STATE OF MINNESOTA

IN SUPREME COURT

ADM04-8001 (formerly C6-84-2134)

OFFICE OF
APPELLATE COURTS
JAN 9 2006
FILED

**ORDER PROMULGATING
CORRECTIVE AMENDMENTS TO
RULES OF CIVIL PROCEDURE**

On November 30, 2005, the Court promulgated amendments to the Rules of Civil Procedure that became effective on January 1, 2006. Included were amendments to Rule 50 that adopted the more modern nomenclature of Fed. R. Civ. P. 50. Those amendments also inadvertently incorporated a federal restriction on the motion practice available under Rule 50 not previously part of the Minnesota rule. Corrective amendments are necessary to reinstate the prior Minnesota practice in the context of the revised language. This order also clarifies that tolling of the appeal period under Minn. R. Civ. App. P. 104.01, subd. 2, in the event of a proper and timely motion under Rule 50.02 applies whether the motion is labeled based on the old or the new version of Rule 50.02.

IT IS HEREBY ORDERED that:

1. The attached amendments to Rule 50 of the Rules of Civil Procedure be, and the same are, prescribed and promulgated to be effective retroactive to January 2, 2006.

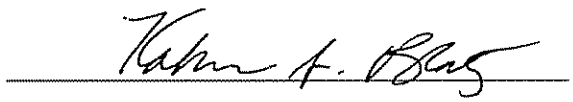
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date, provided that in cases in which a timely and otherwise proper motion is made under Rule 50.02 of the Rules of Civil Procedure, the time

for appeal will be governed by Rule 104.01, subdivision 2, of the Rules of Civil Appellate Procedure, regardless of the nomenclature used for the Rule 50.02 motion.

3. The inclusion of advisory committee comments is made for convenience and does not reflect court approval of the statements made therein.

Dated: January 9, 2006

BY THE COURT:



Kathleen A. Blatz
Chief Justice

Amendments to Minnesota Rules of Civil Procedure

Rule 50. Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings

50.01 Judgment as a Matter of Law During Trial

(a) Standard. If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the court may decide the issue against that party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.

(b) Timing and Content. Motions for judgment as a matter of law during trial may be made at any time before submission of the case to the jury. Such a motion shall specify the judgment sought and the law and the facts on which the moving party is entitled to the judgment.

50.02 Making or Renewing Motion for Judgment After Trial; Alternative Motion for New Trial

If, for any reason, the court does not grant a motion for judgment as a matter of law made ~~at the close of all the evidence~~during trial, the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. Whether or not the party has moved for judgment as a matter of law before submission of the case to the jury, a party ~~The movant~~ may make or renew ~~the~~a request for judgment as a matter of law

by serving a motion within the time specified in Rule 59 for the service of a motion for a new trial—and may alternatively request a new trial or join a motion for a new trial under Rule 59. In ruling on such a ~~renewed~~ motion, the court may:

(a) if a verdict was returned:
  (1) allow the judgment to stand,
  (2) order a new trial, or
  (3) direct entry of judgment as a matter of law; or
(b) if no verdict was returned:
  (1) order a new trial, or
  (2) direct entry of judgment as a matter of law.

50.03 Granting ~~Renewed~~ Motion for Judgment as a Matter of Law; Conditional Rulings; New Trial Motion

(a) ~~Renewed Motion~~Conditional Rulings. If the ~~renewed~~ motion for judgment as a matter of law is granted, the court shall also rule on the motion for a new trial, if any, by determining whether it should be granted if the judgment is thereafter vacated or reversed, and shall specify the grounds for granting or denying the motion for the new trial. If the motion for a new trial is thus conditionally granted, the order thereon does not affect the finality of the judgment. In case the motion for a new trial has been conditionally granted and the judgment is reversed on appeal, the new trial shall proceed unless the appellate court has otherwise ordered. In case the motion for a new trial has been conditionally denied, the respondent on appeal may assert error in that denial; and if the judgment is reversed on appeal, subsequent proceedings shall be in accordance with the order of the appellate court.

(b) Timing. Any motion for a new trial under Rule 59 by a party against whom judgment as a matter of law is rendered shall be served and heard within the times specified in Rule 59 for the service and hearing of a motion for a new trial.

* * * *

Advisory Committee Comment—2006 Amendment

Rule 50 is amended in toto to adopt ~~the~~various changes made in 1991 to Fed. R. Civ. P. 50. The 1991 amendment of the federal rule was made to remove the archaic language and procedures of directing verdicts and granting j.n.o.v. The amended rule states a standard that the former rule already recognized: a uniform standard for motions made after trial begins of a "motion for judgment as a matter of law." The purpose of the change is two-fold: to adopt names that better describe the role of the motions and, because the motions essentially apply the same standard, to give them a common name.

This change is not intended to change substantive practice relating to these motions. The federal rule amendment in 1991 was not intended to change the actual practice under that rule. See Fed. R. Civ. P. 50(a), Advisory Comm. Notes—1991 Amend. The federal courts have recognized the non-substantive nature of the amendment. See 9A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE & PROCEDURE § 2521, at 243 n.15 and accompanying text (2d ed. 1995) (collecting cases).

Minnesota practice differs from federal practice in one important respect—former Fed. R. Civ. P. 50 did not have the express provision of Minn. R. Civ. P. 50.02(a) allowing a motion for judgment n.o.v. to be brought "whether or not the party has moved for a directed verdict," and the current version of Fed. R. Civ. P. 50 lacks equivalent language with regard to motions for judgment as a matter of law. Because the amended Minnesota Rule 50.02 is not intended to change Minnesota practice in this respect, the amended rule retains the concept that a motion for judgment as a matter of law may be brought after submission of the case to the jury, whether or not such a motion was brought before submission to the jury.

The timing provisions of the federal rule have been changed slightly to accommodate Minnesota procedure including that relating to the service and filing of post-decision motions. Like the current rule, motions under Rule 50 must be served and filed in accordance with the timing mechanism and deadlines of Minn. R. Civ. P. 59.