

## Section 4.

### Table of State Court Authorities Governing Judicial Adjuncts and Comparison Between State Rules and Fed. R. Civ. P. 53

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| State       | Authorities and Comparison to FED. R. CIV. P. Rule 53  |
|-------------|--|
| Alabama     | ALA. R. CIV. P. WITH DIST. CT. MODIFICATIONS 53<br>Adopts pre-2003 amended version of the federal rule but state rule does not apply to state district courts.   |
| Alaska      | ALASKA R. CIV. P. 53<br>ALASKA CT. R., CHILD IN NEED OF AID 4<br>ALASKA CT. R., DELINQUENCY 4  |
| Arizona     | 16 PART 1, A.R.S. RULES OF F CIV. PROC., RULE 53<br>ARIZ. R. SUPER. CT. 96(e) (granting presiding judge in Superior Court power to appoint Court Commissioners with agreement of each party)<br>Adopts pre-2003 amended version of the federal rule. |
| Arkansas    | ARK. R. CIV. P. 53<br>Modeled after pre-2003 amended version of the federal rule but limited to non jury actions.  |
| California  | CAL CIV. PROC. CODE §§ 638-639 (West 2004)<br>Requires agreement of the parties.   |
| Colorado    | COLO. C. C.P.R. 53<br>Adopts pre-2003 amended version of federal rule.   |
| Connecticut | CONN. R. SUPER. CT. PROC. FAMILY MATTERS § 25-53<br>Limited scope—only applies to family law matters. Pilot program established for civil/family discovery masters and civil matter settlement conferences scheduled to end 12/31/2004.              |
| Delaware    | DEL. S. CT. R. 43(B)(V)<br>DEL. CT. CH. R. 135-47<br>DEL. FAM. CT. C.P.R. 53<br>DEL. SUPER. CT. CRIM. R. 5<br>Limited to hearing issues of fact.   |

| State                | Authorities and Comparison to FED. R. CIV. P. Rule 53   |
|----------------------|---|
| District of Columbia | D.C. SUPER. CT. R. CIV. P. 53<br>D.C. SUPER. CT. R. DOM. REL. 53<br>D.C. SUPER. CT. R. CRIM. P. 117<br>Adopts pre-2003 amended version of the federal rule.   |
| Florida              | FLA. STAT. ANN. R.C.P. RULE 1.490 (West 2004 & Supp. 2005)<br>Florida Family Law Rule 12.492<br>Florida Probate Rule 5.697<br>All require consent with the possible exception of Probate Rule 5.697.  |
| Georgia              | GA. CODE ANN. §§ 9-7-1 to -6 (1982 & Supp. 2004)  |
| Hawaii               | HAW. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.  |
| Idaho                | IDAHO R. CIV. P. 53<br>IDAHO CRIM. R. 2.2<br>Adopts pre-2003 amended version of federal rule.   |
| Illinois             | Illinois does not use fee officials. <sup>1</sup>   |
| Indiana              | IND. R. TRIAL P. 53<br>Adopts pre-2003 amended version of federal rule.   |
| Iowa                 | IOWA R. CIV. P. 1.935<br>Adopts pre-2003 amended version of federal rule.   |
| Kansas               | KAN. STAT. ANN. § 60-253 (1994 & Supp. 2002)<br>When parties consent, any issue can be referred to a special master. Contains language where without the parties consent, the court can only refer a case to a master when justice will be measurably advanced, or to cases that will be tried to a jury when they involve examination of complex or voluminous accounts. |
| Kentucky             | KY. R. CIV. P. 53.01<br>When appointed to matters other than judicial sales, settlement, receivership, and bills of discovery assets of judgment debtors, appointment requires that the matter involve complex calculations, multiplicity of claims, or other exceptional circumstances.  |
| Louisiana            | LA. REV. STAT. ANN. § 13:4165 (West Supp. 2004)<br>Court can appoint in any civil action with parties consent if there is a complicated issue or when exceptional circumstances exist.  |
| Maine                | ME. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.   |

<sup>1</sup> *Mullaney, Wells & Co. v. Savage*, 282 N.E.2d 536, 538 (Ill. App. Ct. 1972).

