

RULE 1.535 REMITTITUR AND ADDITUR

(a) Within the time provided in rule 1.530 (b), any party may serve a motion for remittitur or additur. The motion shall state the applicable Florida law under which it is being made, the amount the movant contends the verdict should be, and the specific evidence that supports the amount stated or a statement of the improper elements of damages included in the damages award. (b) If a remittitur or additur is granted, the court must state the specific statutory criteria relied on. (c) Any party adversely affected by the order granting remittitur or additur may reject the award and elect a new trial on the issue of damages only by filing a written election within 15 days after the order granting remittitur or additur is filed.

Committee Notes

2019 Adoption. Subdivision (a) defines a “proper motion” as referenced in section 768.74, Florida Statutes. A motion that does not provide for an amount that the movant believes was proven by the evidence at trial is not a proper motion. *Hendry v. Zelaya*, 841 So. 2d 572 (Fla. 3d DCA 2003).

Subdivision (b) is to assist the appellate court in its review of the order granting remittitur or additur. *Moore v. Perry*, 944 So. 2d 1115 (Fla. 5th DCA 2006) (finding the order deficient for lack of specific reasons for granting the order, but finding sufficient support in comments by the court at the hearing). See also *Kovacs v. Venetian Sedan Service, Inc.*, 108 So. 2d 611 (Fla. 3d DCA 1959) (indicating that an order granting remittitur must state the specific reasons for remittitur because it will convert to an order granting new trial if not accepted); *Adams v. Saavedra*, 65 So. 3d 1185 (Fla. 4th DCA 2011).

Subdivision (c) provides for a time limit to exercise the right to elect a new trial established in *Waste Management, Inc. v. Mora*, 940 So. 2d 1105 (Fla. 2006).

