

1 **1-060. Relief from judgment or order.**

2 A. **Clerical mistakes.** Clerical mistakes and errors in judgments, orders, or parts of
3 the record [~~and errors therein~~] arising from oversight or omission may be corrected by the court at
4 any time of its own initiative or on the motion of any party and after such notice, if any, as the
5 court orders. During the pendency of an appeal, these mistakes may be so corrected before the
6 appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so
7 corrected with leave of the appellate court.

8 B. **Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud,**
9 **etc.** On motion and on such terms as are just, the court may relieve a party or the party's legal
10 representative from a final judgment, order, or proceeding for the following reasons:

11 (1) mistake, inadvertence, surprise, or excusable neglect;

12 (2) newly discovered evidence which by due diligence could not have been
13 discovered in time to move for a new trial under Rule 1-059 NMRA;

14 (3) fraud (whether heretofore denominated intrinsic or extrinsic),
15 misrepresentation, or other misconduct of an adverse party;

16 (4) the judgment is void;

17 (5) the judgment has been satisfied, released, or discharged, or a prior judgment
18 on which it is based has been reversed or otherwise vacated, or it is no longer equitable that the
19 judgment should have prospective application; or

20 (6) any other reason justifying relief from the operation of the judgment,
21 including failure of a party who was subject to the provisions of Rule 1-009(J) NMRA to comply
22 with [~~Rule 1-009(J)(2)~~] Rules 1-009(J)(1) and 1-017(E) NMRA, and to substantially comply with
23 Form 4-226 NMRA, or to comply with Rule 1-009(J)(2) and 1-017(E), and to substantially comply

1 with Form 4-226A. The motion shall be made within a reasonable time, and for reasons (1), (2),
2 and (3) not more than one (1) year after the judgment, order, or proceeding was entered or taken.
3 A motion under this paragraph does not affect the finality of a judgment or suspend its operation.
4 This rule does not limit the power of a court to entertain an independent action to relieve a party
5 from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs
6 of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of
7 review, are abolished, and the proceeding for obtaining any relief from a judgment shall be by
8 motion as prescribed in these rules or by an independent action.

9 [As amended by Supreme Court Order No. 13-8300-032, effective in all cases pending or filed on
10 or after December 31, 2013; as amended by Supreme Court Order No. 16-8300-031, effective for
11 all cases pending or filed on or after July 1, 2017; as amended by Supreme Court Order No. S-1-
12 RCR-2025-00174, effective for all cases pending or filed on or after December 31, 2025.]

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14 _____ **Committee commentary.** — Under Rule 12-201(D)(4) NMRA, a timely filed notice of
15 appeal does not divest the district court of jurisdiction to dispose of any timely filed motion under
16 Rules 1-050, 1-052, or 1-059 NMRA, or a Rule 1-060 NMRA motion filed within thirty (30) days
17 after the filing of a judgment. The notice of appeal becomes effective when the last such motion
18 is disposed of expressly by an order of the district court, is automatically denied, or is withdrawn.

19 **2016 amendment**

20 _____ *Deutsche Bank Nat'l Trust Co. v. Johnston*, 2016-NMSC-013, ¶ 34, 369 P.3d
21 1046 provides that a judgment “is not *voidable* under Rule 1-060(B) [NMRA] due to a lack of
22 prudential standing.” (Emphasis added). The amendment to Rule 1-060(B)(6) provides a ground

1 for relief in consumer debt litigation separate from the relief from voidable judgments under Rule
2 1-060(B)(4).

3 _____ Rule 1-060(B)(6) now provides that non-compliance with the requirements of Rule 1-
4 009(J)(2) NMRA or Rule 1-017(E) NMRA or the failure to have substantially complied with
5 Form 4-226 NMRA can provide a basis for granting relief from a judgment entered in a case
6 controlled by Rule 1-009(J). The addition of this language provides a ground for relief but does
7 not compel the district court to grant relief in every case in which the movant shows non-
8 compliance with these consumer debt provisions. In addition to the requirement of Rule 1-
9 060(B)(6) that the movant file the motion within a reasonable time, the movant must also
10 demonstrate that it has a meritorious defense. *See Rodriguez v. Conant*, 1987-NMSC-040, ¶
11 18, 105 N.M. 746, 737 P.2d 527. When these requirements are met, the court may exercise
12 discretion to determine whether intervening equities or other considerations outweigh the desire
13 “that the ultimate result will address the true merits and substantial justice will be done.” *Phelps*
14 *Dodge Corp. v. Guerra*, 1978-NMSC-053, ¶¶ 15, 20, 21, 92 N.M. 47, 582 P.2d 819.

15 _____ In contrast, a Rule 1-060(B)(4) motion to void the judgment can be brought at any time,
16 does not permit the trial court to exercise discretion to deny the motion, *Classen v. Classen*, 1995-
17 NMCA-022, ¶¶ 10, 13, 119 N.M. 582, 893 P.2d 478, and does not require proof of a meritorious
18 defense. *Peralta v. Heights Med. Ctr., Inc.*, 485 U.S. 80, 86-87, 108 S. Ct. 896, 900, 99 L. Ed. 2d
19 75 (1988).

20 **2025 amendment**

21 In 2016, the Supreme Court amended Rule 1-009 NMRA, by adding Rule 1-009(J) NMRA,
22 which provides a pleading rule that applies to “consumer debt” claims including actions seeking
23 to recover for “medical bills.” In 2025, the Supreme Court amended Rule 1-009(J) NMRA,

1 modifying the pleading rules that apply to consumer debt claims and creating a separate pleading
2 rule for collection actions pursuing “medical debt” as defined in the Patients’ Debt Collection
3 Protection Act, NMSA 1978, Section 57-32-2(I) (2021).
4 [~~As amended by Supreme Court Order No. 13-8300-032[, effective in all cases pending or filed~~
5 ~~on or after December 31, 2013]~~; as amended by Supreme Court Order No. 16-8300-031[, ~~effective~~
6 ~~for all cases pending or filed on or after July 1, 2017]~~; as amended by Supreme Court Order No.
7 S-1-RCR-2025-00174.]