

# MOTION FOR NEW TRIAL



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The  
Defense  
Perspective



## Motion Requirements

### Prerequisites of Motion

- Must be in writing
- Present reasonable grounds that if true entitle you to relief
- Must be verified under oath (attached to materials at p.18)

## Affidavit

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- Attaching to the motion is **not** sufficient
- Must be sworn to by a person with knowledge of relevant facts
- Must be admitted into evidence (must get a hearing in every case)

## *Garcia v. State*

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Affidavit cannot be attached to motion; trial court could not deny hearing based on possibility that information in affidavit was not based on personal knowledge, affidavits were sufficient to establish prima facie case for new trial.

291 S.W.3d 1 (Tex.App.-Corpus Christi, 2008)

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