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**1) Did the court err in seating juror #5?**

The court erred in seating juror #5.

Jury Selection

In California (CA) courts, each party has an unlimited number of juror challenges for cause, meaning they may dismiss jurors, for a valid cause, as many times as they wish. However, each party has six preemptory challenges without cause, meaning that a reason does not need to be provided for dismissing a maximum of six jurors. But a juror may never be dismissed by either party on the basis of race or gender. Further, CA courts require a jury trial to have 12 jurors plus alternatives, and a 75% majority is required for a verdict. Further, if case has both legal and equitable claims, the judge decides equitable claims first, and jury decides legal claims second.

Here, Palma (P) is suing Motor (M) in CA Superior Court for defective seat design after P was in a car accident from which she was injured due to her seat collapsing and causing her injuries. M manufactured the seats in the car that injured P. During jury selection phase of P's trial, juror #5 revealed she had worked for M as an engineer five years ago. This raises potentially creates a conflict for juror #5 to participate in a lawsuit against M, her former employer. It might impair juror #5's ability to be impartial if faced with a decision for or against M, her former employer. Further, juror #5 disclosed that she still owned 50 shares of M's stock. This further supports a conclusion that juror #5 will not be able to be fair and impartial in a trial involving M. Even though the stock that juror #5 owns only makes up 2% of her total financial assets, the fact that she owns the stock with M is enough to create bias and a potential conflict. Subsequently P challenged the seating of juror #5 for cause. P's "for cause" reason was likely because juror #5 is likely to vote in favor of M, given their history together. The court denied P's challenge of juror #5, which was improper. P has unlimited for cause challenges during jury selection, and P's cause for dismissing juror #5 was warranted and legitimate.

Thus, the court erred in seating juror #5.

**2) Did the court correctly deny P's motion for directed verdict?**

The court INCORRECTLY denied P's motion for a directed verdict.

Motion for a Directed Verdict

A motion for a directed verdict is the same thing as the federal rules of civil procedure's counterpart, namely a Judgment for a motion as a matter of law. In CA, a directed verdict may be filed when a no reasonable jury could decide, in light of the evidence, in favor of the defendant, and must find in favor of P. The timing for filing for a directed verdict is different for the defendant and the plaintiff. A defendant can file for a directed verdict at close of evidence for plaintiff's case or at close of defendant's case. But a plaintiff may only move for a directed verdict after the close of defendant's case.

Here, M presented evidence that the seat it manufactured was not defective and that P's injuries were due to reclining the seat to an unsafe angle. However, P submitted contrary evidence that because a bookshelf was in the backseat of the car, P's chair was prevented from reclining excessively. M's argument that P's injuries were due to her reclined seat is likely negated with P's evidence that the bookshelf prevented any such reclining of her chair. A reasonable jury would likely find for P on these facts. However, when P moved for her directed verdict, she also argued that misusing a product is not a defense to defective design when the misuse is foreseeable. This true and further supports P's case that a reasonable jury would find in favor of her, in light of the evidence presented.

Thus, the court incorrectly denied P's motion for a directed verdict.

### **3) How should the court rule on P's motion for new trial?**

The court should grant P's motion for a new trial.

#### Motion for a New Trial

In CA, a motion for a new trial can be filed when there are evidentiary issues that occurred during trial such as court errs, mistakes, or other procedural errors. A motion for a new trial must be filed within 15 days after entry of judgment in CA.

Here, P will argue that because the court erred in seating juror #5, the court made a mistake, and it resulted in prejudice to P because the jury decides in favor of M. P will assert that she was allowed an unlimited number of juror challenges for cause and was denied this right by the court, further resulting in a procedural error by the court. Further, M intentionally hid Reports of their safety tests conducted 3 years prior. The reports showed that severe injury was likely regardless of the angle of the seats, which strongly supports P's case here. Thus, P is entitled to a motion for a new trial on either grounds mentioned.

Thus, the court should grant P's motion for a new trial. However, if the court does not grant P's motion for a new trial, P may also have another option.

#### JNOV

A renewed motion for judgment notwithstanding the verdict (or a "JNOV" in California) can be filed when the jury verdict is against the weight of the evidence and a new trial is warranted in the interests of justice. A JNOV may also be filed if new evidence has been uncovered that would have changed the outcome of the case. Further, a JNOV can only be filed if a party moved for a directed verdict during trial, and the JNOV must be filed within 15 days of entry of judgment.

Here, P may also move for a JNOV. Since P moved for a directed verdict during trial, even though she was denied it, she is still entitled to renew that motion by filing a JNOV.

Thus, if the court denies P's motion for new trial, P may still move for a JNOV.

Question #4 Final Word Count = 1030

**END OF EXAM**