
Jury Trials

1. What should the lawyer do to secure the patent holder's right to a jury trial?

A patent holder brought a patent infringement action in federal court against a licensee of the patent. The patent holder believed that a jury would be more sympathetic to his claims than a judge, and asked his lawyer to obtain a jury trial.

- **File and serve a complaint that includes a jury trial demand**
- File and serve a jury trial demand at the close of discovery
- File and serve a jury trial demand within 30 days after the close of the pleadings
- Make a jury trial demand at the initial pretrial conference

Note:
The Seventh Amendment provides the right to a jury trial, but only in federal court. In suits at common law, the right of a trial by jury shall be guaranteed. Federal Rule of Civil Procedure (FRCP) 38 provides that the right of a trial by jury as declared in the Seventh Amendment is preserved for the parties. A party who wishes for a jury trial on a particular issue must file a written demand with the court and serve it on all parties. The demand may be included with a pleading. Failure to properly file and serve the demand within 14 days after the service of the last pleading directed to that issue constitutes a waiver by that party of any right to trial by jury.

A is correct. To secure the patent holder's right to a jury trial, the lawyer should file and serve the complaint, including a jury trial demand. FRCP 38(b)(1) specifically allows for a demand for a jury trial to be included in a pleading. By including it within a properly-filed and -served complaint, the patent holder's right will be secured.

B is incorrect. The close of discovery often occurs months or even years after the beginning of a civil suit in federal court. FRCP 38(b)(1) requires the jury demand to be filed no later than 14 days after service of the last pleading directed to the issue on which a jury is sought. To wait until the close of discovery would certainly be after the close of pleadings, and the patent holder's right to a jury trial would be waived.

C is incorrect. This answer choice misstates the proper time period for filing a jury demand. FRCP 38(1) requires the demand to be filed and served no later than 14 days after the last pleading on that issue has been served.

D is incorrect. As previously stated, a jury trial demand must be served no later than 14 days after service of the last pleading directed to the issue on which a jury is sought. The initial pre-trial conference likely will not be scheduled until weeks after the pleadings have closed. Therefore, making the demand at the initial pretrial conference would also be too late.

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2. Should the judge strike the potential juror for cause?

The wholesaler's attorney has asked the judge to strike the potential juror for cause. A wholesaler brought a federal diversity action against a large pharmaceutical company for breach of contract. During jury selection, one potential juror stated that five years earlier he had been an employee of the company and still owned several hundred shares of its stock. In response to questioning from the judge, the potential juror stated that he could fairly consider the evidence in the case.

- No, because the potential juror said that he could fairly consider the evidence in the case
- No, because the wholesaler's attorney could use a peremptory challenge to strike the potential juror
- Yes, because other potential jurors still remain available for the jury panel
- **Yes, because the potential juror is presumed to be biased because of his relationship to the company**

Note:
D is correct. Stock ownership, or having worked for or having a spouse who works or worked for one of the litigants, has been found to create a presumption of bias that merits striking a potential juror for cause.

A is incorrect. In deciding how to rule, the judge may take into account the fact that the potential juror said that he could fairly consider the evidence in the case. However, the juror's statement is not determinative and, standing alone, is not sufficient for the judge to refuse to strike the juror for cause.

B is incorrect. Peremptory challenges allow an attorney to disqualify a potential juror because the juror has displayed an attitude or characteristic that is unfavorable to the attorney's client but that does not rise to the level of bias or a relationship to one of the litigants that would be grounds for a challenge for cause. Therefore, the fact that the wholesaler has peremptory challenges remaining is irrelevant. If the court finds that the wholesaler's attorney has met the objective standard for disqualification for cause, it must exclude the potential juror.

C is incorrect. The fact that other potential jurors remain available is irrelevant to how the judge should rule. A challenge for cause requires the court's objective determination as to whether the potential juror meets the statutory qualifications for jury duty. In making this determination, the court will consider only a potential juror's relationship to one of the litigants or evidence of bias or prejudice regarding one of the litigants.

