

**U.S. Department of Labor**

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**Issue Date: 13 December 2019**

CASE NO.: 2017-OFC-00006

*In the Matter of*

OFFICE OF FEDERAL CONTRACT  
COMPLIANCE PROGRAMS,  
U.S. DEPARTMENT OF LABOR,  
Plaintiff,

v.

ORACLE AMERICA, INC.,  
Defendant.

**ORDER DENYING DEFENDANT’S RULE 52(c) MOTION**

This matter arises under Executive Order 11246 (30 Fed. Reg. 12319), as amended, (“EO 11246”) and associated regulations at 41 C.F.R. Chapter 60. It involves Plaintiff Office of Federal Contract Compliance Programs (“OFCCP”) and Defendant Oracle America, Inc. (“Oracle”) and has been pending at the Office of Administrative Law Judges (“OALJ”) since January 17, 2017. Hearing began on December 5, 2019. OFCCP concluded the presentation of its case in chief on December 12, 2019. After OFCCP rested, Oracle made an oral motion under Federal Rule of Civil Procedure Rule 52(c) for judgment on partial findings in its favor on all issues identified for hearing. Both parties were given the opportunity to present argument on the motion at hearing.

This proceeding is governed by the “Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity under Executive Order 11246 contained in part 60-30.” 41 C.F.R. § 60-1.26(b)(2). Where the regulations in 41 C.F.R. §§ 60-30.1 *et seq.* do not provide a rule, the Federal Rules of Civil Procedure apply. 41 C.F.R. § 60-30.1. Rule 52(c) of the Federal Rules of Civil Procedure provides:

If a party has been fully heard on an issue during a nonjury trial and the court finds against the party on that issue, the court may enter judgment against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue. The court may, however, decline to render any judgment until the close of the evidence. A judgment on partial findings must be supported by findings of fact and conclusions of law as required by Rule 52(a).

Fed R. Civ. P. 52(c).

Since Rule 52(c) applies in bench, not jury, trials, it permits a fact-finder to resolve factual disputes, draw inferences against the non-moving party, and make findings in accordance with the judge's own view of the evidence. See *Richie v. U.S.*, 451 F.3d 1019 (9th Cir. 2006), cert. denied 549 U.S. 1211 (2007); see also *Pinkston v. Madry*, 440 F.3d 879, 890 (7th Cir. 2006) (“Unlike summary judgment which requires that judgment be rendered as a matter of law, a trial court ruling on a motion for judgment on partial findings under Rule 52(c) is acting in the capacity of a finder of fact, weighting evidence and assessing the credibility of witnesses”). Put otherwise, in this sort of motion, the trial judge “must take an unbiased view of all the evidence and accord it such weight as he believes it is entitled to receive.” *Chicago & N.W. Ry. Co. v. Froehling Supply Co.*, 179 F.2d 133, 135 (7th Cir. 1950). Under Rule 52(c), a “court may enter judgment after a party has been ‘fully heard’” *Granite State Ins. Co. v. Smart Modular Tech., Inc.*, 76 F.3d 1023, 1031 (1996).

This proceeding concludes with a recommended decision and order setting forth findings, conclusions, and decisions that is certified and provided to the Administrative Review Board with the record for the decision. 41 C.F.R. § 60-30.27. After hearing exceptions, the Administrative Review Board issues the final administrative order on behalf of the Secretary. 41 C.F.R. § 60-30.30. Under the Administrative Procedure Act, before such a recommended decision can be made, the parties must be given the opportunity to submit proposed findings and conclusions along with support reasons for those findings and conclusions. 5 U.S.C. § 557(c). The decision must then make a finding on the issues presented, providing “the reason or basis thereof.” *Id.*

The language in Rule 52(c) is discretionary. It specifically provides that “The court may, however, decline to render any judgment until the close of the evidence.” Fed. R. Civ. P. 52(c). It is thus appropriate, in certain circumstances, to deny a Rule 52(c) motion and reserve judgment until all of the evidence is in. See *Wright and Miller*, 8 Fed. Prac. & Proc. Civ. § 2573.1 (3d ed.); see also *Howe v. City of Akron*, 723 F.3d 651, 657 (6th Cir. 2013) (trial judge had denied motion after deciding “better course” was to reach decisions after all evidence and briefing was in); *Gonzalez-Rucci v. U.S. I.N.S.*, 549 F.3d 66, 69 (1st Cir. 2008) (same). As the Seventh Circuit has explained,

A district court is not *required* to make findings of fact on a Rule 52(c) motion; the Rule merely “authorizes the court to enter judgment at any time that it can appropriately make a dispositive finding of fact on the evidence.” Fed.R.Civ.P. 52(c) advisory committee’s notes (1991 amendments). “As under the former Rule 41(b), the court retains discretion to enter no judgment prior to the close of the evidence.” *Id.*

*Gaffney v. Riverboat Servs. of Indiana, Inc.*, 451 F.3d 424, 451 n.29 (7th Cir. 2006). A denial of a motion for judgment after the close of a party’s case “amounts to nothing more than a refusal to enter judgment at that time.” *Armor Research Foundation of Illinois Institute of Technology v. Chicago, R.I.&P.R. Co.*, 311 F.3d 493, 494 (7th Cir. 1963).

Rule 52(c) is ill-suited to administrative adjudication, since parties must be given the opportunity to submit proposed conclusions, all of the evidence must be reviewed and considered, and any decision must set forth the findings on each issue along with the reasons for those findings. There are over 1000 exhibits in this case. I have had not been able to review all of those exhibits. The parties agree that the deposition exhibits may be admitted as designated, but have not yet provided the designated copies.

Determining whether to grant or deny the motion on its merits would require independent review and consideration of the documentary evidence. That cannot be done unless hearing is recessed for an indefinite period of time while I review the evidence of record in order to ascertain the merits of the motion. This would be highly inefficient, both for the parties and this agency. Oracle's contention that I have already reviewed voluminous submissions from the parties along with the summary judgment briefing is unavailing. There may be differences between the summary judgment submissions and the trial submissions. The latter are more voluminous. They may be viewed in a different light given the testimony presented. And since the standard for the motion is different, they would need to be reviewed from a different angle.

The Rule 52(c) motion is denied. Since the motion is denied because I find it is prudent to "decline to render any judgment until the close of the evidence," I do not reach the substantive arguments made by either party and make no determinations on any disputed issues.

SO ORDERED.

RICHARD M. CLARK  
Administrative Law Judge