

Rule 46. Post-Trial Motions**46.01 Motion for Amended Findings**

Upon motion of a party served and heard not later than the time allowed for a motion for a new trial pursuant to Rule 46.02, the court may amend its findings or make additional findings, and may amend the judgment accordingly if judgment has been entered. The motion may be made with a motion for a new trial and may be made on the files, exhibits, and minutes of the court. The question of the sufficiency of the evidence to support the findings may be raised on appeal regardless of whether the party raising the question has made in the district court an objection to such findings or has made a motion to amend them or a motion for judgment.

(Amended effective January 1, 2007.)

46.02 Motion for New Trial

Subdivision 1. Grounds. A motion for a new trial may be granted to any or all of the parties on all or part of the issues for any of the following causes:

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

(b) misconduct of the 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) errors of law occurring at the trial, and objected to at the time, or, if no objection need have been made pursuant to these rules, plainly assigned in the notice of motion;

(f) the decision 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 decision was not justified by the evidence; or

(g) in the interest of justice.

Upon a motion for a new trial, 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.

Subd. 2. Basis of Motion. A motion for a new trial shall be made pursuant to Rule 15 and shall be made based upon on the files, exhibits, and minutes of the court. Pertinent facts that would not be a part of the minutes by be shown by affidavit. A full or partial transcript of the court reporter's notes may be used on the hearing of the motion.

Subd. 3. Time for Serving and Filing Motion. A notice of motion and motion for a new trial shall be served and filed within fifteen (15) days after service of notice by the court administrator of the filing of the decision or order pursuant to Rule 10. The motion shall be heard within thirty (30) days after such notice of filing.

Subd. 4. Time for Serving and Filing Affidavits. When a motion for a new trial is based upon affidavits, they shall be served and filed with the notice of motion. The opposing party shall have ten (10) days after such service in which to serve and file opposing affidavits, which period may be extended by the court for good cause. The court may permit reply affidavits.

Subd. 5. Order for New Trial on Court's Initiative. Not later than fifteen (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 a 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. The court shall specify in the order the grounds therefore.

46.03 Timing of Decision

Within fifteen (15) days of the conclusion of the hearing on the motion the court shall issue its decision and order. For good cause shown, the court may extend this period for an additional fifteen (15) days.