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3. What argument has the best chance of persuading the court to grant the motion?

The worker has moved for a new trial on the ground that the court's negligence instruction was improper. A worker was injured when a machine he was using on the job malfunctioned. The worker brought a federal diversity action against both the machine's manufacturer and the company responsible for the machine's maintenance. At trial, the worker submitted a proposed jury instruction on negligence. The court did not accept the proposed instruction and instead gave a negligence instruction that the worker's attorney believed was less favorable and legally incorrect. The attorney did not object to the negligence instruction before it was given. The jury returned a verdict for the defendants.

- Issues of law can be raised at any time
- The court's negligence instruction was incorrect and the worker's objection to it was preserved when he submitted his proposed negligence instruction
- **The court's negligence instruction was plain error that affected the worker's substantial rights**
- The need for a formal objection to a judicial ruling in order to preserve an argument has been eliminated in the Federal Rules of Civil Procedure

Note:
The judge must instruct the jury as to the law or laws relevant to their findings of fact. At the close of evidence, any party may file a written request for what jury instructions the jury receives, which is governed by Federal Rule of Civil Procedure (FRCP) 51(a)(1).

In order to raise the inadequacy of instructions on appeal, a party who wishes to make an objection to the instructions must do so before the jury retires or, in the event that "a party was not informed of an instruction or action on a request before that opportunity to object, and the party objects promptly after learning that the instruction or request will be, or has been, given or refused." FRCP 51(c)(2)(B).

"Plain error" is an error found by an appellate court that affects the substantial rights of the parties. Under FRCP 51(d), a court may consider a plain error in the instructions when the claim was not preserved by proper objection if the error affects substantial rights.

On appeal, when it is alleged that the trial judge erred on a pure matter of law, the appellate court may substitute its judgment for that of the trial judge. This is called de novo review. A pure matter of law may be whether a statute applies at all or the meaning of the language of the statute.

C is correct. This will be the most effective argument for granting a new trial because it accounts for the attorney's failure to preserve the issue. At the close of evidence, or sooner if allowed by the court, parties may submit proposed jury instructions. The court must inform the parties of its proposed instructions and give the parties a chance to object before instructing the jury. A party must object to an instruction or failure to give an instruction before the jury retires for deliberation. Failure to properly preserve an objection by this time will waive the issue on appeal. However, a court may consider a plain error in the instructions when the error was not preserved by a timely objection if that error affects the party's substantial rights. In this case, since the attorney did not object to the negligence instruction, the best argument for a new trial is that the instruction was a plain error that affects the worker's substantial rights.

A is incorrect. This would not be the most effective argument because, regardless of whether the worker's claim was a pure matter of law or a mixed question of law and fact, when it is not properly preserved, FRCP 51(d) requires that it affects substantial rights to be reviewed by the appellate court.

B is incorrect. Under FRCP 51(c), a party who wishes to object to a jury instruction or the failure to give an instruction must do so on the record, stating distinctly the matter objected to, and the grounds for the objection. In this case, the worker's objection was not preserved when he merely submitted his proposed negligence instruction because he did not properly object on the record.

D is incorrect. This is an incorrect statement of the law. The need for a formal objection to a judicial ruling in order to preserve an argument has in no way been eliminated by the FRCP. As explained above, the FRCP states that a party must object to a jury instruction on the record and express the nature of the objection.

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4. Has the retailer properly demanded a jury trial?

The architect timely moved to dismiss the action for failure to state a claim; he did not file an answer. Twenty days after being served with the motion, the retailer amended the complaint to add a defamation claim based on the architect's recent statements about the retailer in a local newspaper. In the amended complaint, the retailer demanded a jury trial on both claims. A retailer brought a federal diversity action against an architect, alleging fraudulent misrepresentations in the architect's design of the retailer's store. The complaint did not include a jury demand.

