

### **Rule 33. New Trial**

(a) DEFENDANT'S MOTION. Upon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires. If the case was tried without a jury, the court may take additional testimony and enter a new judgment.

(b) TIME TO FILE.

(1) *Newly Discovered Evidence*. Any motion for a new trial grounded on newly discovered evidence must be filed within 3 years after the verdict or finding of guilty. If an appeal is pending, the court may not grant a motion for a new trial until the appellate court remands the case.

(2) *Other Grounds*. Any motion for a new trial grounded on any reason other than newly discovered evidence must be filed within 14 days after the verdict or finding of guilty.

### COMMENT TO 2017 AMENDMENTS

In accordance with the 2009 amendments to the federal rule, this rule was amended to expand the 7-day filing period for motions to 14 days—an amendment that reflects the time-calculation changes made to Rule 45.

### COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It is identical to the federal rule. It does not govern motions under D.C. Code § 22-4135 (2012 Repl.), which permits a person convicted of a criminal offense to move the court, at any time, to vacate the conviction or grant a new trial on grounds of actual innocence based on new evidence.

The rule includes in subparagraph (b)(2) the 2005 amendment to the federal rule. In that year, *Federal Rules 29* (Motion for Judgment of Acquittal), *33* (New Trial) and *34* (Arresting Judgment) were amended to remove the requirement that the court act within seven days on motions for enlargement of time. A conforming amendment has been made to Rule 45 (Computing and Extending Time).