| <b>State</b>  | <b>Authorities and Comparison to FED. R. CIV. P. Rule 53</b>   |
|---------------|--|
| Maryland      | MD. CIR. CT. R. CIV. P. 2-541<br>Limited to non-jury matters.  |
| Massachusetts | MASS. R. CIV. P. 53<br>MASS. R. CRIM. P. 47<br>Adopts pre-2003 amended version of federal rule but also requires assent of all parties prior to special master appointment.                |
| Michigan      | MICH. CT. RULES PRAC. R. 3.913<br>Applies to probate and juvenile court. Can conduct preliminary inquiries and can preside at hearings other than a jury trial or preliminary examination. |
| Minnesota     | MINN. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.  |
| Mississippi   | MISS. R. CIV. P. 53<br>Can refer any issue to a special master with the written consent of the parties, otherwise appointment requires an exceptional condition.                           |
| Missouri      | MO. R. CIV. P. 68.01<br>Adopts pre-2003 amended version of federal rule.   |
| Montana       | MONT. CODE ANN. § 25-20-R. 53 (2003)<br>Adopts pre-2003 amended version of federal rule.   |
| Nebraska      | NEB. REV. STAT. §§ 25-1129 to -1137 (2004)<br>Appointment requires written consent of the parties.   |
| Nevada        | NEV. R. CIV. P. 53<br>NEV. 1ST JUD. DIST. CT. R. 5<br>Adopts pre-2003 amended version of federal rule.   |
| New Hampshire | N.H. R. SUPER. CT. 85-A<br>Appointment requires written consent of the parties.  |
| New Jersey    | N.J. CONST. art. 11, § 4, ¶ 7<br>N.J. R. CIV. PRAC. 4:41<br>Appointment requires parties' consent.   |
| New Mexico    | N.M. R. CIV. P. 1-053<br>Adopts pre-2003 amended version of federal rule.  |
| New York      | N.Y. UNIF. TRIAL CT. R. § 202.14<br>Chief Administrator of courts has power of appointment.  |

| <b>State</b>   | <b>Authorities and Comparison to FED. R. CIV. P. Rule 53</b>  |
|----------------|---|
| North Carolina | N.C. GEN. STAT. § IA-1, R. 53 (2003)<br>Modeled after pre-2003 amended version of federal rule. Certain actions require parties' consent prior to appointment.  |
| North Dakota   | N.D. R. CIV. P. 53<br>Amendment effective March 2011, amended in response to the December 1, 2007 revision of the Federal Rules of Civil Procedure.   |
| Ohio           | OHIO REV. CODE ANN. CIV. R. 53<br>OHIO REV. CODE ANN. CRIM. R. 19<br>OHIO REV. CODE ANN. JUV. R. 40<br>Modeled after pre-2003 amended version of federal rule. Does include pre-trial and post-trial matters, or matters where the parties consent.   |
| Oklahoma       | OKLA. STAT. ANN. tit. 12, §§ 612-619 (West 2000)<br>Can appoint to any civil action with the parties' written consent.  |
| Oregon         | OR. R. CIV. P. 65<br>Appointment requires written consent of the parties; without consent of the parties, appointment requires an exceptional condition.  |
| Pennsylvania   | 42 PA. CONST. STAT. ANN. § 1126; PA. R. CIV. P. 1558, 1920.51<br>Court can appoint at any time after the preliminary conference and master can hear any issue or the entire matter.   |
| Rhode Island   | R.I. R. CIV. P. 53<br>R.I. R. PROC. DOM. REL. 53<br>Adopts pre-2003 amended version of federal rule but also provides greater latitude in appointing a special master; special master may be appointed to any issue where the parties agree.  |
| South Carolina | S.C. R. CIV. P. 53<br>Allows appointment when the parties consent.  |
| South Dakota   | S.D. CODIFIED LAWS § 15-6-53 (West 2004)<br>Adopts pre-2003 amended version of federal rule.  |
| Tennessee      | TENN. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.   |
| Texas          | TEX. R. CIV. P. 171<br>Adopts pre-2003 amended version of federal rule but requires parties' consent to appointment of a master. Other modifications include that the case must be an "exceptional one" and there must be "good cause" for appointment of a master. Texas also uses masters in tax cases. |

| <b>State</b>  | <b>Authorities and Comparison to FED. R. CIV. P. Rule 53</b>   |
|---------------|--|
| Utah          | UTAH R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.   |
| Vermont       | VT. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule with minor modifications. State rule is narrower because for actions to be tried by a jury, appointment is only made when the action requires investigation of accounts or examination of vouchers. |
| Virginia      | VA. S. CT. R. 3:23<br>A court decree refers a matter to a “commissioner in chancery.”  |
| Washington    | WASH. SUPER. CT. CIV. R. 53.3<br>Adopts rule that is broader than the pre-2003 amended version of federal rule. State rule allows appointment for “good cause” and allows appointment of special master to discovery matters.  |
| West Virginia | W. VA. R. CIV. P. 53   |
| Wisconsin     | WIS. STAT. § 805.06 (1994)<br>Adopts pre-2003 amended version of federal rule with minor modifications, i.e. “referee” used in place of “special master.”  |
| Wyoming       | WYO. R. CIV. P. 53<br>Adopts pre-2003 amended version of federal rule.   |