

1 RELIEF FROM JUDGMENT OR ORDER

2 RULE 71

3 A Clerical mistakes. Clerical mistakes in judgments, orders, or other parts of the record and
4 errors therein arising from oversight or omission may be corrected by the court at any time on its
5 own motion or on the motion of any party and after such notice to all parties who have appeared,
6 if any, as the court orders. During the pendency of an appeal, a judgment may be corrected as
7 provided in subsection (2) of section B of this rule.

8 B Mistakes; inadvertence; excusable neglect; newly discovered evidence, etc.

9 B(1) By motion. On motion and upon such terms as are just, the court may relieve a party or
10 such party's legal representative from a judgment for the following reasons: (a) mistake,
11 inadvertence, surprise, or excusable neglect; (b) newly discovered evidence which by due
12 diligence could not have been discovered in time to move for a new trial under Rule 64 F; (c)
13 fraud (**whether previously called intrinsic or extrinsic**), misrepresentation, or other
14 misconduct of an adverse party; (d) the judgment is void; or (e) the judgment has been satisfied,
15 released, or discharged, or a prior judgment upon which it is based has been reversed or
16 otherwise vacated, or it is no longer equitable that the judgment should have prospective
17 application. A motion for reasons (a), (b), and (c) shall be accompanied by a pleading or motion
18 under Rule 21 A which contains an assertion of a claim or defense. The motion shall be made
19 within a reasonable time, and for reasons (a), (b), and (c) not more than one year after receipt of
20 notice by the moving party of the judgment. A copy of a motion filed within one year after the
21 entry of the judgment shall be served on all parties as provided in Rule 9 B, and all other motions
22 filed under this rule shall be served as provided in Rule 7. A motion under this section does not
23 affect the finality of a judgment or suspend its operation.

24 B(2) When appeal pending. A motion under sections A or B may be filed with and decided
25 by the trial court during the time an appeal from a judgment is pending before an appellate court.
26 The moving party shall serve a copy of the motion on the appellate court. The moving party shall

1 file a copy of the trial court's order in the appellate court within seven days of the date of the trial
2 court order. Any necessary modification of the appeal required by the court order shall be
3 pursuant to rule of the appellate court.

4 C Relief from judgment by other means. This rule does not limit the inherent power of a
5 court to modify a judgment within a reasonable time, or the power of a court to entertain an
6 independent action to relieve a party from a judgment, or the power of a court to grant relief to a
7 defendant under Rule 7 D(6)(f), or the power of a court to set aside a judgment for fraud upon
8 the court.

9 D Writs and bills abolished. Writs of coram nobis, coram vobis, audita querela, bills of
10 review, and bills in the nature of a bill of review are abolished, and the procedure for obtaining
11 any relief from a judgment shall be by motion or by an independent action.