

that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

#### RULES COMMITTEE NOTE

RCFC 45 conforms to FRCP 45 to the extent feasible given the court's nationwide jurisdiction.

### Rule 46. Exceptions Unnecessary

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party desires the court to take or the party's objection to the action of the court and the grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party.

#### RULES COMMITTEE NOTE

The rule is identical to the corresponding FRCP.

### Rule 47. Selection of Jurors [Not used.]

### Rule 48. Number of Jurors—Participation in Verdict [Not used.]

### Rule 49. Special Verdicts and Interrogatories [Not used.]

### Rule 50. Judgment as a Matter of Law in Jury Trials; Alternative Motion for New Trial; Conditional Rulings [Not used.]

### Rule 51. Instructions to Jury: Objection [Not used.]

### Rule 52. Findings by the Court; Judgment on Partial Findings

(a) **Effect.** In all actions tried upon the facts, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to RCFC 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. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the<sup>1</sup> credibility of the witnesses. 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. Findings of fact and conclusions of law are unnecessary on decisions of motions under RCFC 12 or 56 or any other motion except as provided in subdivision (c) of this rule.

(b) **Amendment.** On a party's motion filed no later than 10 days after entry of judgment, the court may amend its findings—or make addi-

tional findings—and may amend the judgment accordingly. The motion may accompany a motion for a new trial under RCFC 59. The sufficiency of the evidence to support the findings may be questioned whether or not the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) **Judgment on Partial Findings.** If during a trial a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) of this rule.

#### RULES COMMITTEE NOTE

The principal change in RCFC 52 relates to the enlargement of subdivision (c) to include, among issues subject to judgment on partial findings, the adjudication of issues critical to the legal sufficiency of a "defense." The amendment makes clear that judgments as a matter of law may be entered against both plaintiffs and defendants and with respect to issues or defenses that may not be wholly dispositive of a claim or defense.

### Rule 53. Masters

(a) **Appointment and Compensation.** The chief judge, at the request of the presiding judge, may appoint a special master. As used in these rules, the word "master" includes a referee, an auditor, an examiner, and an assessor. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon 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 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 master is entitled to a writ of execution against the delinquent party.

(b) **Reference.** A reference to a master shall be the exception and not the rule. Save 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 ref-

<sup>1</sup> So in original.