

1 **Rule 60. Relief from judgment or order.**

2 *Effective: 5/1/2016*

3 (a) **Clerical mistakes.** The court may correct a clerical mistake or a mistake arising from
4 oversight or omission whenever one is found in a judgment, order, or other part of the
5 record. The court may do so on motion or on its own, with or without notice. After a
6 notice of appeal has been filed and while the appeal is pending, the mistake may be
7 corrected only with leave of the appellate court.

8 (b) **Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud,**
9 **etc.** On motion and upon just terms, the court may relieve a party or its legal
10 representative from a judgment, order, or proceeding for the following reasons:

11 ~~(b)~~(1) mistake, inadvertence, surprise, or excusable neglect;

12 ~~(b)~~(2) newly discovered evidence which by due diligence could not have been
13 discovered in time to move for a new trial under Rule 59(b);

14 ~~(b)~~(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation or
15 other misconduct of an opposing party;

16 ~~(b)~~(4) the judgment is void;

17 ~~(b)~~(5) the judgment has been satisfied, released, or discharged, or a prior judgment
18 upon which it is based has been reversed or vacated, or it is no longer equitable that
19 the judgment should have prospective application; or

20 ~~(b)~~(6) any other reason that justifies relief.

21 (c) **Timing and effect of the motion.** A motion under paragraph (b) must be filed
22 within a reasonable time and for reasons in paragraph (b)(1), (2), or (3), not more than
23 90 days after entry of the judgment or order or, if there is no judgment or order, from
24 the date of the proceeding. The motion does not affect the finality of a judgment or
25 suspend its operation.

26 (d) **Other power to grant relief.** This rule does not limit the power of a court to
27 entertain an independent action:
28 [\(1\)](#) to relieve a party from a judgment, order, or proceeding; or
29 [\(2\)](#) to set aside a judgment for fraud upon the court. ~~The procedure for obtaining any~~
30 ~~relief from a judgment shall be by motion as prescribed in these rules or by an~~
31 ~~independent action.~~

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33 **Advisory Committee Notes**

34 The 1998 amendment eliminates as grounds for a motion the following: "(4) when, for
35 any cause, the summons in an action has not been personally served upon the
36 defendant as required by Rule 4(e) and the defendant has failed to appear in said
37 action." This basis for a motion is not found in the federal rule. The committee
38 concluded the clause was ambiguous and possibly in conflict with rule permitting
39 service by means other than personal service.

40 [Note adopted \[YEAR\]](#)

41 2016 amendments

42 The deadlines for a motion are as stated in this rule, but if a motion under paragraph (b)
43 is filed within 28 days after the judgment, it will have the same effect on the time to
44 appeal as a motion under Rule [50](#), [52](#), or [59](#). See the 2016 amendments to Rule of
45 Appellate Procedure [4\(b\)](#).

46 [Note adopted \[YEAR\]](#)

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