

1 **Rule 52. Findings and conclusions by the court; amended findings; waiver of findings and**
 2 **conclusions; correction of the record; judgment on partial findings.**

3 **(a) Effect Findings and conclusions.**

4 (a)(1) In all actions tried upon the facts without a jury or with an advisory jury, the court ~~shall~~ must
 5 find the facts specially and state separately its conclusions of law ~~thereon, and judgment shall be~~
 6 entered pursuant to Rule 58A; in The findings and conclusions must be made part of the record and
 7 may be stated in writing or orally following the close of the evidence. Judgment must be entered
 8 separately under Rule 58A.

9 (a)(2) In granting or refusing interlocutory injunctions the court ~~shall~~ must similarly set forth the
 10 findings of fact and conclusions of law ~~which constitute the grounds of that support~~ its action.
 11 ~~Requests for findings are not necessary for purposes of review.~~

12 (a)(3) A party may later question the sufficiency of the evidence supporting the findings, whether
 13 or not the party requested findings, objected to them, moved to amend them, or moved for partial
 14 findings.

15 (a)(4) Findings of fact, whether based on oral or ~~documentary~~ other evidence, ~~shall~~ must not be
 16 set aside unless clearly erroneous, and the reviewing court must give due regard ~~shall be given~~ to the
 17 ~~opportunity of the trial court's opportunity~~ to judge the credibility of the witnesses.

18 (a)(5) The findings of a master, to the extent that the court adopts them, ~~shall~~ must be considered
 19 as the findings of the court. ~~It will be sufficient if the findings of fact and conclusions of law are stated~~
 20 ~~orally and recorded in open court following the close of the evidence or appear in an opinion or~~
 21 ~~memorandum of decision filed by the court.~~

22 (a)(6) The trial court need not enter findings of fact and conclusions of law in rulings on motions,
 23 ~~except as provided in Rule 41(b). The~~ granted under Rules 12(b), 50, 56, and 59, but, when the
 24 motion is based on more than one ground, the court shall must, however, issue a brief written
 25 statement of the ground for its decision ~~on all motions granted under Rules 12(b), 50(a) and (b), 56,~~
 26 ~~and 59 when the motion is based on more than one ground.~~

27 **(b) Amendment Amended or additional findings.** Upon motion of a party ~~made~~ filed not later than
 28 ~~44-28~~ days after entry of judgment the court may amend its findings or make additional findings and may
 29 amend the judgment accordingly. The motion may ~~be made with~~ accompany a motion for a new trial
 30 pursuant to under Rule 59. When findings of fact are made in actions tried by the court without a jury, the
 31 ~~question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not~~
 32 ~~the party raising the question has made in the district court an objection to such findings or has made~~
 33 ~~either a motion to amend them, a motion for judgment, or a motion for a new trial.~~

34 **(c) Waiver of findings of fact and conclusions of law.** Except in actions for divorce, the parties
 35 may waive findings of fact and conclusions of law ~~may be waived by the parties to an issue of fact:~~

36 (c)(1) by default or by failing to appear at the trial;

37 (c)(2) by consent in writing, filed in the ~~cause~~ action;

38 (c)(3) by oral consent in open court, entered in the minutes.

39 **(d) Correction of the record.** If anything material is omitted from or misstated in the transcript of an
40 audio or video record of a hearing or trial, or if a disagreement arises as to whether the record accurately
41 discloses what occurred in the proceeding, a party may move to correct the record. The motion must be
42 filed within ~~40~~14 days after the transcript of the hearing is filed, unless good cause is shown. The
43 omission, misstatement or disagreement ~~shall~~will be resolved by the court and the record made to
44 accurately reflect the proceeding.

45 **(e) Judgment on partial findings.** If a party has been fully heard on an issue during a nonjury trial
46 and the court finds against the party on that issue, the court may enter non-final judgment against the
47 party on a claim or defense that, under the controlling law, can be maintained or defeated only with a
48 favorable finding on that issue. The court may, however, decline to render any judgment until the close of
49 the evidence. A non-final judgment on partial findings must be supported by findings of fact and
50 conclusions of law as required by paragraph (a).

51 **Advisory Committee Note**

52 The 2016 amendments adopt the plain-language style of Federal Rule of Civil Procedure 52. And, like
53 the federal rule, the 2016 amendments move a provision found in Rule 41(b) to this rule. Formerly, if a
54 plaintiff had presented its case and the evidence did not support the claim, the court—in a trial by the
55 court—could find for the defendant without having to hear the defendant’s evidence. The equivalent
56 provision now found in paragraph (e) extends that principle to claims other than the plaintiff’s and, if a
57 party’s evidence on any particular element of the cause of action is complete but insufficient, allows the
58 court to make findings and conclusions and enter judgment accordingly.

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