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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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UNITHERM FOOD SYSTEMS, INC. *v.* SWIFT-
ECKRICH, INC., DBA CONAGRA REFRIGERATED
FOODSCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

No. 04–597. Argued November 2, 2005—Decided January 23, 2006

After respondent ConAgra warned companies selling equipment and processes for browning precooked meats that it intended to protect its rights under its patent for that process, petitioner Unitherm, whose president had invented the process six years before ConAgra filed its patent application, and one of ConAgra's direct competitors jointly filed suit in an Oklahoma federal court. As relevant here, they sought a declaration that ConAgra's patent was invalid and unenforceable and alleged that ConAgra had violated §2 of the Sherman Act by attempting to enforce a patent obtained by fraud on the Patent and Trademark Office, see *Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp.*, 382 U. S. 172, 174. The District Court found the patent invalid and allowed the *Walker Process* claim to proceed to trial. Before the case was submitted to the jury, ConAgra moved for a directed verdict under Federal Rule of Civil Procedure 50(a) based on legal insufficiency of the evidence. The court denied the motion, the jury returned a verdict for Unitherm, and ConAgra neither renewed its motion for judgment as a matter of law pursuant to Rule 50(b) nor moved for a new trial on antitrust liability pursuant to Rule 59. On appeal to the Federal Circuit, ConAgra maintained that there was insufficient evidence to sustain the *Walker Process* verdict. The court applied Tenth Circuit law, under which a party that has failed to file a postverdict sufficiency of the evidence challenge may nonetheless raise such a claim on appeal, so long as the party filed a Rule 50(a) motion before submission of the case to the jury. The only available relief in such a circumstance is a new trial. Freed to examine the sufficiency of the evidence, the Federal Circuit

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vacated the judgment and ordered a new trial.

Held: Since respondent failed to renew its preverdict motion as specified in Rule 50(b), the Federal Circuit had no basis for reviewing respondent's sufficiency of the evidence challenge. Rule 50 sets forth the requirements, establishing two stages, for challenging the sufficiency of the evidence in a civil jury trial. Rule 50(a) allows a challenge prior to the case's submission to the jury, authorizing the district court to grant the motion at the court's discretion. Rule 50(b), by contrast, sets forth the requirements for renewing the challenge after the jury verdict and entry of judgment. A party's failure to file a Rule 50(b) postverdict motion deprives an appellate court of the "power to direct the District Court to enter judgment contrary to the one it had permitted to stand." *Cone v. West Virginia Pulp & Paper Co.*, 330 U. S. 212, 218. It also deprives an appellate court of the power to order the entry of judgment in favor of that party where the district court directed the jury's verdict, *Globe Liquor Co. v. San Roman*, 332 U. S. 571, and where the district court expressly reserved a party's preverdict directed verdict motion and then denied it after the verdict, *Johnson v. New York, N. H. & H. R. Co.*, 344 U. S. 48. A postverdict motion is necessary because determining "whether a new trial should be granted or a judgment entered under Rule 50(b) calls for the judgment in the first instance of the judge who saw and heard the witnesses and has the feel of the case which no appellate printed transcript can impart." *Cone, supra*, at 216. Moreover, the requirement "is not an idle motion" but "an essential part of the rule, firmly grounded in principles of fairness." *Johnson, supra*, at 53. These authorities require reversal of the judgment below. This Court's observations about the postverdict motion's necessity and the benefits of the district court's input at that stage apply with equal force whether a party is seeking judgment as a matter of law or simply a new trial. Contrary to respondent's argument, the *Cone*, *Globe Liquor*, and *Johnson* outcomes underscore this holding. Those litigants all secured new trials, but they had moved for a new trial postverdict in the district court and did not seek to establish their entitlement to a new trial based solely on a denied Rule 50(a) motion. This result is further validated by the purported basis of respondent's appeal, namely the District Court's denial of its Rule 50(a) motion. *Cone*, *Globe Liquor*, and *Johnson* unequivocally establish that the precise subject matter of a party's Rule 50(a) motion cannot be appealed unless that motion is renewed pursuant to Rule 50(b). Respondent, rather than seeking to appeal the claim raised in its Rule 50(a) motion, seeks a *new trial* based on legal insufficiency of the evidence. If a litigant that has failed to file a Rule 50(b) motion is foreclosed from seeking the relief sought in its Rule 50(a) motion, then surely re-

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spondent is foreclosed from seeking relief it did not and could not seek in its preverdict motion. Rule 50(b)'s text confirms that respondent's Rule 50(a) motion did not give the District Court the option of ordering a new trial, for it provides that a district court may only order a new trial based on issues raised in a Rule 50(a) motion when "ruling on a renewed motion" under Rule 50(b). If the District Court lacked such power, then the Court of Appeals was similarly powerless. Rule 50(a)'s text and application also support this result. A district court may enter judgment as a matter of law when it concludes that the evidence is legally insufficient, but it is not required to do so. Thus, the denial of respondent's Rule 50(a) motion was not error, but merely an exercise of the District Court's discretion. Pp. 4–12.

375 F. 3d 1341, reversed.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and O'CONNOR, SCALIA, SOUTER, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion, in which KENNEDY, J., joined.