- No, because the retailer filed the demand more than 14 days after service of the motion to dismiss
- No, because the retailer filed the demand more than 14 days after service of the original complaint
- Yes, but on the defamation claim only, because the original complaint did not contain a jury demand
- **Yes, on both claims, because the architect had not answered the original complaint when the retailer filed the amended complaint with the jury demand**

Note:
The Seventh Amendment provides that in suits at common law, the right of a trial by jury shall be guaranteed. This provision only applies to federal trials and has never been applicable to state trials.

Federal Rule of Civil Procedure (FRCP) 38(a) provides that the right of a trial by jury as declared in the Seventh Amendment is preserved for the parties.

FRCP 38(b) requires that a party who wishes for a jury trial on a particular issue file a demand within 14 days after the service of the last pleading directed to that issue.

FRCP 38(c) states, "In its demand, a party may specify the issues that it wishes to have tried by a jury; otherwise, it is considered to have demanded a jury trial on all the issues so triable. If the party has demanded a jury trial on only some issues, any other party may—within 14 days after being served with the demand or within a shorter time ordered by the court—serve a demand for a jury trial on any other or all factual issues triable by jury."

D is correct. The issue here is, did the retailer properly demand a jury trial pursuant to the FRCP? A party who wishes to have a jury trial must file a demand with the court for a jury trial. The demand must be made within 14 days after the last pleading related to the issue is served or else the demand is waived. In this case, the architect did not file an answer to the first or second complaint. Therefore, the last pleading related to the issues the retailer is requesting a jury for has not yet been served. The retailer did not miss the 14-day deadline and may still demand a jury.

A is incorrect. It does not matter that the demand came 14 days after the motion to dismiss because the architect did not answer the complaint. Therefore, the last pleading on the issue has not been served.

B is incorrect. The 14-day count does not begin until after the architect answers the amended complaint demanding a jury, not when the original complaint was served.

C is incorrect. This answer is only partially correct. The demand is still valid for both claims because there was no answer filed for the first claim of fraudulent misrepresentation. If the architect had answered one of the complaints earlier, the 14-day window to demand a jury trial on that issue would have begun then. However, because the architect only made a motion to dismiss and not an answer to the complaints, the retailer is still timely in making a jury demand.

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5. How should the court rule on the parties' motions?

The city moved to try its claim for a permanent injunction before the trial on the team's counterclaim. The team objected and moved that the jury trial of its counterclaim be held before the trial of the city's injunction claim. The city sued the team in federal court, seeking a permanent injunction to prevent the team from breaching its lease and leaving. In its answer, the team included a counterclaim seeking $10 million in damages for losses caused by the city's alleged failure to properly maintain the stadium, as the lease required. The team demanded a jury trial on the counterclaim. A football team entered into a 10-year lease with a city for use of the city's athletic stadium. Five years into the lease, the team threatened to leave the stadium and move to another city.

- **The court should first hold a jury trial of the team's counterclaim, and then a nonjury trial of the issues remaining in the city's claim**
- The court should first hold a nonjury trial of the city's claim without giving binding effect to its findings or conclusions in the later jury trial of the team's counterclaim
- The court should first hold a nonjury trial of the city's claim, and then a jury trial of the issues remaining in the team's counterclaim
- The court should schedule a jury trial of both the city's claim and the team's counterclaim

Note:
The Seventh Amendment provides that in suits at common law, the right of a trial by jury shall be guaranteed. This provision only applies to federal trials and has never been applicable to state trials.

Federal Rule of Civil Procedure (FRCP) 38(a) provides that the right of a trial by jury as declared in the Seventh Amendment is preserved for the parties. A party who wishes for a jury trial on a particular issue must file a demand within 14 days after the service of the last pleading directed to that issue.

