

**SECOND DIVISION
MILLER, P. J.,
MARKLE and LAND, JJ.**

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August 9, 2024

**NOT TO BE OFFICIALLY
REPORTED**

In the Court of Appeals of Georgia

A24A0780. BULL v. BULL.

LAND, Judge.

In this divorce action, we granted appellant Maxine Bull's application for discretionary appeal from the trial court's denial of her motion for new trial. Among her enumerations of error is the claim that the trial court erred in entering an order denying her motion for new trial without holding a hearing on that motion.¹ We agree and therefore vacate the judgment and remand the case for further proceedings consistent with this opinion.

The record shows that Maxine and Joseph Bull were married in 2019 and are the parents to an adult son. In 2021, Joseph filed for divorce. The trial court granted

¹ Appellee Joseph Bull did not file a brief with this Court.

the divorce in June 2023 in an order that, among other things, awarded \$50,000 of the equity in the marital home to Joseph. On July 18, 2023, Maxine filed a motion for new trial. Her motion states that she has “ordered a copy of the transcript of the final hearing and reserves the right to amend her [m]otion at a later date.” Joseph filed a response on August 16, 2023. On August 24, 2023, the trial court summarily denied the motion without a hearing. This Court granted Maxine’s discretionary application..

1. Maxine argues that the trial court erred by failing to conduct a hearing before it denied her motion for new trial. We agree.

“A motion for a new trial is a proper means of seeking a retrial or reexamination, in the same court, of an issue of fact, or of some part or portion thereof, after decision by a jury or a decision by the court thereon.” (Citation and punctuation omitted.) *Kuriatnyk v. Kuriatnyk*, 286 Ga. 589, 591 (2) (690 SE2d 397) (2010). Georgia law is clear that a movant on a motion for new trial is entitled to a hearing on that motion. Uniform Superior Court Rule 6.3 provides: “Unless otherwise ordered by the court, all motions in civil actions, including summary judgment shall be decided by the court without oral argument, *except motions for new trial and motions for judgment notwithstanding the verdict.*” (Emphasis supplied.) See *Barker v. Elrod*, 291

Ga. App. 871, 871 (1) (663 SE2d 289) (2008). Although the record does not contain a request for a hearing filed by Maxine, this rule “does not require a written request for oral argument on a motion for new trial.” (Citation, punctuation omitted.) *Heston v. Lilly*, 242 Ga. App. 902, 902 (1) (531 SE2d 784) (2000). Further, “this Court has consistently refused to find that the failure to hold oral argument is harmless error. To hold otherwise would not encourage adherence to the Uniform Rules and would render the mandated hearing a hollow right.” (Citation and punctuation omitted.) *Garner Plumbing, Inc. v. Slate Constr. Inc.* 300 Ga. App. 656, 656 (1) (686 SE2d 301) (2009).

“Because there is nothing in the record showing that [Maxine] waived or abandoned her right to a hearing, she was entitled to have the motion heard before the trial court ruled on it.” *Wright v. Barnes*, 240 Ga. App. 684, 685 (524 SE2d 758) (1999). See also *Kuriatnyk*, 286 Ga. at 592 (2) (remanding trial court’s order denying motion for new trial in divorce proceeding for failure to hold a hearing on the motion). We therefore vacate the trial court’s order denying Maxine’s motion for a new trial and remand this case to the trial court for a hearing on this motion.

2. In light of our holding above, we do not reach the remaining “enumerations of error addressing the merits of the trial court’s ruling on the motion for new trial, as the issues raised thereby must be asserted in the trial court on remand.” See *Kuriatnyk*, 286 Ga. at 592 (2); *Wright*, 240 Ga. App. at 684.

Judgment vacated and case remanded. Miller, P. J., and Markle, J., concur.