I.R.C.P. 50. Dispositive Trial Motions

Idaho Rules of Civil Procedure Rule 50. Dispositive Trial Motions.

(a)   Motion for Directed Verdict. A motion for a directed verdict must state the specific grounds for the motion. A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right to do so and to the same extent as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. The order of the court granting a motion for a directed verdict is effective without the agreement of the jury.

(b)   Motion for Judgment Notwithstanding the Verdict.

(1)   *Timing.* A motion for judgment notwithstanding the verdict must be served not later than 14 days after entry of the judgment and may be made whether or not the party moved for a directed verdict. If a verdict was not returned a motion for judgment notwithstanding the verdict must be served not later than 14 days after discharge of the jury.

(2)   *Joined with Motion for New Trial.* A motion for a new trial may be joined with a motion for judgment notwithstanding the verdict, or a new trial may be requested in the alternative, in conformance with the requirements of Rule 59(a). A motion to set aside or otherwise nullify a verdict or for a new trial includes a motion notwithstanding the verdict as an alternative. If the jury returns a verdict, the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment. If the jury does not return a verdict, the court may direct the entry of judgment or may order a new trial.

(3)   *Preservation of Motion for Appellate Review.* The failure of a party to move for a directed verdict, for a judgment notwithstanding the verdict or for a new trial does not preclude appellate review of the sufficiency of the evidence when proper assignment of error is made in the appellate court.

(4)   *Conditional Ruling.*

(A)   Procedure. If the motion for judgment notwithstanding the verdict is granted, the court must rule on the motion for new trial by determining whether it should be granted if the judgment is later vacated or reversed. If the motion for new trial is conditionally granted, the court must specify the grounds, and the order does not affect the finality of the judgment.

(B)   After Appeal. If the motion for new trial has been conditionally denied and the judgment is reversed on appeal, subsequent proceedings must be in accordance with the order of the appellate court. An appeal from a judgment granting or denying a motion for judgment notwithstanding the verdict presents for review all reviewable error against either the appellant or respondent.

(C)   Effect on Prevailing Party. The party whose verdict has been set aside on motion for judgment notwithstanding the verdict may, not later than 14 days after entry of judgment, serve a motion for a new trial, which must be conditionally granted or denied, with the consequences stated above.

(D)   Failure to Make Motion. Any party who fails to make a motion for a new trial as provided in this subsection waives the right to apply for a new trial.

(5)   *Denial of Motion.* If the court denies the motion for judgment notwithstanding the verdict, the party who prevailed on that motion may, as respondent on appeal, assert grounds entitling that party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion for judgment notwithstanding the verdict. If the appellate court reverses the judgment, nothing in this rule precludes it from determining that the respondent is entitled to a new trial, or from directing the trial court to determine whether a new trial will be granted.

*(*Adopted March 1, 2016, effective July 1, 2016 [1].)