

Proposed Amendments to Rule 60

Rule 60 is amended as follows:

Rule 60. Relief [~~From~~] **from a** Judgment or Order

(a) **Corrections Based on Clerical Mistakes** [~~Clerical mistakes in judgments, orders or other parts of the record and errors therein~~]; **Oversights and Omissions**. **The court may correct a clerical mistake or a mistake** arising from oversight or omission [~~may be corrected by the court at any time on its own initiative or on motion of any party and after such notice, if any, as the court orders. After an appeal is filed, such mistakes~~] **whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's** leave [~~of the appellate court~~].

(b) [~~Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; Etc~~] **Grounds for Relief from a Final Judgment, Order, or Proceeding**.

On motion [~~of a party or upon its own initiative and upon such terms as are just~~] **and just terms**, the court may relieve a party or [~~a party's~~] **its** legal representative from a final judgment, order, or proceeding for the following reasons:

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

(2) newly discovered evidence [~~which by due~~] **that, with reasonable** diligence, could not have been discovered in time to move for a new trial or rehearing under Rule 59(b);

(3) fraud (whether [~~heretofore denominated~~] **previously called** intrinsic or extrinsic), misrepresentation, or [~~other~~] misconduct [~~of~~] **by** an [~~adverse~~] **opposing** party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged, ~~[or a prior judgment upon which]~~; it is based **on an earlier judgment that** has been reversed or ~~[otherwise]~~ vacated~~[;]~~; or ~~[it]~~ **applying it prospectively** is no longer equitable ~~[that the judgment should have prospective application]~~; or

(6) any other reason ~~[justifying]~~ **that justifies** relief ~~[from the operation]~~.

(c) Timing and Effect of the ~~[judgment. The]~~ Motion.

(1) Timing. A motion ~~[shall]~~ **under Rule 60(b) must** be made within a reasonable time~~[;]~~-- and for reasons (1), (2), and (3) ~~[not]~~ **no** more than ~~[one]~~ **a** year after the **entry of the** judgment~~[;]~~ **or** order ~~[; or proceeding was entered or taken. A motion under this subdivision (b)]~~ **or the date of the proceeding.**

(2) Effect on Finality. The motion does not affect the **judgment's** finality ~~[of a judgment]~~ or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit the **court's** power ~~[of the court]~~ to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding,~~[or to]~~;

(2) grant relief **under 28 U.S.C. § 1655** to a defendant **who was** not ~~[actually]~~ personally notified ~~[as provided in Title 28 U.S.C. § 1655, or to]~~ **of the action; or**

(3) set aside a judgment for fraud ~~[upon the court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.]~~ **on the court.**

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 21, 1986, eff. Oct. 1, 1986; July 28, 1988, eff. Nov. 1, 1988; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 28, 2004, eff. January 1, 2005; _____, 2008, eff. _____, 2009.)

Advisory Committee Note

CIT Rule 60 has been amended stylistically to conform to the 2007 amendments to the Fed. R. Civ. P. In the 2007 amendments, the final sentence of former Fed. R. Civ. P. 60(b) stated that the procedure for obtaining any relief from a judgment was by motion as prescribed in the rules or by an independent action. That provision was deemed unnecessary and deleted. The amendment Notes explain that, despite the elimination of this specific statement, relief continues to be available only as provided in the Fed. R. Civ. P. or by independent action. The last sentence of CIT Rule 60(b) has similarly been deleted as unnecessary.