

## **RULE 4:40. Motion For Judgment**

### **4:40-1. Motion for Judgment at Trial**

A motion for judgment, stating specifically the grounds therefor, may be made by a party either at the close of all the evidence or at the close of the evidence offered by an opponent. If the motion is made prior to the close of all the evidence and is denied, the moving party may then offer evidence without having reserved the right to do so. A motion for judgment which is denied is not a waiver of trial by jury even if all parties to the action have so moved.

**Note:** Source-R.R. 4:51-1.

### **4:40-2. Reservation of Decision on Motion; Motion for Judgment Notwithstanding the Verdict**

- **(a) Reservation of Decision.** The court may reserve decision on a motion for judgment made at the close of all the evidence, submit the case to the jury and then decide the motion either before or within 10 days after the verdict, or if no verdict is returned, within 10 days after the jury's discharge. The court may enter judgment in accordance with the motion or in the interest of justice order a new trial.
- **(b) Renewal of Motion.** If a motion for judgment is denied and the case submitted to the jury, the motion may be renewed in accordance with the procedure prescribed by R. 4:49-1 (new trial) within 20 days after the verdict or the jury's discharge. A motion so renewed may include in the alternative a motion for a new trial, and every motion made by a party for a new trial shall be deemed to include, in the alternative, a renewal of any motion for judgment made by that party at the close of the evidence. If the motion is granted on renewal thereof, the court shall nevertheless rule on the motion for a new trial determining whether it should be granted if the judgment is thereafter reversed or vacated. Briefs shall be submitted with the renewal of the motion for judgment. Failure to renew the motion shall not preclude appellate review of the denial of the motion made at trial.
- **(c) Motion of Party Aggrieved by Setting Aside.** Within 20 days after service of an order setting aside a verdict or judgment under this rule, the party thereby aggrieved may move for a new trial or renew a motion for judgment.

**Note:** Source-R.R. 4:51-2(a)(b)(c)(d)(e); paragraphs (b) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraphs (b) and (c) amended July 5, 2000 to be effective September 5, 2000.