Importantly, the Seventh Amendment only applies to "suits at common law." In application, this means that if the suit would have been considered at common law in 1791, there will be a right to a jury trial. Before the merger of law and equity, it was usually simple to determine whether a cause of action was at common law. United States v. Wonson (1812) established the historical test, which interpreted the Amendment as relying on English common law to determine whether a jury trial was necessary in a civil suit. The Amendment thus does not guarantee trial by jury in cases under maritime law, in lawsuits against the government itself, and for many parts of patent claims.

A case will be tried without a jury if one of the two following conditions exist: (i) no right to a jury trial exists; or (ii) all parties have waived the right to a jury trial. If there is no jury, the trial judge serves as both the finder of fact and the decider of law.

FRCP 52 requires the trial court to find the facts specially and to state the conclusions of law separately. In practice, this means the judge must set forth the facts as he finds them with some particularity and, in a separate section, state the law which he believes disposes of the case.

A is correct. The issue here is two-fold: (i) how should the court rule on the opposing parties' motions regarding the order of the trials; and (ii) which of the claims should be tried by a jury? The right to a jury trial is preserved by the Seventh Amendment for all suits of common law where the amount in controversy exceeds $20. The determination of which claims are available at law or equity, historically, turns on what claims were available in equity in 1791. If legal and equitable claims arising out of the same common facts are joined, the legal claim should be tried first by the jury and then the equitable claim to the court. In this case, there is a legal claim, the team's damages claim, and an equitable claim, the city's injunction. The court should, therefore, first hold a jury trial of the team's counterclaim and then a nonjury trial of the city's claim.

B is incorrect. This is the incorrect characterization of how lawsuits containing mixed legal and equitable claims are "split." As explained above, if legal and equitable claims are joined, the legal claim should be tried first to a jury. The jury's findings on fact issues will bind the court in the equitable claim.

C is incorrect. The Supreme Court has demonstrated a preference for jury trials in situations where lawsuits contain a mix of legal and equitable claims. The legal claim should first be tried by a jury, then any remaining issues in the equitable claim will be tried in a nonjury trial. Additionally, the legal claims tried by a jury will bind the judge when he is deciding the remaining equitable claim.

D is incorrect. As explained above, when federal courts are handling a case with mixed legal and equitable claims, a jury will deliberate on the legal issue first, and that finding of fact will bind the judge when he evaluates the equitable claim. The legal claim should first be tried by a jury. The jury's finding of fact on the legal issue will bind the court later when it properly adjudicates the equitable claim.

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6. Should the court grant the motion?

The parties' attorneys stipulated to the return of a verdict from a five-person jury. The jury then deliberated and returned a verdict for the company. The man timely filed a motion for a new trial, arguing that the five-person jury was not large enough to return a verdict. After the parties' attorneys examined the prospective jurors and exercised their challenges, six jurors and two alternate jurors were chosen. During the trial, two jurors became ill and were replaced by the alternate jurors. At the conclusion of the trial, a third juror also became ill, and the court excused that juror. A man filed a federal diversity action against a bus company, seeking damages for injuries he had sustained in an accident while riding a bus owned by the company. The man demanded a jury trial.

- No, because the court properly excused the three jurors due to illness
- **No, because the parties stipulated to a verdict from a jury of fewer than six jurors**
- Yes, because there must be at least six jurors on a federal civil jury
- Yes, because there must be at least 12 jurors on a federal civil jury

Note:
The Seventh Amendment provides that in suits at common law, the right of a trial by jury shall be guaranteed. This provision only applies to federal trials and has never been applicable to state trials.

Federal Rule of Civil Procedure (FRCP) 38(a) provides that the right of a trial by jury as declared in the Seventh Amendment is preserved for the parties. A party who wishes for a jury trial on a particular issue must file a demand within 14 days after the service of the last pleading directed to that issue.

The process by which the jury is selected is called "voir dire." In most states the voir dire consists of oral questions by both sides' counsel to the prospective jurors. The questions asked are written to discover whether a potential juror is biased and whether he has connections with a party or with a prospective witness.

