

Proposed Amendments to Rule 52

Rule 52 is amended as follows:

Rule 52. Findings **and Conclusions** by the Court; Judgment on Partial Findings

(a) ~~Effect~~ **Findings and Conclusions**. ~~In all actions~~

(1) **In General.** In an action tried ~~upon~~ **on** the facts without a jury or with an advisory jury, the court ~~shall~~ **must** find the facts specially and state ~~separately~~ its conclusions of law thereon, ~~and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review.~~ **separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered under Rule 58.**

(2) **For an Interlocutory Injunction.** In granting or refusing an interlocutory injunction, the court must similarly state the findings and conclusions that support its action.

(3) **[Reserved.]**

(4) **Effect of a Master's Findings.** A master's findings, to the extent adopted by the court, must be considered the court's findings.

(5) **Questioning the Evidentiary Support.** A party may later question the sufficiency of the evidence supporting the findings, whether or not the

party requested findings, objected to them, moved to amend them, or moved for partial findings.

(6) Setting Aside the Findings. Findings of fact, whether based on oral or documentary ~~other~~ evidence, shall ~~shall~~ **must** not be set aside unless clearly erroneous, and **the reviewing court must give** due regard ~~shall be given to~~ **to this court's** opportunity of this court to judge the **witnesses'** credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court.

(b) Amendment. Upon motion of a party, Amended or upon its own motion, made ~~not~~ **Additional Findings. On a party's motion, or on its own, filed no** later than 30 days after the date of entry of the judgment, the court may amend its findings--or make additional findings--and may amend the judgment accordingly. The motion may be made ~~with~~ **accompany** a motion for a new trial pursuant to ~~under~~ Rule 59. ~~When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made an objection in this court to such findings or has made a motion to amend them or a motion for judgment.~~

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; June 19, 1985, eff. Oct. 1, 1985; Sept. 25, 1992, eff. Jan. 1, 1993; Oct. 5, 1994, eff. Jan. 1, 1995; _____, 2009, eff. _____, 2010.)

Advisory Committee Note

The language of Rule 52 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.