

Proposed Amendments to Rule 59

Rule 59 is amended as follows:

Rule 59 New [~~Trials; Rehearings; Amendment of Judgments~~] **Trial; Rehearing; Altering or Amending a Judgment**

(a) [~~Grounds. A~~] In General.

(1) Grounds for New Trial or Rehearing. The court may, on motion, grant a new trial or rehearing [~~may be granted to~~] on all or [~~any of the parties and on all or part of the issues (1) in an action in which there has been a trial by jury, for any of the reasons for which new trials have~~] **some of the issues -- and to any party -- as follows:**

(A) after a jury trial, for any reason for which a new trial has heretofore been granted in [~~actions at law in the courts of the United States; and (2) in an action tried without a jury or in an action finally determined, for any of the reasons~~] **an action at law in federal court; or**

(B) after a nonjury trial, for any reason for which [~~rehearings have~~] **a rehearing has** heretofore been granted in [~~suits in equity in the courts of the United States. On a~~] **a suit in equity in federal court.**

(2) Further Action After a Nonjury Trial. After a nonjury trial, the court may, on 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~~] **ones**, and direct the entry of a new judgment.

(b) Time [for] to File a Motion. A motion for a new trial or rehearing [~~shall~~] **must** be served and filed not later than 30 days after the entry of the judgment or order.

(c) Time ~~for Serving~~ to Serve Affidavits. When a motion for a new trial or rehearing is based ~~[upon]~~ **on** affidavits, they ~~[shall]~~ **must** be ~~[served]~~ **filed** with the motion. The opposing party has 10 days after ~~[such service within which to serve]~~ **being served to file** opposing affidavits ~~[-which];~~ **but that** period may be extended for ~~[an additional period not exceeding]~~ **up to** 20 days, **either** by ~~[order of]~~ the court for good cause ~~[shown]~~ or by the parties' ~~[by written]~~ stipulation. The court may permit reply affidavits.

(d) ~~[On]~~ **New Trial on the Court's Initiative or for Reasons Not in the Motion.** ~~[Not]~~ **No** later than 30 days after the entry of judgment, or order, the court, on its own ~~[initiative]~~, may order a new trial or rehearing for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard ~~[on the matter]~~, the court may grant a **timely** motion for a new trial or rehearing, ~~[timely served,]~~ for a reason not stated in the motion. ~~[When granting a new trial on its own initiative or for a reason not stated in a motion]~~ **In either event**, the court ~~[shall]~~ **must** specify the ~~[grounds]~~ reasons in its order.

(e) Motion ~~[To]~~ to Alter or Amend a Judgment. A motion to alter or amend a judgment ~~[shall]~~ **must** be served ~~[not]~~ **no** later than 30 days after the entry of the judgment.

PRACTICE COMMENT: Rule 59(b) provides for a 30-day period within which to move for a new trial or rehearing. In contrast, Rule 59(b) of the Federal Rules of Civil Procedure provides for a 10-day period. The lengthier period is required by 28 U.S.C. § 2646, a statute not applicable to the district courts.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; Oct. 3, 1990, eff. Jan. 1, 1991; Dec. 18, 2001, eff. Apr. 1, 2002; _____, **2008, eff.** _____, **2009.**)

Advisory Committee Note

CIT Rule 59 has been amended stylistically to conform to the 2007 amendments to the Fed. R. Civ. P. The only substantive change is to CIT Rule 59(c). Fed. R. Civ. P. 59(c)

states that affidavits must be "filed" with the motion, while CIT Rule 59(c) states that they must be "served" with the motion. CIT Rule 59(c) has been amended to conform to Fed. R. Civ. P. 59(c) in this regard. The motion for new trial or rehearing under CIT Rule 59(b) must be "served and filed," therefore "filed with the motion" necessarily implies both filing and service.