

PROPOSED LAND COURT RULE 14

Binding Summary Decision Following Bench Trial: Waiver by Parties of Special Findings of Fact and Separate Rulings of Law

- (a) Court May Approve Waiver. To make speedy and efficient the decision of matters tried to the court on the facts, the court, in its discretion, and with the consent of all interested parties, may, following a trial or evidentiary hearing, render its decision without finding the facts specially and without stating separately the court's conclusions of law. No matter shall be so decided unless the parties shall have submitted to the court, and the court shall have approved, a voluntary stipulation of the interested parties which waives all rights they may have to have the court find the facts specially and to state conclusions of law separately, including rights pursuant to Mass. R. Civ. P. 52(a). If such a stipulation is submitted to, and approved by, the court, it shall be sufficient for the court, after hearing the evidence, to decide only the ultimate issue(s) tried to the court, and the court shall be presumed to have instructed itself appropriately concerning the law governing its decision. The court shall render its decision in writing or orally from the bench, and the decision shall have the same force and effect as the verdict of a jury in a case tried to a jury.
- (b) Answers by the Court to Questions of Fact. The court may, in cases it considers appropriate, in its decision also return special or subsidiary findings on some or all of the issues of fact tried to the court; the court's decision in such a case shall have the same force and effect as the general verdict of a jury accompanied by answer to interrogatories in a case submitted to a jury as provided in Mass. R. Civ. P. 49(b).
- (c) Stipulations of the Parties. The court, after hearing the parties if they request or the court orders, shall settle in advance of trial the form of the stipulation the parties shall submit pursuant to this rule, and the form of any particular questions of fact which the parties would have the court answer in its decision. In the stipulation the parties file, they may waive their rights of appeal in whole or in part, but in any event shall stipulate that any appellate review of the court's decision and of the judgment entered, shall be according to the standard of review that would apply to a verdict by a jury in a case tried to a jury and to the judgment entered thereon.
- (d) Procedure Discretionary with Court. In no case shall the court be required to dispense with the requirements of Mass. R. Civ. P. 52(a) to have the court find the facts specially and to state conclusions of law separately. The court in its discretion may at any time before, during, or after the trial of the case, determine to find the facts specially and to state conclusions of law separately, notwithstanding any contrary stipulation of the parties or previous order of the court. However, once the court has accepted the parties' stipulation, the court shall not, contrary to that stipulation, proceed to find the facts specially and to state conclusions of law separately over the objection of any party to the stipulation, without first having given the parties opportunity to be heard.