

**\*\*\*These forms are not a substitute for legal advice.\*\*\***

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*By law, no member of the Law Library staff may give any patron legal advice.*

Accordingly, staff may not interpret legal materials for patrons, advise them as to how the law might apply to their particular situation, or assist them in preparing and filling out legal forms of any kind. Staff can provide patrons legal assistance by directing them to topical print materials, sections, and subject headings that might be helpful in answering a particular question.

**PROCEDURES FOR FILING MOTION FOR NEW TRIAL**

**\*\*Note:** *If the Motion for New Trial is denied and you wish to file an appeal, you may get the paperwork for filing an appeal from the Law Library. Just ask the librarian.*

This form packet contains these steps to follow:

1. Motion for New Trial
2. Movant's Supporting Affidavit
3. Order Setting Hearing Date/Certificate of Service
4. Order on Motion for New Trial

**Steps to Follow:**

1. **Prepare the [Motion for New Trial](#)**, using the forms as a format to follow deleting that which does not apply and adding that which does apply. When filling out these forms, you are the Movant. Use the case number and court number from your original suit. *It is perfectly all right to hand-write the forms.*
2. **Complete the [Movant's Supporting Affidavit](#)**. Sign it in front of a Notary Public. DO NOT sign the Affidavit UNTIL you are in front of the Notary.
3. **Make two additional copies of the Motion and Affidavit to take with you when you file.**
4. **File the Motion for New Trial** along with the Affidavit with the Clerk of the Court in which the original trial took place. Give the [Order Setting Hearing Date](#) to the Clerk and they will arrange to have a hearing date set for you.
5. **You must notify each party** in the case no less than *three* days before the time specified for the hearing. You may do this by sending a filed copy of the Motion for New Trial and Order Setting Hearing Date to each other party via certified mail, return receipt requested, or by personally delivering a copy of the filed Motion and Order Setting Hearing Date to each other party.
6. **Once you have given each other party notice**, complete the [Certificate of Service](#) form and file it with the Clerk of the Court in which the original trial took place.
7. **Prepare the [Order on Motion for New Trial](#)**. Make two additional copies of the Order. Bring it with you when you go to the hearing for the judge to sign.

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Case No. \_\_\_\_\_

_____, <b>Plaintiff</b> v. _____, <b>Defendant</b>	<b>In the _____ Court</b>  <b>Collin County, Texas</b>
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**MOTION FOR NEW TRIAL**

\_\_\_\_\_ [movant's name],  
\_Petitioner\_\_\_\_\_ [Petitioner *OR* Respondent], moves this Court to set aside the judgment rendered against \_\_\_\_\_ [him/her] on \_\_\_\_\_ [date], and grant \_\_\_\_\_ [him/her] a new trial in this cause.

**I.**

This Motion is presented within the time limits prescribed by the Texas Rules of Civil Procedure for a Motion for New Trial and is requested for good cause.

**II.**

[State the facts supporting the above.]

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**III.**

Movant's failure to file an answer before judgment was the result of an accident and or mistake, rather than due to an intentional act or the result of conscious indifference.

The accident or mistake that prevented Movant from filing an answer is:

[Describe accident or mistake.]

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**IV.**

Movant has a meritorious defense as to the full amount of the judgment. Movant's meritorious defense is:

[Describe defense.]

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[Select the following, if applicable, by placing a check mark.]

\_\_\_\_\_ In support of the allegations set forth in this motion, Movant would direct the Court's attention to the Affidavit(s) of \_\_\_\_\_ [name(s) of affiant(s) making affidavit(s)] attached to this motion and incorporated by reference.

**V.**

The granting of a new trial will not prejudice the other parties to this cause.

Movant is ready, able and willing to go to trial immediately and no delay, harm, or prejudice will occur to the other parties as a result of Movant's motion.

Movant, \_\_\_\_\_ [movant's name], prays that after notice and hearing the judgment rendered in this cause be set aside and that Movant be granted a new trial.

Respectfully submitted,

\_\_\_\_\_  
[Movant's signature]

\_\_\_\_\_  
[Typed or printed name]

\_\_\_\_\_

\_\_\_\_\_  
[Address & telephone no.]

Case No. \_\_\_\_\_

\_\_\_\_\_,  
**Plaintiff**  
v.  
\_\_\_\_\_,  
**Defendant**

| **In the \_\_\_\_\_ Court**  
|  
| **Collin County, Texas**  
|

**MOVANT’S SUPPORTING AFFIDAVIT**

State of Texas  
County of Collin

Before me, a notary public in and for Collin County, Texas, on this day personally appeared \_\_\_\_\_ [movant’s name], to me well known to be a credible person of lawful age and qualified in all respects to make this Affidavit, who being first sworn on oath, stated that \_\_\_\_\_ [he/she] is the \_\_\_\_\_ [Plaintiff *OR* Defendant] in the foregoing Motion for New Trial and that \_\_\_\_\_ [he/she] has read the foregoing Motion and that this Motion for New Trial is in every statement and allegation thereof, true and correct to \_\_\_\_\_ [his/her] own personal knowledge.

\_\_\_\_\_  
[Movant’s signature]  
\_\_\_\_\_  
[Typed or printed name]

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_ [date] by  
\_\_\_\_\_ [movant’s name].

\_\_\_\_\_  
[Signature of Notary Public]  
\_\_\_\_\_  
[Typed or printed name]  
Notary Public in and for the State of Texas  
My commission expires: \_\_\_\_\_

Case No. \_\_\_\_\_

_____, <b>Plaintiff</b> v. _____, <b>Defendant</b>	<b>In the _____ Court</b>  <b>Collin County, Texas</b>
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**ORDER SETTING HEARING DATE**

IT IS ORDERED that the hearing on the Motion for New Trial be set for \_\_\_\_\_ o'clock on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the courtroom of the \_\_\_\_\_ [name & designation of court] Court, in the County of Collin in McKinney, Texas.

SIGNED this the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
JUDGE PRESIDING

**CERTIFICATE OF SERVICE**

I certify that a true copy of the above Motion and Order Setting Hearing Date has this day been:

- \_\_\_\_\_ delivered in person
- \_\_\_\_\_ delivered by courier with receipted delivery
- \_\_\_\_\_ sent by certified mail, return receipt requested

To:  
\_\_\_\_\_  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Typed or Printed Name]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[Address and Telephone No.]

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Case No. \_\_\_\_\_

_____, <b>Plaintiff</b> v. _____, <b>Defendant</b>		<b>In the _____ Court</b>  <b>Collin County, Texas</b>
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**ORDER ON MOTION FOR NEW TRIAL**

On \_\_\_\_\_ [date], the Court heard the motion for new trial duly filed on \_\_\_\_\_ [date] by \_\_\_\_\_ [movant's name], the \_\_\_\_\_ [Petitioner *OR* Respondent], in the above-entitled and numbered cause.

The motion was duly presented to the Court, and the Court is of the opinion that the motion should be:

*[Select one of the following by placing a check mark.]*

\_\_\_\_\_ granted.

\_\_\_\_\_ overruled.

IT IS THEREFORE ORDERED that the motion for new trial filed by \_\_\_\_\_ [movant's name] is:

*[Select one of the following by placing a check mark.]*

\_\_\_\_\_ granted.

\_\_\_\_\_ overruled.

and that a new trial is:

*[Select one of the following by placing a check mark.]*

\_\_\_\_\_ granted.

\_\_\_\_\_ denied.

SIGNED on \_\_\_\_\_ [date].

\_\_\_\_\_  
JUDGE PRESIDING