

1 **Rule 59. New trials; amendments of judgment.**

2 (a) **Grounds.** Subject to the provisions of Rule 61, a new trial may be granted to all
3 or any of the parties and on all or part of the issues, for any of the following causes;
4 provided, however, that on a motion for a new trial in an action tried without a jury, the
5 court may open the judgment if one has been entered, take additional testimony, amend
6 findings of fact and conclusions of law or make new findings and conclusions, and direct
7 the entry of a new judgment:

8 (a)(1) Irregularity in the proceedings of the court, jury or adverse party, or any
9 order of the court, or abuse of discretion by which either party was prevented from
10 having a fair trial.

11 (a)(2) Misconduct of the jury; and whenever any one or more of the jurors have
12 been induced to assent to any general or special verdict, or to a finding on any
13 question submitted to them by the court, by resort to a determination by chance or
14 as a result of bribery, such misconduct may be proved by the affidavit of any one of
15 the jurors.

16 (a)(3) Accident or surprise, which ordinary prudence could not have guarded
17 against.

18 (a)(4) Newly discovered evidence, material for the party making the application,
19 which he could not, with reasonable diligence, have discovered and produced at the
20 trial.

21 (a)(5) Excessive or inadequate damages, appearing to have been given under
22 the influence of passion or prejudice.

23 (a)(6) Insufficiency of the evidence to justify the verdict or other decision, or that it
24 is against law.

25 (a)(7) Error in law.

26 (b) **Time for motion.** A motion for a new trial shall be served not later than ~~40~~14
27 days after the entry of the judgment.

28 (c) **Affidavits; time for filing.** When the application for a new trial is made under
29 Subdivision (a)(1), (2), (3), or (4), it shall be supported by affidavit. Whenever a motion
30 for a new trial is based upon affidavits they shall be served with the motion. The

31 opposing party has ~~40~~14 days after such service within which to serve opposing
32 affidavits. The time within which the affidavits or opposing affidavits shall be served may
33 be extended for an additional period not exceeding ~~20~~21 days either by the court for
34 good cause shown or by the parties by written stipulation. The court may permit reply
35 affidavits.

36 (d) **On initiative of court.** Not later than ~~40~~14 days after entry of judgment the court
37 of its own initiative may order a new trial for any reason for which it might have granted
38 a new trial on motion of a party, and in the order shall specify the grounds therefor.

39 (e) **Motion to alter or amend a judgment.** A motion to alter or amend the judgment
40 shall be served not later than ~~40~~14 days after entry of the judgment.

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