

## **RULE 4:49. New Trials; Amendment Of Judgments**

### **4:49-1. Motion for New Trial**

- **(a) Grounds of Motion.** A new trial may be granted to all or any of the parties and as to all or part of the issues on motion made to the trial judge. On a motion for a new trial in an action tried without a jury, the trial judge 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 the entry of a new judgment. The trial judge shall grant the motion if, having given due regard to the opportunity of the jury to pass upon the credibility of the witnesses, it clearly and convincingly appears that there was a miscarriage of justice under the law.
- **(b) Time for Motion, Cross-Motion; Affidavits.** A motion for a new trial shall be served not later than 20 days after the court's conclusions are announced in nonjury actions or after the return of the verdict of the jury. The motion shall be noticed for hearing and argued no later than the second regular motion day following the service thereof, unless the court for good cause shown orders the hearing fixed for either an earlier or a later date. The opposing party may, within 10 days after service of the motion, serve a cross-motion for a new trial returnable at the same time and place as the motion. If a motion for a new trial is based upon affidavits they shall be served with the motion; opposing affidavits shall be served within 10 days thereafter which period may be extended for an additional period not exceeding 20 days either by written stipulation of the parties or court order. The court may permit reply affidavits. Except in special circumstances the motion shall be decided by the judge on trial notes without awaiting a transcript of the testimony.
- **(c) On Initiative of Court.** Not later than 20 days after entry of judgment the court on its own motion 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.
- **(d) Motion for New Trial as Not Barring Appeal.** A motion for a new trial or any action or adverse determination on the motion shall not bar an appeal or the review of any matter on appeal.

Note: Source-R.R. 4:61-1(a), 4:61-2, 4:61-3, 4:61-4, 4:61-5. Paragraph (a) amended July 7, 1971 to be effective September 13, 1971; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (b) and (c) amended July 10, 1998 to be effective September 1, 1998.

### **4:49-2. Motion to Alter or Amend a Judgment or Order**

Except as otherwise provided by R. 1:13-1 (clerical errors) a motion for rehearing or reconsideration seeking to alter or amend a judgment or order shall be served not later than 20 days after service of the judgment or order upon all parties by the party obtaining it. The motion shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions which counsel believes the court has overlooked or as to which it has erred, and shall have annexed thereto a copy of the judgment or order sought to be reconsidered and a copy of the court's corresponding written opinion, if any.

Note: Source — R.R. 4:61-6. Amended November 5, 1986 to be effective January 1, 1987; amended July 14, 1992 to be effective September 1, 1992; amended July 10, 1998 to be effective September 1, 1998; amended July 19, 2012 to be effective September 4, 2012.