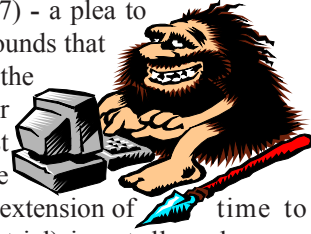


Motions and petitions for the losing party

1. Motion for reconsideration (Rule 37) - a plea to change or modify the decision upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the judgment or final order, or that it is contrary to law. This must be filed within fifteen days after notice to the losing party of the judgment. A motion for extension of time to file a motion for reconsideration (or new trial) is not allowed.



2. Motion for new trial (Rule 37) - a move to set aside the judgment and grant a new trial for one or more of the following causes:

(a) fraud, accident, mistake or excusable negligence (also known as FAME) which ordinary prudence could not have guarded against and which may have impaired the substantial rights of the aggrieved party; (b) newly discovered evidence which the losing party could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result. Affidavits of merits are required for the first ground. The motion for new trial must be filed within fifteen days from notice of judgment.



3. Petition for relief from judgment (Rule 38) - the remedy when a party to a judgment that has become final and executory (or any other proceeding) has been prevented from making an appeal or has been deprived of a hearing as a result of fraud, accident, mistake or excusable neglect. This must be filed in the same court within sixty days after the party learns of the decision but not more than six months after the judgment has been entered. A preliminary injunction pending proceedings may be granted.

4. Annulment of judgments, final orders and resolutions (Rule 47) - exercised by the CA over the RTCs, or the RTC over MTCs, when new trial, appeal, petition for relief, etc. are no longer available through no fault of the petitioner. This is based only on extrinsic fraud and lack of jurisdiction, and must be filed within four years from discovery of the fraud, or before it is barred by laches or estoppel.

The losing party may choose to file an appeal, from the MTC to RTC Rule 40, and from RTC to CA, Rule 41, 42



5. Special civil action for certiorari (Rule 65) - plea to a higher court to nullify a lower court's decision on the ground that the lower court acted (a) without jurisdiction; (b) in excess of its jurisdiction; (c) with grave abuse of discretion. This is resorted to when there is no other speedy, adequate, or applicable remedy in the ordinary course of law, and must be filed within sixty days from receipt of the judgment of the lower court.