

60-259. New trial; motion to alter or amend judgment. (a) *In general.* (1) *Grounds for a new trial.* The court may, on motion, grant a new trial to all or any of the parties and on all or part of the issues for the following reasons:

(A) Abuse of discretion by the court, misconduct by the jury or an opposing party, accident or surprise that ordinary prudence could not have guarded against, or because the party was not afforded a reasonable opportunity to present its evidence and be heard on the merits of the case;

(B) erroneous rulings or instructions by the court;

(C) the verdict, report or decision was given under the influence of passion or prejudice;

(D) the verdict, report or decision is in whole or in part contrary to the evidence;

(E) newly discovered evidence that is material for the moving party which it could not, with reasonable diligence, have discovered and produced at the trial; or

(F) the verdict, report or decision was procured by corruption of the party obtaining it, and in this case, the new trial must be granted as a matter of right, and all costs incurred up to the time of granting the new trial must be charged to the party obtaining the verdict, report or decision.

(2) *Further action after a nonjury trial.* After a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones and direct the entry of a new judgment.

(b) *Time to file a motion for a new trial.* A motion for a new trial must be filed no later than 28 days after the entry of judgment. While a timely-filed motion is pending, the court may on motion and notice to the parties, permit the moving party to amend the motion for a new trial to state different or additional reasons.

(c) *Definite statement of reasons.* The motion should not follow the general language of subsection (a) in stating reasons for a new trial, but rather must state specifically the alleged error or other reasons relied on.

(d) *Time to serve affidavits or declarations.* When a motion for a new trial is based on affidavits or on declarations pursuant to K.S.A. 53-601, and amendments thereto, they must be filed with the motion. The opposing party has 14 days after being served to file opposing affidavits or declarations. The court may permit reply affidavits or declarations.

(e) *New trial on the court's initiative or for reasons not in the motion.* No later than 28 days after the entry of judgment, the court, on its own, may order a new trial for any reason that would justify granting one on a party's motion. After giving the parties notice and an opportunity to be heard, the court may grant a timely motion for a new trial for a reason not stated in the motion. In either event, the court must specify the reasons in its order.

(f) *Motion to alter or amend a judgment.* A motion to alter or amend a judgment must be filed no later than 28 days after the entry of judgment.

(g) *Production of evidence.* In a case in which a reason for the motion is error in the exclusion of evidence, lack of reasonable opportunity to present evidence or newly discovered evidence, the evidence must be presented at the hearing by affidavit or by declaration pursuant to K.S.A. 53-601, and amendments thereto, or, when authorized by the court, by deposition or oral testimony and the opposing party may respond in like manner.

History: L. 1963, ch. 303, 60-259; amended by Supreme Court order dated July 17, 1969; L. 2010, ch. 135, § 133; July 1.