

# Academy of Court-Appointed Neutrals

## Section 5

### Table of State Court Authorities Governing Neutrals

This Section contains the state rules and provisions governing the appointment of neutrals. There are various alternative names some states use for a court-appointed neutral. This Section also compares state provisions with Federal Rule 53.

State	Authorities and Comparison to FED. R. CIV. P. Rule 53
Alabama	ALA. R. CIV. P. WITH DIST. CT. MODIFICATIONS 53 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 ALASKA CT. R., CHILD IN NEED OF AID 4 ALASKA CT. R., DELINQUENCY 4
Arizona	16 PART 1, A.R.S. RULES OF CIV. PROC., RULE 53 ARIZ. R. SUPER. CT. 96(e) (granting presiding judge in Superior Court power to appoint Court Commissioners with agreement of each party) Adopts pre-2003 amended version of the federal rule.
Arkansas	ARK. R. CIV. P. 53 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) Requires agreement of the parties.
Colorado	COLO. C. C.P.R. 53 Adopts pre-2003 amended version of federal rule.
Connecticut	CONN. R. SUPER. CT. PROC. FAMILY MATTERS § 25-53 Limited scope—only applies to family law matters. Pilot program established for civil/family discovery neutrals and civil matter settlement conferences scheduled to end 12/31/2004.
Delaware	DEL. S. CT. R. 43(B)(V) DEL. CT. CH. R. 135-47 DEL. FAM. CT. C.P.R. 53 DEL. SUPER. CT. CRIM. R. 5 Limited to hearing issues of fact.

<b>State</b>	<b>Authorities and Comparison to FED. R. CIV. P. Rule 53</b>
District of Columbia	D.C. SUPER. CT. R. CIV. P. 53 D.C. SUPER. CT. R. DOM. REL. 53 D.C. SUPER. CT. R. CRIM. P. 117 Adopts pre-2003 amended version of the federal rule.
Florida	FLA. STAT. ANN. R.C.P. RULE 1.490 (West 2004 & Supp. 2005) Florida Family Law Rule 12.492 Florida Probate Rule 5.697 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 Adopts pre-2003 amended version of federal rule.
Idaho	IDAHO R. CIV. P. 53 IDAHO CRIM. R. 2.2 Adopts pre-2003 amended version of federal rule.
Illinois	Illinois does not use fee officials. <sup>3</sup>
Indiana	IND. R. TRIAL P. 53 Adopts pre-2003 amended version of federal rule.
Iowa	IOWA R. CIV. P. 1.935 Adopts pre-2003 amended version of federal rule.
Kansas	KAN. STAT. ANN. § 60-253 (1994 & Supp. 2002) When parties consent, any issue can be referred to a neutral. Contains language where without the parties' consent, the court can only refer a case to a neutral 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 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) 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 Adopts pre-2003 amended version of federal rule.

<sup>3</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 Limited to non-jury matters.
Massachusetts	MASS. R. CIV. P. 53 MASS. R. CRIM. P. 47 Adopts pre-2003 amended version of federal rule but also requires assent of all parties prior to neutral appointment.
Michigan	MICH. CT. RULES PRAC. R. 3.913 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 Adopts pre-2003 amended version of federal rule.
Mississippi	MISS. R. CIV. P. 53 Can refer any issue to a neutral with the written consent of the parties, otherwise appointment requires an exceptional condition.
Missouri	MO. R. CIV. P. 68.01 Adopts pre-2003 amended version of federal rule.
Montana	MONT. CODE ANN. § 25-20-R. 53 (2003) Adopts pre-2003 amended version of federal rule.
Nebraska	NEB. REV. STAT. §§ 25-1129 to -1137 (2004) Appointment requires written consent of the parties.
Nevada	NEV. R. CIV. P. 53 NEV. 1ST JUD. DIST. CT. R. 5 Adopts pre-2003 amended version of federal rule.
New Hampshire	N.H. R. SUPER. CT. 85-A Appointment requires parties' written consent.
New Jersey	N.J. CONST. art. 11, § 4, ¶ 7 N.J. R. CIV. PRAC. 4:41 Appointment requires parties' consent.
New Mexico	N.M. R. CIV. P. 1-053 Adopts pre-2003 amended version of federal rule.
New York	N.Y. UNIF. TRIAL CT. R. § 202.14 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) 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 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 OHIO REV. CODE ANN. CRIM. R. 19 OHIO REV. CODE ANN. JUV. R. 40 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) Can appoint to any civil action with the parties' written consent.
Oregon	OR. R. CIV. P. 65 Appointment requires parties' written consent; without consent of the parties, appointment requires an exceptional condition.
Pennsylvania	42 PA. CONST. STAT. ANN. § 1126; PA. R. CIV. P. 1558, 1920.51 Court can appoint at any time after the preliminary conference and neutral can hear any issue or the entire matter.
Rhode Island	R.I. R. CIV. P. 53 R.I. R. PROC. DOM. REL. 53 Adopts pre-2003 amended version of federal rule but also provides greater latitude in appointing a neutral; and the neutral may be appointed to any issue where the parties agree.
South Carolina	S.C. R. CIV. P. 53 Allows appointment when the parties' consent.
South Dakota	S.D. CODIFIED LAWS § 15-6-53 (West 2004) Adopts pre-2003 amended version of federal rule.
Tennessee	TENN. R. CIV. P. 53 Adopts pre-2003 amended version of federal rule.
Texas	TEX. R. CIV. P. 171 Adopts pre-2003 amended version of federal rule but requires parties' consent to appointment of a neutral. Other modifications include that the case must be an "exceptional one" and there must be "good cause" for appointment of a neutral. Texas also uses neutrals in tax cases.

<b>State</b>	<b>Authorities and Comparison to FED. R. CIV. P. Rule 53</b>
Utah	UTAH R. CIV. P. 53 Adopts pre-2003 amended version of federal rule.
Vermont	VT. R. CIV. P. 53 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 A court decree refers a matter to a “commissioner in chancery.”
Washington	WASH. SUPER. CT. CIV. R. 53.3 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 neutral to discovery matters.
West Virginia	W. VA. R. CIV. P. 53
Wisconsin	WIS. STAT. § 805.06 (1994) 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 Adopts pre-2003 amended version of federal rule.