

## **IRFLP 807 New Trial - Amendment of Judgment**

### **Idaho Rules of Family Law Procedure Rule 807. New Trial - Amendment of Judgment.**

A. Grounds for motion for new trial. A new trial may be granted to all or any of the parties and on all or part of the issues in an action for any of the following reasons:

1. Irregularity in the proceedings of the court, jury or adverse party or any order of the court or abuse of discretion by which either party was prevented from having a fair trial.
  
2. Misconduct of the jury.
  
3. Accident or surprise, which ordinary prudence could not have guarded against.
  
4. Newly discovered evidence, material for the party making the application, which the party could not, with reasonable diligence, have discovered and produced at the trial.
  
5. Excessive damages or inadequate damages, appearing to have been given under the influence of passion or prejudice.
  
6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against the law.
  
7. Error in law, occurring at the trial.

Any motion for a new trial based upon any of the grounds set forth in subdivisions 1, 2, 3 or 4 must be accompanied by an affidavit stating in detail the facts relied upon in support of such motion for a new trial. Any motion based on subdivisions 6 or 7 must set forth the factual grounds therefor with particularity. On a motion for new trial in an action tried without a jury, 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 the entry of a new judgment.

B. Time for motion for new trial. A motion for a new trial shall be served not later than fourteen (14) days after the entry of the judgment.

C. Time for serving affidavits on motion for new trial. When a motion for a new trial is based upon affidavits they shall be served with the motion. The opposing party has fourteen (14) days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding twenty one (21) days either by the court for good cause shown or by the

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parties by written stipulation. The court may permit reply affidavits.

D. On initiative of court. Not later than fourteen (14) days after entry of judgment the court of its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party. The court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In either case, such order shall be made only after giving the parties notice and an opportunity to be heard on the matter, and the court shall specify in the order the grounds therefor.

E. Motion to alter or amend a judgment. A motion to alter or amend the judgment shall be served not later than fourteen (14) days after entry of the judgment.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015.)

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