

## **Rule 53. Masters**

### **(a) In General.**

(1) **Nomenclature.** As used in these rules the word “master” includes a master, referee, auditor, examiner, and assessor.

(2) **Scope.** Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties;

(B) address pretrial or posttrial matters that cannot be effectively and timely addressed by an available judge; or

(C) in actions or on issues to be decided without a jury, hold trial proceedings and recommend findings of fact, conclusions of law, and a judgment if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages.

(3) **Possible Expense or Delay.** In appointing a master, the court must consider the fairness of imposing the likely expenses on the parties and must protect against unreasonable expense or delay.

### **(b) Appointing a Master.**

(1) **Stipulation.** By stipulation approved by the court, the parties may agree to have a master appointed. The stipulation may specify how the master’s findings of fact will be reviewed or whether the findings will be final and not reviewable.

(2) **Motion.** Any party may move to have a master appointed, or the court may issue an order to show cause why a master should not be appointed.

(3) **Objections.** Any party may object to a master’s appointment on one or more of the following grounds:

(A) a want of any of the qualifications prescribed by statute to render a person competent as a juror;

(B) consanguinity or affinity within the third degree to either party;

(C) standing in the relation of guardian and ward, master and servant, employer and clerk, or principal and agent to either party, or being a member of the family of either party, or a partner in business with either party, or being security on any bond or obligation for either party;

(D) having served as a juror or been a witness on any trial between the same parties for the same cause of action, or being then a witness in the cause;

(E) interest on the part of such person in the event of the action, or in the main question involved in the action;

(F) having formed or expressed an unqualified opinion or belief as to the merits of the actions; or

(G) the existence of a state of mind in such person evincing enmity against or bias to either party.

**(4) Disqualification.**

(A) A master must file with the court an affidavit disclosing whether there is any ground for his or her disqualification under Rule 2.11 of the Revised Nevada Code of Judicial Conduct.

(B) If a ground is disclosed, the master must be disqualified unless the parties, with the court's approval, waive the master's disqualification.

**(c) Order Appointing a Master.**

**(1) Mandatory Provisions.** The appointing order must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(d);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the method of filing the record, other procedures, and any criteria for the master's findings and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

**(2) Optional Provisions.** The appointing order may:

(A) direct the master to report only upon particular issues or to perform particular acts;

(C) direct the master to receive and report evidence only;

(D) specify the time and place for beginning and closing the hearings; and

(E) specify the time in which the master must file his report and recommendations.

**(3) Service on the Master.** Unless otherwise ordered by the court, the moving party must serve the appointment order on the master.

**(4) Amending.** The order may be amended at any time after notice to the parties and an opportunity to be heard.

**(d) Master's Authority.**

**(1) In General.**

(A) Unless the appointing order directs otherwise, a master may:

(i) regulate all proceedings;

(ii) take all appropriate measures to perform the assigned duties fairly and efficiently; and

(iii) exercise the appointing court's power to compel, take, and record evidence, including the issuance of subpoenas as provided in Rule 45.

(B) When a party requests, a master must make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43(c) and statutes for a court sitting without a jury.

**(2) Diligence.**

(A) The master must proceed with all reasonable diligence.

(B) The master must set a time and place for the first meeting of the parties or their attorneys to be held within 21 days after the date of the order appointing the master and must notify the parties or their attorneys.

(C) If a party fails to appear at the appointed time and place, the master may proceed ex parte or adjourn the proceedings to a future day, giving notice to the absent party.

(D) 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 a report.

**(3) Statement of Accounts.**

(A) When matters of accounting are before a master, the master may:

(i) prescribe the form in which the accounts must be submitted; or

(ii) require or receive in evidence a statement by a certified public accountant who is called as a witness.

(B) Upon objection to the items submitted or a showing that the form insufficient, the master may:

(i) require a different form of statement to be furnished; or

(ii) hold an evidentiary hearing and receive evidence concerning the accounts; or

(iii) require written interrogatories; or

(iv) receive evidence concerning the accounts in any other manner that the master directs.

**(e) Masters' Reports and Recommendations.**

(1) **In General.** Unless ordered otherwise, a master must:

(A) prepare a report and recommendations upon the matters submitted to the master in accordance with the appointing order;

(B) if required to make findings of fact and conclusions of law, set them forth in the report and recommendation;

(C) promptly file the report and recommendation;

(D) file with the report and recommendation the original exhibits and a transcript of the proceedings and evidence; and

(E) serve a copy of the report and recommendation on each party.

(2) **Sanctions.** The master's report and recommendations may recommend sanctions on a party or a nonparty under the applicable rules.

(3) **Draft Report.** Before filing a report and recommendations, a master may submit a draft to counsel for all parties to obtain their suggestions.

**(f) Action on the Master's Order, Report, or Recommendations.**

(1) **Time to Object or Move to Adopt or Modify.**

(A) A party may file and serve objections to—or a motion to adopt or modify—the master's report and recommendations no later than 14 days after the report is served.

(B) If objections are filed, any other party may file and serve a reply within 7 days after being served with the objections.

(C) If no party files objections or a motion, the court may adopt the master's report and recommendations without a hearing.

(D) The court may set different times to move, object, or respond.

(2) **Court Review.**

(A) Unless the parties have otherwise stipulated under Rule 53(b)(1), upon receipt of a master's report and any motions, objections, and replies, the court may:

(i) adopt, reverse, or modify the master's ruling without a hearing;

(ii) set the matter for a hearing; or

(iii) remand the matter to the master for reconsideration or further action.

(B) If the parties have stipulated how a master's findings of fact should be reviewed or that the findings should be final, the court must apply the parties' stipulation to the findings of fact.

**(g) Compensation.**

**(1) Basis and Terms of Compensation.** The basis and terms of a master's compensation must be fixed by the court in the appointing order and must be paid either:

(A) by a party or parties; or

(B) from a fund or subject matter of the action within the court's control.

**(2) Allocating Costs.** The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

**(3) Amending Compensation.** The court may change the basis and terms of the master's compensation upon motion or by issuing an order to show cause.

**(4) Enforcing Payment.** The master may not retain the master's report as security for the master's compensation. If a 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 master is entitled to a writ of execution against the delinquent party.

**(h) Standing Masters.**

(1) By local rule approved by the Nevada Supreme Court or as authorized by the Nevada Revised Statutes, a judicial district may appoint a master to whom multiple matters may be referred.

(2) Unless otherwise specified by rule or statute, the master has the powers of a master under Rule 53(d). The master must issue a report and recommendation under Rule 53(e) that may be reviewed under Rule 53(f).

(3) The master's compensation must be fixed by the judicial district and paid out of appropriations made for the expenses of the judicial district.

**Advisory Committee Note—2018 Amendment**

Rule 53 has been revised. The revisions retain much of the prior NRCP 53 and incorporate provisions from FRCP 53.