

PROPOSED RULE AMENDMENTS FROM THE FAMILY LAW RULES
COMMITTEE REGARDING RULE 12.530

The Family Law Rules Committee invites comments on the proposed rule amendment anticipated to be included in a report to the Court. The full text of the proposal can be found on The Florida Bar's website at www.floridabar.org/rules/ctproc/.

Interested persons have until September 30, 2020, to submit any comments, electronically, to Cory Brandfon, Chair of the Family Law Rules Committee, at cory@harrishunt derr.com, and to the Bar staff liaison Mikalla Davis at midavis@floridabar.org.

Rule 12.530	19-0-0	In subdivision (e), adds a new sentence specifying that a motion for rehearing is not required to preserve the trial court's failure to make statutory findings. This amendment is made in response to <u>Fox v. Fox</u> , 262 So.3d 789 (Fla 4th DCA 2018).
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**RULE 12.530. MOTIONS FOR NEW TRIAL AND REHEARING;
AMENDMENTS OF JUDGMENTS**

(a) **Jury and Non-Jury Actions.** A new trial or rehearing may be granted to all or any of the parties and on all or a part of the issues. On a motion for a rehearing of matters heard without a jury, including summary judgments, the court may open the judgment if one has been entered, take additional testimony, and enter a new judgment.

(b) **Time for Motion.** A motion for new trial or for rehearing must be served not later than 15 days after the return of the verdict in a jury action or the date of filing of the judgment in a non-jury action. A timely motion may be amended to state new grounds in the discretion of the court at any time before the motion is determined.

(c) **Time for Serving Affidavits.** When a motion for a new trial or rehearing is based on affidavits, the affidavits must be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

(d) **On Initiative of Court.** Not later than 15 days after entry of judgment or within the time of ruling on a timely motion for a rehearing or a new trial made by a party, the court of its own initiative may order a rehearing or a new trial for any reason for which it might have granted a rehearing or a new trial on motion of a party.

(e) **When Motion Is Unnecessary; Non-Jury Case.** When an action has been tried by the court without a jury, the sufficiency of the evidence to support the judgment may be raised on appeal whether or not the party raising the question has made any objection to it in the trial court or made a motion for rehearing, for new trial, or to alter or amend the judgment. A motion for rehearing is not required to preserve the trial court's failure to make statutory findings.

(f) **Hearing on Motion.** When any motion for rehearing or new trial is filed, the court must initially make a determination if a hearing on the motion is required. If a hearing is required, the court must provide notice of the hearing on the motion for rehearing or new trial. If the court determines that a hearing is not required, then the court must enter an order granting or denying the motion in accordance with this rule.

(g) Order Granting to Specify Grounds. All orders granting a new trial or rehearing must specify the specific grounds for it. If such an order is appealed and does not state the specific grounds, the appellate court must relinquish its jurisdiction to the trial court for entry of an order specifying the grounds for granting the new trial or a rehearing.

(h) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment must be served not later than 15 days after entry of the judgment, except that this rule does not affect the remedies in rule 12.540(b).