

## **RULE 3:20. New Trial**

### **3:20-1. Trial by Court or Jury**

The trial judge on defendant's motion may grant the defendant a new trial if required in the interest of justice. If trial was by the judge without a jury, the judge may, on defendant's motion for a new trial, vacate the judgment if entered, take additional testimony and direct the entry of a new judgment. The trial judge shall not, however, set aside the verdict of the jury as against the weight of the evidence unless, having given due regard to the opportunity of the jury to pass upon the credibility of the witnesses, it clearly and convincingly appears that there was a manifest denial of justice under the law.

**Note:** Source-R.R. 3:7-11(a) (first and second sentences), 3:7-11(b); amended July 13, 1994 to be effective September 1, 1994.

### **3:20-2. Time for Making Motion**

A motion for a new trial based on the ground of newly-discovered evidence may be made at any time, but if an appeal is pending, the court may grant the motion only on remand of the case. A motion for a new trial based on a claim that the defendant did not waive his or her appearance for trial shall be made prior to sentencing. A motion for a new trial based on any other ground shall be made within 10 days after the verdict or finding of guilty, or within such further time as the court fixes during the 10-day period.

**Note:** Source-R.R. 3:7-11(a) (third and fourth sentences); amended July 14, 1992, to be effective September 1, 1992.