Last reviewed and edited July 27, 2015
Includes amendments effective September 1, 2015

RULE 52. FINDINGS BY THE COURT

(a) Findings. In all actions tried upon the facts without a jury or with an advisory jury, the Superior Court justice or, if an electronic recording was made in the District Court, the District Court judge, shall, upon the request of a party made as a motion within 7 days after the statement of the decision in open court, or the entry of the decision or judgment on the docket, whichever comes first, or may upon its own motion, find the facts specially and state separately its conclusions of law. Such findings and conclusions may be made in summary form and may be made orally, provided that, in every action for termination of parental rights, the court shall make specific findings of fact and state its conclusions of law thereon as required by 22 M.R.S. § 4055. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Any motion made pursuant to Rule 52(a) must include the proposed findings of fact and conclusions of law requested. The court is not required to make findings of fact and conclusions of law on decisions of motions under Rules 12 or 56, or in small claims actions.

(b) Amended or Additional Findings. The court may, upon motion of a party filed not later than 14 days after entry of judgment, amend its findings or make additional findings and may amend the judgment if appropriate. The motion may be made with a motion for a new trial or a motion to alter or amend the judgment pursuant to Rule 59. Any motion made pursuant to Rule 52(b) must include the proposed findings of fact and conclusions of law requested.

(c) Effect. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a referee, to the extent that the court adopts them, shall be considered as the findings of the court.

Advisory Note – July 2015

In Rule 52(a), the amendment adds entry of judgment "on the docket" to the events that start the seven-day period to request findings and clarifies that "entry of the decision" means entry of the decision on the docket.

The amendment also adds language to Rule 52(a) and (b) requiring that every motion for findings of fact be accompanied by proposed findings of fact and conclusions of law. This requirement has been specifically imposed on Rule 52(b) motions through case law for more than a decade. *Bell v. Bell*, 1997 ME 154, 697 A.2d 835. Citing *Bell,* the Court reiterated this requirement in *Dalton v. Dalton*, 2014 ME 108, ¶ 21, 99 A.3d 723: "Any motion made pursuant to Rule 52 must 'state with specificity the findings of fact and conclusions of law requested.'" And, discussing Rule 52(b) in *Wandishin v. Wandishin*, 2009 ME 73, 976 A.2d 949, the Court stated:

> The purpose of motions for findings of additional facts pursuant to M.R. Civ. P. 52(b) is to seek specific fact-findings to support conclusions not already addressed by facts found in the court's opinion. Such motions *should* concisely indicate the conclusions on which additional fact-finding is desired and, in best practice, suggest particular facts to be found that are supported by the record and are relevant to the conclusion at issue.

Id. ¶ 18 (emphasis added). Because it is important for the court to be apprised of the issues the moving party wishes to have addressed, the rule now requires that, regardless of whether a litigant makes a motion under (a) or (b), it is the litigant's responsibility to include with the motion suggested findings that are both specific and supported by the record.

Finally, this amendment adds language to Rule 52(a) to clarify that findings of fact and conclusions of law are not necessary in rulings made on the summary processes of small claims.

Advisory Note – June 2014

Rule 52 has been amended to eliminate confusion under the prior version of the Rule, which gave parties a 5-day deadline from notice of decision to request findings of fact and a 10-day deadline after notice of findings to move for additional or amended findings.

Amended Rule 52(a) now provides that the deadline for a motion for findings of fact and conclusions of law is set at 7 days after the statement of the decision in open court or the entry of the decision, whichever comes first.

If any party seeks detailed findings of facts or seeks to have the court amend its existing findings, that party shall file a motion for additional or amended findings under Rule 52(b). The deadline for filing that motion has now been set at 14 days after entry of judgment. This is the same deadline set for renewed motions for judgment as a matter of law under Rule 50(b), for motions for a new trial under Rule 59(b), and for motions to alter or amend a judgment under Rule 59(e).

Advisory Committee's Note
February 1, 1983

This amendment to Rule 52(a) is designed to correlate this rule with the changes made in Rule 41(b) (2) and Rule 50(d).

Advisory Committee's Note
April 15, 1975

A problem may arise as to when the time for appeal under Rule 73(a) starts running when a request for findings of fact and conclusions of law is made after a judge, sitting without a jury, has ordered the entry of judgment and the judge complies with the request to make findings but does not direct the entry of any judgment. Under the existing rule it might be argued that the judge's failure to "direct the entry of the appropriate judgment" after making the requested findings left the case without a then appealable judgment. The amendment makes clear that no judgment is required after the making of findings unless the appropriate judgment would differ from the judgment originally directed. It at the same time follows that the original judgment remains appealable. Of course the provisions of Rule 73(a) extending the time for taking an appeal where there has been a timely motion under Rule 52(a) eliminate any necessity for filing a protective appeal prior to the judge's making the requested findings.

Reporter's Notes
December 1, 1959

This rule is like Federal Rule 52 with one important modification. Under Maine practice in equity separate findings of law and fact are required upon request of either party. R.S.1954, Chap. 107, Sec. 26 (repealed in 1959). A judge sitting without jury at law is under no such duty. *See Sacre v. Sacre,* 143 Me. 80, 101, 55 A.2d 592, 603 (1947). The merger of law and equity calls for the same treatment in this respect of matters of legal and equitable cognizance. The rule provides for findings of fact and conclusions of law upon request in all non-jury

cases, but permits the request to be made within 5 days of notice of the decision. The Federal rule requires findings and conclusions in all non-jury cases. It is believed that this would be an unnecessary burden on trial judges with limited stenographic facilities. There are many cases where it is obvious that there will be no appeal so that a general finding is sufficient.

The rule provides that findings of fact shall not be set aside unless clearly erroneous. It is believed that this standard corresponds to the present Maine law, both at law and in equity, although the court has formulated the standard in various ways. Law: *Ray v. Lyford,* 153 Me. 408, 140 A.2d 749 (1958) (no error if supported by "any credible evidence"); *Ayer v. Androscoggin & Kennebec Ry.,* 131 Me. 381, 163 A. 270 (1932) (findings final "so long as they find support in the evidence"); *Chabot & Richard Co. v. Chabot*, 109 Me. 403, 84 A. 892 (1912) (findings final "if there is any evidence to support them"). Equity: *Strater v. Strater,* 147 Me. 33, 83 A.2d 130 (1951) (findings conclusive "unless clearly wrong"). Superior Court justice sitting as Supreme Court of Probate: *Cotting v. Tilton*, 118 Me. 91, 106 A. 113 (1919) (findings conclusive "if there is any evidence to support them"). There is no intention to change the law in this respect.

Rule 52(b) permits a motion for amendment of findings only if made within 10 days after notice of the findings. This departure from Federal Rule 52(b), which measures the time from entry of judgment, is necessary since under Rule 52(a) findings need be made only upon request.