



- A trial court should usually submit a case to the jury even if it thinks the evidence insufficient because then if it grants JMOL on a renewed motion after the verdict and the appellate court holds that the trial court was in error in its appraisal of the evidence, it can reverse and order judgment on the verdict of the jury without the need for a new trial.

- The grounds for JMOL in the Rule 50(a) and (b) motions must be identical. If an inconsistency in verdicts arises as a result of jury instructions and the jury's answers, that gives rise to a basis for a postverdict motion for a new trial or for further deliberation by the jury under Rule 49(b), not for a renewed motion for JMOL.

3. Rule 50(b) -- Renewed Motion for JMOL After the Verdict

- A postverdict motion cannot be made unless a previous motion for JMOL was made by the moving party at the close of all the evidence.

- If the evidence was insufficient as a matter of law to support the verdict but no motion for JMOL was made under Rule 50(a), even though the court cannot grant a Rule 50(b) motion, it can set aside the verdict and order a new trial.

- The renewed motion must state the grounds on which it is made and it cannot assert a ground that was not included in the earlier motion.

- The standard is precisely the same as for the presubmission motion.

- The party who moved for JMOL at the close of all the evidence under Rule 50(a) may make the renewed post-verdict motion under Rule 50(b) within ten days after entry of judgment or, if a verdict was not returned, within 10 days after the jury has been discharged. This time period cannot be enlarged by the court or by stipulation of the parties, and an untimely motion cannot be considered.