

SUPREME JUDICIAL COURT

Boston, Massachusetts 02108

NOTICE OF APPROVAL

Notice is hereby given that the Supreme Judicial Court has approved and promulgated rules as further indicated below.

RALPH D. GANTS
Chief Justice

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1. Court Submitting Rules for Approval:
Superior Court
 2. Date Rules Submitted for Approval:
December 11, 2017
 3. Date Approved & Promulgated by the Supreme Judicial Court:
February 28, 2018
 4. Rule or Rules, or Amendments Thereto, Approved and Promulgated:
Superior Court Rule 20: new paragraph 20(8), as attached hereto.
 5. Effective Date:
March 1, 2018
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(The original of this notice is to be filed in the office of the Clerk of the Supreme Judicial Court for the Commonwealth, and a copy to be sent by the Clerk to the court which requested approval of the rules.)



COMMONWEALTH OF MASSACHUSETTS
THE SUPERIOR COURT
THREE PEMBERTON SQUARE
BOSTON, MA 02108

JUDITH FABRICANT
CHIEF JUSTICE

TELEPHONE
617-788-7301

December 11, 2017

Hon. Frank M. Gaziano
Chair of the Rules Committee
Supreme Judicial Court
John Adams Courthouse, Suite 2200
One Pemberton Square
Boston, MA 02108

RE: Request for Change to Superior Court Rules

Dear Justice Gaziano:

I submit for approval by the Supreme Judicial Court the following proposed rule change: amending Superior Court Rule 20, Individual Case Management and Tracking, by inserting, as a new paragraph 20(8), the language of Superior Court Standing Order 1-17, Waiver of Detailed Written Findings of Fact under Superior Court Rule 20(2)(h). Standing Order 1-17 would be rescinded. The purpose of moving the provisions of the Standing Order into the Rule is to make access to those provisions more convenient.

This proposal was posted for comment on the Superior Court's website and notice was sent to Massachusetts Lawyers Weekly. The Court set a deadline for submitting comments of July 31, 2017. The Court received no comments.

At the Superior Court's semi-annual business meeting on December 1, 2017, the justices voted to approve submission of this proposal to the Supreme Judicial Court for its approval. Below is the text of the proposed amendment to Rule 20, approved for submission to the Supreme Judicial Court.

Rule 20

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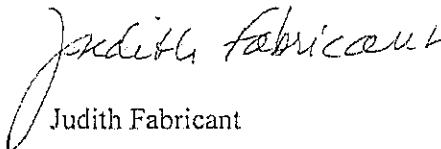
8. For purposes of Superior Court Rule 20(2)(h), the phrase "waiver of detailed written findings of fact" means waiver of written judicial findings with the level of detail required by Mass. R. Civ. P. 52(a). It does not mean waiver of findings that provide the equivalent of a jury verdict within the meaning of Mass. R. Civ. P. 49. See also Mass. R. Crim. P. 27 (by analogy only).

Therefore, when the parties agree to waive, in whole or part, detailed findings by the judge in a bench trial, the following rules shall apply:

- a. The judge shall, at a minimum, answer special questions on the elements of each claim, at a level of detail comparable to a special jury verdict form pursuant to Mass. R. Civ. P. 49(a), unless the parties explicitly choose, or the judge expressly orders, findings in the form provided by Mass. R. Civ. P. 49(b) (a general verdict accompanied by answer to interrogatories).
- b. The parties waive all arguments in the trial court or on appeal that require or depend upon the existence of detailed written findings of fact. 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. In addition, the parties may agree to waive their rights of appeal in whole or in part.

The Superior Court requests that the SJC approve this proposed rule change effective **March 1, 2018**. I would be happy to discuss any questions you may have, or provide any additional information. Thank you for your consideration.

Very truly yours,


Judith Fabricant

cc: Chief Justice Paula M. Carey
Hon. Douglas H. Wilkins, Chair, Superior Court Rules Committee
Christine Burak, Esq., Secretary of the Rules Committee