

### **Rule 53. Masters**

(a) Appointment. There shall be a standing officer of the Court to be known as the Auditor-Master. In lieu of or in addition to reference to the Auditor-Master, the Court may appoint a special master in any pending action. As used in these Rules the word "master" includes the Auditor-Master and a special master.

(b) Reference. Upon motion or of its own initiative, the Court may refer a matter to a master. Except in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it.

(c) Powers. The order of reference to the master may specify or limit the master's powers and may direct the master to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production before the master of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in SCR-Dom Rel 43(c).

(d) Proceedings.

(1) Meetings. When a reference is made, the Clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the Court for an order requiring the master to speed the proceedings and to make the report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) Witnesses. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in SCR-Dom Rel 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in SCR-Dom Rel 37 and 45.

(3) Statement of accounts. When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items

thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as the master directs.

(e) Report.

(1) Contents and filing. The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the Clerk of the Court and serve on all parties notice of the filing. Unless otherwise directed by the order of reference, the master shall file with the report a transcript of the proceedings and of the evidence and the original exhibits. Unless otherwise directed by the order of reference, the master shall serve a copy of the report on each party.

(2) Objections. The Court shall accept the master's findings of fact unless clearly erroneous. Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the Court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in SCR-Dom Rel 7(d). The Court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(3) Stipulation as to findings. The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(4) Draft report. Before filing the master's report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

(f) Fees and compensation. Fees, if any, for work performed by the Auditor-Master and compensation to be allowed to a special master shall be fixed by the Court. Fees for work performed by the Auditor-Master shall bear a reasonable relation to the value of the services rendered. However, the Court, if appropriate, may order that a party or parties shall be charged no fee or only a reduced fee for work performed by the Auditor-Master. Fees and compensation may be charged to such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the Court, as the Court may direct. The special master shall not retain the master's report as security for the master's compensation; but when the party ordered to pay the compensation allowed by the Court does not pay it after notice and within the time prescribed by the Court, the special master is entitled to a writ of execution against the delinquent party.

(g) Deposit for expenses. A master may require the deposit of funds sufficient to defray the expenses of a reference, including a stenographic report of the testimony.

(h) Custody of exhibits. If no appeal is perfected, each party shall retake its exhibits from the master 30 days after the date of final disposition of the case in this Court. If an appeal is perfected, each party shall retake its exhibits from the master 30 days after final disposition of the case by the appellate court. If any party fails to retake its exhibits in accordance with this paragraph, the master may destroy or otherwise dispose of those exhibits.