

Current Rule

Mass. R. Civ. P. 63 Disability of a Judge

If by reason of death, sickness, resignation, removal, or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may, on assignment by the Chief Justice of such court, or in case of disability of such Chief Justice, by the senior justice present and qualified to act, perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

Revised Rule:

Mass. R. Civ. P. 63 Unavailability of a Judge; Receipt of Verdict

(a) Unavailability. If by reason of death, sickness, resignation, removal, recusal, or other unavailability, a judge before whom a trial has commenced is unable to perform the duties to be performed by the court, then any other judge regularly sitting in or assigned to the court in which the trial was commenced may complete the trial, on assignment by the Chief Justice of such court or the Chief Justice's designee; but if such other judge is satisfied of an inability to perform those duties, the other judge has the discretion to grant a new trial.

(b) Receipt of Verdict. Any judge properly sitting in, appointed to, or assigned to that court may receive a verdict of the jury.

Redline:

Mass. R. Civ. P. 63 ~~Dis~~Unavailability of a Judge; Receipt of Verdict

(a) Unavailability. If by reason of death, sickness, resignation, removal, recusal, or other ~~dis~~unavailability, a judge before whom ~~an action~~ a trial has ~~been tried~~ commenced is unable to perform the duties to be performed by the court ~~under these rules after a verdict is returned or findings of fact and conclusions of law are filed~~, then any other judge regularly sitting in or assigned to the court in which the ~~action~~ trial was ~~tried~~ commenced may complete the trial, on assignment by the Chief Justice of such court; or ~~in case of disability of such the~~ Chief Justice, by the senior justice present and qualified to act, perform those duties Justice's designee; but if such other judge is satisfied ~~that he cannot~~ of an inability to perform those duties ~~because he did not preside at~~, the ~~trial or for any~~ other reason, he may in his judge has the discretion to grant a new trial.

(b) Receipt of Verdict. Any judge properly sitting in, appointed to, or assigned to that court may receive a verdict of the jury.