

**Chapter 4.76 RCW  
NEW TRIALS**

**Sections**

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**RCW 4.76.010 New trial defined.** A new trial is a reexamination of an issue in the same court after a trial and decision by a jury, court or referees. [Code 1881 s 275; 1877 p 56 s 279; 1869 p 67 s 277; 1854 p 170 s 215; RRS s 398.]

**RCW 4.76.030 Increase or reduction of verdict as alternative to new trial.** If the trial court shall, upon a motion for new trial, find the damages awarded by a jury to be so excessive or inadequate as unmistakably to indicate that the amount thereof must have been the result of passion or prejudice, the trial court may order a new trial or may enter an order providing for a new trial unless the party adversely affected shall consent to a reduction or increase of such verdict, and if such party shall file such consent and the opposite party shall thereafter appeal from the judgment entered, the party who shall have filed such consent shall not be bound thereby, but upon such appeal the court of appeals or the supreme court shall, without the necessity of a formal cross-appeal, review de novo the action of the trial court in requiring such reduction or increase, and there shall be a presumption that the amount of damages awarded by the verdict of the jury was correct and such amount shall prevail, unless the court of appeals or the supreme court shall find from the record that the damages awarded in such verdict by the jury were so excessive or so inadequate as unmistakably to indicate that the amount of the verdict must have been the result of passion or prejudice. [1971 c 81 s 19; 1933 c 138 s 2; RRS s 399-1.]

**Severability—1933 c 138:** "Adjudication of invalidity of any of the sections of this act, or any part of any section, shall not impair or otherwise affect the validity of any other of said sections or remaining part of any section." [1933 c 138 s 3.]

**RCW 4.76.070 Newly discovered evidence, requirements as to.** If the motion be supported by affidavits and the cause be newly discovered evidence, the affidavits of any witness or witnesses, showing what their testimony will be, shall be produced or good reasons shown for their nonproduction. [1891 c 59 s 2; Code 1881 s 282; 1877 p 57 s 286; 1869 p 68 s 284; 1854 p 170 s 219; RRS s 403.]

**RCW 4.76.080 Petition for new trial when discovery of grounds delayed.** When the grounds for a new trial could not with reasonable diligence have been discovered before, but are discovered after the time when the verdict, report of referee, or decision was rendered or

made, the application may be made by petition filed as in other cases, not later than after the discovery, on which notice shall be served and returned, and the defendant held to appear as in an original action. The facts stated in the petition shall be considered as denied without answer. The case shall be tried as other cases by ordinary proceedings, but no motion shall be filed more than one year after the final judgment was rendered. [1955 c 44 s 1; Code 1881 s 437; 1875 p 21 s 2; RRS s 465.]