

Rule 59. New Trials**59.01 Grounds**

A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes:

(a) Irregularity in the proceedings of the court, referee, jury, or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair trial;

(b) Misconduct of the jury or prevailing party;

(c) Accident or surprise which could not have been prevented by ordinary prudence;

(d) Material evidence newly discovered, which with reasonable diligence could not have been found and produced at the trial;

(e) Excessive or insufficient damages, appearing to have been given under the influence of passion or prejudice;

(f) Errors of law occurring at the trial, and objected to at the time or, if no objection need have been made pursuant to Rules 46 and 51, plainly assigned in the notice of motion;

(g) The verdict, decision, or report is not justified by the evidence, or is contrary to law; but, unless it be so expressly stated in the order granting a new trial, it shall not be presumed, on appeal, to have been made on the ground that the verdict, decision, or report was not justified by the evidence.

On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment.

59.02 Basis of Motion

A motion made pursuant to Rule 59.01 shall be made and heard on the files, exhibits, and minutes of the court. Pertinent facts that would not be a part of the minutes may be shown by affidavit. A full or partial transcript of the court reporter's notes may be used on the hearing of the motion.

59.03 Time for Motion

A notice of motion for a new trial shall be served within 30 days after a general verdict or service of notice by a party of the filing of the decision or order; and the motion shall be heard within 60 days after such general verdict or notice of filing, unless the time for hearing be extended by the court within the 60-day period for good cause shown.

(Amended effective March 1, 2001.)

Advisory Committee Comment - 2000 Amendment

The single purpose of the amendment of this Rule 59.03 in 2000 is to create a longer and more reasonable period in which to hear post-trial motions. At the time this rule was adopted, post-trial motions were often heard in a somewhat perfunctory manner and court assignment practices permitted the scheduling of cases in this manner.

This amendment will also reduce, although not eliminate, the potential consequences of failing to have a post-trial motion heard in a timely manner.

The change in Rule 59 will serve to extend the deadline for other post-trial motions as well, because the current rules specifically tie the deadlines for those motions to Rule 59. See Minn. R. Civ. P. 50.02(c) (judgment notwithstanding the verdict); 52.02 (motion for amended findings). It will also have an indirect impact on Rule 60.02(b), which allows for relief from an order or judgment on the grounds of newly discovered evidence which could not have been discovered in time to move for a new trial. This latter impact will be negligible.

59.04 Time for Serving Affidavits

When a motion for a new trial is based upon affidavits, they shall be served with the notice of motion. The opposing party shall have ten days after such service in which to serve opposing affidavits, which period may be extended by the court pursuant to Rule 59.03. The court may permit reply affidavits.

59.05 On Initiative of Court

Not later than 15 days after a general verdict or the filing of the decision or order, the court upon its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In either case, the court shall specify in the order the grounds therefor.

59.06 Stay of Entry of Judgment

A stay of entry of judgment pursuant to Rule 58 shall not be construed to extend the time within which a party may serve a motion hereunder.