

1 **Rule 60. Relief from judgment or order.**

2 **(a) Clerical mistakes.** ~~Clerical~~ The court may correct a clerical mistakes in judgments, orders or  
 3 other parts of the record and errors therein or a mistake arising from oversight or omission may be  
 4 corrected by the court at any time of its own initiative or on the motion of any party and after such notice,  
 5 if any, as the court orders whenever one is found in a judgment, order, or other part of the record. The  
 6 court may do so on motion or on its own, with or without notice. During the pendency of an appeal, such  
 7 mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter After a  
 8 notice of appeal has been filed and while the appeal is pending, the mistake may be ~~so~~ corrected only  
 9 with leave of the appellate court.

10 **(b) Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud, etc.** On  
 11 motion and upon such ~~just~~ terms ~~as are just~~, the court may ~~in the furtherance of justice~~ relieve a party or  
 12 ~~his~~ its legal representative from a ~~final~~ judgment, order, or proceeding for the following reasons:

13 (b)(1) mistake, inadvertence, surprise, or excusable neglect;

14 (b)(2) newly discovered evidence which by due diligence could not have been discovered in time  
 15 to move for a new trial under Rule 59(b);

16 (b)(3) fraud (whether ~~heretofore denominated~~ previously called intrinsic or extrinsic),  
 17 misrepresentation or other misconduct of an ~~adverse~~ opposing party;

18 (b)(4) the judgment is void;

19 (b)(5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it  
 20 is based has been reversed or ~~otherwise~~ vacated, or it is no longer equitable that the judgment  
 21 should have prospective application; or

22 (b)(6) any other reason justifying that justifies relief from the operation of the judgment.

23 **(c) Timing and effect of the motion.** ~~The motion shall~~ must be made filed within a reasonable time  
 24 and for reasons in paragraph (b)(1), (2), or (3), not more than 90 days after entry of the judgment, or  
 25 order, or the date of the proceeding ~~was entered or taken~~. A motion under this Subdivision (b) ~~The motion~~  
 26 does not affect the finality of a judgment or suspend its operation.

27 **(d) Other power to grant relief.** This rule does not limit the power of a court to entertain an  
 28 independent action to relieve a party from a judgment, order or proceeding or to set aside a judgment for  
 29 fraud upon the court. The procedure for obtaining any relief from a judgment shall be by motion as  
 30 prescribed in these rules or by an independent action.

31 ~~Advisory Committee Notes~~

32 ~~The 1998 amendment eliminates as grounds for a motion the following: "(4) when, for any cause, the~~  
 33 ~~summons in an action has not been personally served upon the defendant as required by Rule 4(e) and~~  
 34 ~~the defendant has failed to appear in said action." This basis for a motion is not found in the federal rule.~~  
 35 ~~The committee concluded the clause was ambiguous and possibly in conflict with rule permitting service~~  
 36 ~~by means other than personal service.~~

37