

Rule 53. Masters

(a) **APPOINTMENT.** The term “master” also refers to the Auditor-Master as established by D.C. Code § 11-1724 (2012 Repl.) unless otherwise noted.

(b) **REFERENCE.**

(1) *In General.* On motion or on its own, the court may refer a matter to a master. The court may appoint a master only if appointment is warranted by:

(A) some exceptional condition; or

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

(2) *Content.* An order referring a matter to the master may:

(A) specify or limit the master's powers;

(B) direct the master to report only on particular issues;

(C) direct the master to do or perform particular acts;

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

(E) fix the time and place for beginning and closing the hearings and for the filing of the master's report.

(c) **MASTER'S AUTHORITY.**

(1) *In General.* Unless the order of reference directs otherwise, a master may:

(A) regulate all proceedings;

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

(C) if conducting an evidentiary hearing, exercise the referring court's power to compel, take, and record evidence.

(2) *Sanctions.* The master may by order impose on a party any noncontempt sanction provided by Rule 37 or 45, and may recommend a contempt sanction against a party and sanctions against a nonparty.

(d) **PROCEEDINGS.**

(1) *First Meeting.* When a reference is made, the clerk must immediately provide the master with a copy of the order of reference. Unless the order of reference provides otherwise, on receipt of the order, the master must immediately set a time and place for the first meeting of the parties or their attorneys and must notify the parties or their attorneys of this meeting. The meeting should be held within 28 days from the date of the order of reference.

(2) *Duty to Proceed.* It is the duty of the master to proceed with all reasonable diligence. 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 the report.

(3) *Absence of Party.* If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(4) *Witnesses.* The parties may procure the attendance of witnesses before the master by the issuing and serving subpoenas in accordance with Rule 45.

(5) *Statement of Accounts.* When matters of accounting are in issue before the master, the master may prescribe the form in which the accounts must be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. On objection of a party to any of the items submitted or on a showing that the form of statement is insufficient, the master may require that a different form of statement to be furnished or that the accounts or specific

items be proved by oral examination of the accounting parties, by written interrogatories, or in such other manner as the master directs.

(e) REPORT.

(1) *Contents and Filing.* The master must prepare a report on the matters referred to the master. The report must include findings of fact and conclusions of law where the master was required to make them. Unless otherwise directed by the order of reference, the report must be accompanied by a transcript of the evidence and proceedings as well as the original exhibits. The master must file the report with the clerk of the court and serve all parties with notice of the filing. Unless otherwise directed by the order of reference, the master must also serve a copy of the report on each party.

(2) *Actions on the Master's Order, Report, or Recommendations.*

(A) *Opportunity for a Hearing; Action in General.* In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

(B) *Time to Object or Move to Adopt or Modify.* A party may file objections to—or a motion to adopt or modify—the master's order, report, or recommendations no later than 14 days after a copy is served, unless the court sets a different time.

(C) *Reviewing Factual Findings.* The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties, with the court's approval, stipulate that:

- (i) the findings will be reviewed for clear error; or
- (ii) the findings of a master will be final.

(D) *Reviewing Legal Conclusions.* The court must decide de novo all objections to conclusions of law made or recommended by a master.

(E) *Reviewing Procedural Matters.* Unless the order of reference establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

(3) *Stipulation as to Findings.* The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact will be final, only questions of law arising upon the report will be considered.

(4) *Draft Report.* Before filing the master's report a master may submit a draft to counsel for all parties for the purpose of receiving their suggestions.

(f) FEES AND COMPENSATION.

(1) *Fixing Fees.* The court must fix the fees, if any, for work performed by the Auditor-Master and the compensation allowed to a special master. Fees for work performed by the Auditor-Master must bear a reasonable relation to the value of the services rendered. However, the court, if appropriate, may order that a party or parties be charged no fee or only a reduced fee for work performed by the Auditor-Master.

(2) *Payment.* The fees and compensation must be paid, as directed by the court, either:

- (A) by a party or parties; or
- (B) from a fund or subject matter of the action within the court's control.

(3) *Failure to Pay.* The special master must 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 special master is entitled to a writ of execution against the party.

(g) DEPOSIT FOR EXPENSES. A master may require the deposit of funds sufficient to defray the expenses of a reference, including a stenographic report of the testimony.

(h) CUSTODY OF EXHIBITS. Unless otherwise directed by the reference, the master must transmit original exhibits to the court with the report. At the conclusion of a trial or hearing, the court must return all exhibits to the party or attorney offering the exhibit. The party or attorney must provide a receipt for each exhibit returned by the court. The party or attorney must retain the exhibits until the time for filing a notice of appeal has expired or, if an appeal is perfected, until final disposition of the case by the appellate court. On request, the party or attorney must transmit the exhibits to the appellate court.

COMMENT TO 2018 AMENDMENTS

This rule has been amended consistent with the stylistic changes to the civil rules. Subsection (e)(2)(C) was modified to provide that the court must review, de novo, an objection to a finding of fact.

This rule also applies to parenting coordinators. In *Jordan v. Jordan*, 14 A.3d 1136, 1152 (D.C. 2011), the District of Columbia Court of Appeals held that “Rule 53 of the Superior Court Rules Governing Domestic Relations Proceedings authorize[s] the trial court both to appoint a parenting coordinator under [] exceptional circumstances ... and to delegate decision-making authority to the parenting coordinator over day-to-day issues that do not implicate the court’s exclusive responsibility to adjudicate the parties’ rights to custody and visitation.”