

NY CLS CPLR, Art. 44

Current through 2025 released Chapters 1-207

New York

Consolidated Laws Service >
Civil Practice Law And Rules (Arts. 1 — 100) >
Article 44 Trial Motions (§§ 4401 — 4406)

Article 44 Trial Motions

History

Add, L 1962, ch 308, eff Sept 1, 1963.

Annotations

Notes

Advisory Committee Notes:

This article covers motions made during a trial and those relating to the trial made shortly thereafter. Rules 4401 and 4402 govern motions made during trial to dismiss the complaint, for a nonsuit, for a directed verdict, for judgment in a trial before the court or a referee, for judgment based on admissions or opening statements, and for a mistrial. Some of these motions are made at the close of all of the evidence. Rules 4403 and 4404 govern motions made after the trial—for a new trial, to confirm a referee's report or based upon an advisory verdict, and for judgment notwithstanding the verdict or decision.

The motions for new trial and judgment notwithstanding the verdict or decision are combined in rule 4404. Its object is to provide a single motion, in addition to oral motions at the trial, whereby each party may be granted all of the relief to which he is entitled. To that end, whether or not the

parties seek alternative relief, the court is required to indicate whether a new trial is warranted should judgment be reversed on appeal.

This article also eliminates present duplication in motions for a new trial. The motion at Special Term and the motion in the first instance in the appellate court have been omitted and only the motion before the trial judge retained. However, article 50 contains provisions for relief from a judgment based upon such matters as fraud or newly-discovered evidence.

Research References & Practice Aids

Cross References:

This article referred to in §§ 2213., 4318., Rules 4405., 4406.; CLS Gen Mun § 712.

Jurisprudences:

6 NY Jur 2d Article 78 and Related Proceedings § 225. .

6A NY Jur 2d Article 78 and Related Proceedings § 322. .

New York Consolidated Laws Service

Copyright © 2025 All rights reserved.