Any juror who is shown through voir dire to be biased or connected to the case must be dismissed on motion by a party. When a juror is dismissed for such bias or connections, his dismissal is said to be "for cause." In addition to jurors dismissed for cause, each party may dismiss a certain number of other prospective jurors without showing cause, which is called a "peremptory challenge."

Traditionally, juries have been composed of 12 members. However, the Seventh Amendment is no longer construed to require that the jury have 12 members. FRCP 48 provides that a jury must initially have at least 6 and no more than 12 members. FRCP 48 further states that a mistrial must be declared if the jury dwindles to less than 6 unless the parties stipulate otherwise.

B is correct. A federal jury must begin with at least 6 and not more than 12 jurors. Sometimes jurors may be excused during trial for good cause, such as emergencies or illness. Courts often select alternate jurors to be on hand for these reasons. In exceptional circumstances, however, when the jury has suffered depletions beyond its alternates, the parties may agree to be bound by a verdict rendered by fewer than six jurors. Therefore, the parties' stipulation makes the verdict by a five-person jury valid.

A is incorrect. The court may dismiss a juror during trial or deliberation for good cause. Sickness, family emergency, or juror misconduct are examples of appropriate grounds for excusing a juror without causing an error or mistrial. Here, the jurors were properly dismissed; however, the verdict would not be valid without the stipulation of the parties.

C is incorrect. Although a jury must begin with at least 6 and no more than 12 members, a court may dismiss jurors for good cause along the way. A court usually seats alternate jurors for this reason. However, if a jury is depleted beyond its available alternates, the parties may still agree to accept a verdict.

D is incorrect. As stated above, the FRCP requires at least 6 jurors and no more than 12 jurors participating in the verdict. While judges will sit alternate jurors to account for attrition, only up to 12 jurors may participate in the actual deliberation and verdict.

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7. Has the defendant preserved the issue for appeal?

The defendant would like to appeal the verdict on the ground that the judge should have instructed the jury using the defendant's proposed instruction on contributory negligence. Before the close of evidence in a federal negligence trial, the defendant submitted a proposed jury instruction on contributory negligence. Before instructing the jury, the judge informed the parties of the instructions she would give, which did not include the defendant's proposed contributory negligence instruction but did include the court's own instruction on contributory negligence. Neither party objected, either then or after the judge had given the instructions. The jury returned a verdict for the plaintiff, and the judge entered judgment on the verdict.

- No, because the defendant failed to object after the judge gave the instructions to the jury
- **No, because the defendant failed to object after the judge informed the parties of the instructions she would give**
- Yes, because the defendant submitted a proposed instruction on contributory negligence
- Yes, because the judge's failure to give the defendant's contributory negligence instruction amounted to a ruling on the instruction

Note:
The judge must instruct the jury as to the law or laws relevant to their findings of fact. At the close of evidence, any party may file a written request for what jury instructions the jury receives, which is governed by Federal Rule of Civil Procedure (FRCP) 51(a)(1).

In order to raise the inadequacy of instructions on appeal, a party who wishes to make an objection to the instructions must do so before the jury retires or, in the event that "a party was not informed of an instruction or action on a request before that opportunity to object, and the party objects promptly after learning that the instruction or request will be, or has been, given or refused." Fed. R. Evid. 51(b)-(c).

Under FRCP 51(c), a party who objects to an instruction or the failure to give an instruction must state on the record the objection, stating distinctly the matter objected to and grounds for the objection. In other words, the objecting party must give the trial judge a chance to reconsider and correct his mistake.

