation of evidence/case in chief.

Motion for JMOL formerly had to be presented here. It may now be later, after

closing arguments and even jury instructions--until submission of case to jury. If JMOL motion alleges that evidence is absent, Judge may reopen the evidence to allow an attorney to add what he left out. Our system favors decisions on the merits, so you have to tell the other side what the weaknesses are. When a renewed motion for JMOL is granted,. . . move for a conditional grant of a new trial. Otherwise a reversal on appeal will cause the jury verdict to be reinstated. The court will conditionally rule on this motion. If it denies the motion, assert error to enable appellate court to order what he likes. Party who loses when a JMOL or renewed JMOL motion is granted should move for a new trial within 28 days. Lavender v. Kurn (1946) Trial court's JNOV for defendant railroads was re-versed. Parties may not relitigate a factual dispute in a reviewing court. This would be an undue invasion of the jury's historic function. Only when there is a complete absence of probative facts to support the conclusion reached does a reversible error appear. When you have two more or less equally plausible explanations, it's a question for the jury. A jury is free to discard or disbelieve any facts inconsistent with its conclusion. Judge's considerations in deciding a motion for JMOL: All of the evidence favorable to the opposing party, making all inferences in his favor (minority approach: scintilla), plus any uncontradicted, unimpeached evidence, such as judicial notice and stipulations, for movant (majority approach: substantial weight). In considering granting a new trial,. . . judge does weigh the evidence. Motion for new trial does not require: Previous motion for JMOL, as basis is different. Timing of mistrial motion: During the trial, unlike one for new trial. What judge can grant sua sponte: Summary judgment or new trial, but not JMOL. Grounds for granting new trial: To correct judge's error (admitting

inadmissible

evidence, mistaken jury instructions)

Verdict against the great weight of the evidence Unreasonable award

amount

Misconduct by a party or counsel

Juror misconduct (extrinsic)

New evidence *Dadurian v. Underwriters at Lloyd's of London* (1986) Had

Dadurian bought the jewelry at all, and if so had he intentionally lied about

its funding? Jury could have believed he bought it, as balance wasn't

sufficiently one-sided, but second issue damaged his credibility so much that

it hurt first issue. Generally inappropriate for appellate court to direct verdict

for party with burden of proof, new trial being preferred. Standard of review

in JMOL appeal: Abuse of discretion, which is reversible error Concurrent

renewed JMOL and appeal: Even though the trial court has theoretically been

divested of authority by the filing of an appeal, it can still entertain a

renewed motion for JMOL. If it grants it, the appeal becomes moot. Motion for

JMOL must be denied if: Based on the evidence properly considered by a

court on such a motion, a reasonable jury could find against the moving

party on the issue. Motion for JMOL may be granted if: Based on the evidence

properly considered by a court on such a motion, a reasonable jury could not

find against the moving party on the issue, and the finding on the issue is

dispositive of a claim or defense. ONDIRECTED VERDICT AND JNOV

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