

## **Alabama Rules of Civil Procedure**

### **VII. JUDGMENT**

#### **RULE 59.1.**

##### **Disposition of motion for new trial and other post-trial motions.**

No post-judgment motion filed pursuant to Rules 50, 52, 55, or 59 shall remain pending in the trial court for more than ninety (90) days, unless with the express consent of all the parties, which consent shall appear of record, or unless extended by the appellate court to which an appeal of the judgment would lie, and such time may be further extended for good cause shown. A failure by the trial court to render an order disposing of any pending post-judgment motion within the time permitted hereunder, or any extension thereof, shall constitute a denial of such motion as of the date of the expiration of the period.

(dc) *District court rule.* Rule 59.1 applies in the district courts except that the time period of ninety (90) days is reduced to fourteen (14) days unless within that time an order extends the period, for good cause shown, for not more than an additional fourteen (14) days.

[Amended 1-23-84, eff. 3-1-84; Amended eff. 10-1-95; Amended eff. 10-24-2008.]

##### **Committee Comments on 1973 Adoption**

Rule 59.1 arose from a suggestion transmitted to the Supreme Court of Alabama by the Advisory Committee on Appellate Practice and Procedure. This Rule is designed to remedy any inequities arising from failure of the trial court to dispose of post-trial motions for unduly long periods. Note, however, that the period prescribed by Rule 59.1 may be extended by the appellate court to which an appeal of the judgment would lie.

##### **Committee Comments to Amendment Effective March 1, 1984**

The amendment of March 1, 1984, added the reference to Rule 55, and substituted the word "post-judgment" for the word "post-trial," in recognition of the fact that motions pursuant to Rules 50, 52, 55, and 59 will all be "post-judgment," whereas Rule 55 motions will not be "post-trial." This amendment expressly places motions to set aside default judgments under Rule 55(c) within this rule's policy of automatic denial after 90 days. Prior to a companion amendment to Rule 55(c), judicial action within the 30-day period following the default judgment

was a prerequisite to relief under that rule. Rule 55(c) as amended allows the trial court to act beyond the 30 days upon a motion to set aside a default judgment, so long as the motion was filed within the 30 days, but subject to automatic denial after 90 days.

**Committee Comments to October 1, 1995,  
Amendment to Rule 59**

The amendment is technical. No substantive change is intended.

**Committee Comments to Amendment to Rule 59.1  
Effective October 24, 2008**

In *Ex parte Chamblee*, 899 So. 2d 244, 248 (Ala. 2004), the Court "reaffirm[ed] that for purposes of Rule 59.1 a trial judge 'disposes of' a pending post-judgment motion only by properly entering a ruling either denying or granting the motion." In 2006 the Committee proposed, and the Supreme Court adopted, an amendment to Rule 58(c) providing that electronic input into the State Judicial Information System constitutes "entry." The Committee noted that the elimination of handwritten entries of judgments prevents judges from personally making such entries on the docket sheet or the case-action summary and to that extent "reinstates the distinction between the substantive, judicial act of rendering a judgment and the procedural, ministerial act of entering a judgment." Committee Comments to Amendment to Rule 58 Effective September 19, 2006. This distinction also applies to Rule 59.1 if a judge renders an order granting a post-judgment motion before the 90th day but the clerk does not electronically enter the order until after the 90th day. Thus, the Committee, at the request of the Court, has proposed this amendment to Rule 59.1 to cause the timely rendering of an order to be effective to prevent the automatic denial by expiration of time, but retaining the requirement that the order must still be entered for other purposes of these Rules, such as the running of the time for an appeal pursuant to Rule 4, Ala. R. App. P. The Committee notes that with the rapid progression of electronic filing, many judges personally enter orders and judgments in the electronic system. This practice constitutes simultaneous rendition and entry and thereby avoids the problem that this amendment addresses.

The 14-day period of pendency in the district court for post-judgment motions filed under Rules 50, 52, 55 or 59 under the previous Rule 59.1 made it difficult to schedule and notice evidentiary hearings in some cases. The amendment to the (dc) provision allows the court to extend this time by order showing good cause. Such extension by the court cannot exceed an additional 14 days. At the end of that period the motion is denied by operation of the rule if an order disposing of the motion has not been rendered by the judge. This amendment does not affect extensions of pendency by agreement of the parties

as provided in the rule, nor is it intended to supersede any provision of the Alabama Rules of Juvenile Procedure.

### **District Court Committee Comments**

Consistent with the reduction of time frame generally applicable throughout the modifications to the rules for District Court practice, the automatic denials of post-trial motions has been reduced to 14 days. This rule is particularly effective when applied in conjunction with Rule 62(dc) and its provision for an automatic stay of execution during the pendency of the post-trial motion.

**Note from the reporter of decisions:** The order amending effective October 24, 2008, Rule 3, Rule 4, Rule 5, Rule 6, Rule 11, Rule 55, Rule 58, Rule 59.1, Rule 77, and Rule 79, and adopting effective October 24, 2008, the Committee Comments to Amendment to Rule 3(b) Effective October 24, 2008; Committee Comments to Amendments to Rule 4 Effective October 24, 2008; Committee Comments to Amendments to Rule 5 Effective October 24, 2008; Committee Comments to Amendments to Rule 6 Effective October 24, 2008; Committee Comments to Amendment to Rule 11 Effective October 24, 2008; Committee Comments to Amendment to Rule 55(a) Effective October 24, 2008; Committee Comments to Amendments to Rule 58 Effective October 24, 2008; Committee Comments to Amendment to Rule 59.1 Effective October 24, 2008; Committee Comments to Amendments to Rule 77(d) Effective October 24, 2008; and the Committee Comments to Addition of Rule 79(e) Effective October 24, 2008, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So. 2d.