B is correct. The defendant has not properly preserved the issue for appeal because of the failure to make a timely objection on the record. Parties who wish to appeal an improper jury instruction (one that was either given or not given but should have been) are required to have preserved the claim pursuant to FRCP 51(c). This involves objecting as soon as the court provides for the opportunity to object, stating on the record the matter being objected to, and the grounds for the objection. If no earlier opportunity to object was given, the objection may be made prior to jury deliberation beginning. Here, after the judge informed the parties of the instructions she would give, but before she actually instructed the jury, was the time for the defendant to object. Without properly objecting, the defendant waived the issue on appeal.

A is incorrect. This answer reaches the correct answer with the wrong reasoning. The defendant has not preserved the issue for appeal, but not because of the failure to object after the judge gave the jury the instructions. To have preserved it, the defendant would have had to object when the court initially presented the proposed instructions to the parties. It would only have been proper for the defendant to wait to object until after the instructions were given IF there had been no opportunity to object earlier.

C is incorrect. Either party may submit proposed instructions. The judge then rules on the instructions and makes a final determination. After the judge's determination, a party must object to preserve an issue for appeal. Merely submitting the proposed instructions is not enough to preserve the issue.

D is incorrect. The judge's failure to give a proposed instruction does not amount to an official ruling on the instruction. Moreover, a properly-preserved argument for appeal requires an affirmative objection by the party, not simply an adverse ruling.

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8. What is the grocery chain's strongest argument that the plaintiff is not entitled to a jury trial?

The statute is silent on the right to a jury trial. The grocery chain does not want a jury trial. A plaintiff brought a class action in federal court against a nationwide grocery-store chain for violating a federal disability-rights statute that requires public buildings to be wheelchair-accessible. The plaintiff sought an injunction requiring the grocery chain to modify the entrances to its stores to comply with the statute. The plaintiff demanded a jury trial.

- Class actions are so complex as to be outside the jury's competence to decide
- Disability-rights claims did not exist at common law when the Seventh Amendment was adopted
- **The remedy the plaintiff seeks is primarily equitable in nature**
- The statute is silent on the right to a jury trial

Note:
C is correct. The Seventh Amendment preserves the right to a jury trial in actions in which legal, not equitable, relief is sought. Here, the plaintiff is seeking an injunction, which is equitable relief. Therefore, the plaintiff is not entitled to a jury trial.

A is incorrect. Whether a litigant is entitled to a jury trial does not depend on whether the action is a class action. There is no complexity exception to the right to a jury trial.

B is incorrect. There is no blanket prohibition against jury trials for claims that did not exist at common law prior to the Seventh Amendment's adoption. Rather, the right to a jury trial depends on whether the statutory claim is analogous to one tried to a jury at common law and whether the relief sought is legal, not equitable.

D is incorrect. Even if a statute that created a cause of action is silent on the right to a jury trial, the right is preserved in statutory actions that provide for claims analogous to claims tried at common law in which legal relief is sought.

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9. Is the court likely to grant the employee's demand for a jury trial?

An employer, a citizen of State A, sued an employee, a citizen of State B, in State B state court. The one-count complaint sought an injunction that would prevent the employee from accepting a job that the employer claimed would have violated a valid covenant not to compete. The employee answered the complaint, in which he demanded a jury trial pursuant to the U.S. Constitution's Seventh Amendment.

- **No, because the Seventh Amendment has not been incorporated against the states**
- No, because the Seventh Amendment only applies to suits at common law, and this is a suit in equity given that it seeks an injunction
- Yes, because the Seventh Amendment only applies to suits at common law, and this suit involves the interpretation of a contract
- Yes, because injunctive relief has more than de minimus value under the Seventh Amendment

Note:
A case will be tried without a jury under either of the following conditions:

(i) no right to a jury trial exists; OR

(ii) all parties have waived the right to a jury trial. If there is no jury, the trial judge serves as both the finder of fact and the decider of law.

The Seventh Amendment provides the right to a jury trial, but only in federal court. This Amendment has never been held to be applicable to state trials. Under the incorporation doctrine, the first ten amendments of the United States Constitution (Bill of Rights) are applicable to the states through the Due Process clause of the 14th Amendment.

After the passage of the 14th Amendment, the Supreme Court favored a process called "selective incorporation." Under selective incorporation, only parts of certain amendments are incorporated. The Seventh Amendment has not been incorporated. Minneapolis & St. Louis R. Co. v. Bombolis, 241 U.S. 211 (1916).

A is correct. The key to this question is that it concerns a case only in state court. The Seventh Amendment is only applicable to federal courts and has never been extended to the states. State law determines whether parties have a right to a jury in state courts. The employer brought the action in state court, rendering the Seventh Amendment inapplicable.

B is incorrect. This answer choice states the correct conclusion with incorrect legal reasoning. Although the Seventh Amendment does apply to suits at federal common law, because this is a state case, the Seventh Amendment is not applicable.

C is incorrect. State law determines whether parties have a right to a jury in state courts. Also, because the employer seeks only injunctive (equitable) relief in the suit, the employer has no right to a jury trial.

D is incorrect. As explained above, the Seventh Amendment is only applicable to federal courts, not state courts. State law determines whether parties have a right to a jury in state courts. In addition, equitable relief cannot be monetized to satisfy the Seventh Amendment's amount in controversy requirement.

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10. Is the court likely to rule that the landlord is entitled to a jury trial?

A landlord, a citizen of State A, sued a State B corporation in a one-count complaint filed in the federal district court in State B. The complaint alleged that the State B corporation breached its lease with the landlord. The landlord demanded a jury trial under the Seventh Amendment and asked the court for a writ of ejectment. The corporation argued that the landlord is not entitled to a jury trial.

- **Yes, because the Seventh Amendment applies only to suits at common law, and a request for a writ of ejectment is a suit at common law**
- Yes, because under the Federal Rules of Civil Procedure, there is no distinction between law and equity when demanding a jury trial
- No, because the Seventh Amendment applies only to suits at common law, and this request for a writ of ejectment is a suit in equity
- No, because the Seventh Amendment applies only to suits in equity, and this is a lawsuit at common law

Note:
The Seventh Amendment provides that in suits at common law, the right to a trial by jury shall be guaranteed. This provision only applies to federal trials and has never been applicable to state trials. In practice, the Seventh Amendment's application to "suits at common law" means that if the suit would have been considered at common law, there will be a right to a jury trial.

Before the merger of law and equity, it was usually simple to determine whether a cause of action was at common law for purposes of the Seventh Amendment. United States v. Wonson (1812) established the historical test, which relies on English common law to determine whether the right to a jury trial in a civil suit is necessary.

Also, Federal Rule of Civil Procedure (FRCP) 38(a) provides that the right to a trial by jury as declared in the Seventh Amendment is preserved by the party who demands it. However, a party who wishes for a jury trial on a particular issue must file a demand within 14 days after the service of the last pleading directed to that issue.

A is correct. A writ of ejectment is a common law term for a civil action to recover the possession of or title to land. It replaced the older real property actions and the various possessory assizes (denoting county-based pleas to local sittings of the courts) where boundary disputes often occurred.

Though still used in some places, the term is now obsolete in many common law jurisdictions where possession and title are now actionable through the use of eviction (also called possession proceedings) and quiet title (or injunctive and/or declaratory relief), respectively. Even though ejectment does not seek monetary damages, it was historically a writ at common law and hence triggers the Seventh Amendment's jury guarantee.

B is incorrect. This answer choice states the correct conclusion with incorrect legal reasoning. The FRCP eliminated the distinction between law and equity for many purposes (for instance, for purposes of pleading) but not for purposes of the Seventh Amendment.

C is incorrect. As explained above, ejectment was a cause of action "at common law" as defined by the historical test in Wonson.

D is incorrect. This is an incorrect statement of law. The Seventh Amendment applies only to suits at common law, which specifically excludes equitable claims.
