

### § 2503. Proceedings generally

(a) Parties to any suit in the United States Court of Federal Claims may appear before a judge of that court in person or by attorney, produce evidence, and examine witnesses.

(b) The proceedings of the Court of Federal Claims shall be in accordance with such rules of practice and procedure (other than the rules of evidence) as the Court of Federal Claims may prescribe and in accordance with the Federal Rules of Evidence.

(c) The judges of the Court of Federal Claims shall fix times for trials, administer oaths or affirmations, examine witnesses, receive evidence, and enter dispositive judgments. Hearings shall, if convenient, be held in the counties where the witnesses reside.

(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 976; Sept. 3, 1954, ch. 1263, § 53, 68 Stat. 1246; Pub. L. 97-164, title I, § 139(b)(1), Apr. 2, 1982, 96 Stat. 42; Pub. L. 102-572, title IX, §§ 902(a), 909, Oct. 29, 1992, 106 Stat. 4516, 4519.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 269, 276, and 278 (Mar. 3, 1911, ch. 231, §§ 168, 170, 36 Stat. 1140; Feb. 24, 1925, ch. 301, § 1, 43 Stat. 964; June 23, 1930, ch. 573, § 2, 46 Stat. 799).

Section consolidates provisions relating to proceedings before commissioners and reporter-commissioners contained in sections 269, 276, and 278 of title 28, U.S.C., 1940 ed.

Provisions of section 269 of title 28, U.S.C., 1940 ed., relating to appointment and compensation of commissioners are incorporated in section 792 of this title.

Words "including reporter-commissioners" after "commissioners" were inserted to clarify meaning and conform to Rule 54(a) of the Court of Claims authorizing oaths before reporter-commissioners.

Changes were made in phraseology.

#### SENATE REVISION AMENDMENT

The Senate amended this section by inserting "and when directed by the court his recommendations for conclusions of law" following "commissioner" in the second paragraph. This amendment authorizes the Court to direct its commissioners to report recommendations for conclusions of law as well as findings of fact in cases assigned to them. 80th Congress Senate Report No. 1559, Amendment No. 50.

#### REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (b), are set out in the Appendix to this title.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572, § 902(a)(1), substituted "United States Court of Federal Claims" for "United States Claims Court".

Subsecs. (b), (c). Pub. L. 102-572, § 902(a)(2), substituted "Court of Federal Claims" for "Claims Court" wherever appearing.

Subsec. (d). Pub. L. 102-572, § 909, added subsec. (d).

1982—Pub. L. 97-164 substituted "Proceedings generally" for "Proceedings before commissioners generally" in section catchline.

Subsec. (a). Pub. L. 97-164 substituted "Parties to any suit in the United States Claims Court may appear before a judge of that court in person or by attorney, produce evidence, and examine witnesses" for "Parties

to any suit in the Court of Claims may appear before a commissioner in person or by attorney, produce evidence and examine witnesses" and redesignated as subsec. (c) provisions that, in accordance with rules and orders of the court, commissioners would fix times for trials, administer oaths or affirmations to and examine witnesses, receive evidence and report findings of fact, that when directed by the court, commissioners would report their recommendations for conclusions of law in cases assigned to them, and that hearings would, if convenient, be held in the counties where the witnesses resided.

Subsec. (b). Pub. L. 97-164 substituted "The proceedings of the Claims Court shall be in accordance with such rules of practice and procedure (other than the rules of evidence) as the Claims Court may prescribe and in accordance with the Federal Rules of Evidence" for "The rules of the court shall provide for the filing in court of the commissioner's report of facts and recommendations for conclusions of law, and for opportunity for the parties to file exceptions thereto, and a hearing thereon before the court within a reasonable time" and struck out provision that this section did not prevent the court from passing upon all questions and findings regardless of whether exceptions were taken before a commissioner.

Subsec. (c). Pub. L. 97-164 redesignated provisions in second and third sentences of former subsec. (a) as (c) and substituted "The judges of the Claims Court" for "In accordance with rules and orders of the court, commissioners" and "enter dispositive judgments" for "report findings of fact and, when directed by the court, their recommendations for conclusions of law in cases assigned to them".

1954—Act Sept. 3, 1954, designated former first par. subsec. (a), and former second par. subsec. (b), and incorporated in one place provisions relating to function of Commissioners.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### § 2504. Plaintiff's testimony

The United States Court of Federal Claims may, at the instance of the Attorney General, order any plaintiff to appear, upon reasonable notice, before any judge of the court and be examined on oath as to all matters pertaining to his claim. Such examination shall be reduced to writing by the judge, and shall be returned to and filed in the court, and may, at the discretion of the attorneys for the United States, be read and used as evidence on the trial. If any plaintiff, after such order is made and due and reasonable notice thereof is given to him, fails to appear, or refuses to testify or answer fully as to all material matters within his knowledge, the court may order that the case shall not be tried until he fully complies with such order.

(June 25, 1948, ch. 646, 62 Stat. 976; Pub. L. 97-164, title I, § 139(c), Apr. 2, 1982, 96 Stat. 42; Pub. L. 102-572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 274 (Mar. 3, 1911, ch. 231, § 166, 36 Stat. 1140).

Words "Attorney General" were substituted for "attorney or solicitor appearing in behalf of the United

States,” in view of section 309 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

#### AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”, and “judge” for “commissioner” wherever appearing.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### § 2505. Trial before judges

Any judge of the United States Court of Federal Claims may sit at any place within the United States to take evidence and enter judgment.

(June 25, 1948, ch. 646, 62 Stat. 976; Sept. 3, 1954, ch. 1263, §54(a), (b), 68 Stat. 1246; Pub. L. 97-164, title I, §139(d), Apr. 2, 1982, 96 Stat. 42; Pub. L. 102-572, title IX, §902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§275 and 275a (Mar. 3, 1911, ch. 231, §167, 36 Stat. 1140; Feb. 24, 1925, ch. 301, §2, 43 Stat. 965; June 23, 1930, ch. 573, §1, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

Changes were made in phraseology.

#### AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims” and “enter judgment” for “report findings”.

1954—Act Sept. 3, 1954, substituted “Trial before judges” for “Place of taking evidence” in section catchline and repealed second par. relating to taking of testimony.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### § 2506. Interest of witness

A witness in a suit in the United States Court of Federal Claims shall not be exempt or disqualified because he is a party to or interested in such suit.

(June 25, 1948, ch. 646, 62 Stat. 977; Pub. L. 97-164, title I, §139(e), Apr. 2, 1982, 96 Stat. 42; Pub. L. 102-572, title IX, §902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §274 (Mar. 3, 1911, ch. 231, §186, 36 Stat. 1143; Feb. 5, 1912, ch. 28, 37 Stat. 61).

A provision that a witness should not be disqualified by color was omitted as obsolete and unnecessary, since no such disqualification could be invoked in absence of statutory authority.

A provision that the United States could examine any plaintiff or party interested is covered by the word “exempt” in the revised section, and by section 2504 of this title.

Changes were made in phraseology.

#### AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

### § 2507. Calls and discovery

(a) The United States Court of Federal Claims may call upon any department or agency of the United States or upon any party for any information or papers, not privileged, for purposes of discovery or for use as evidence. The head of any department or agency may refuse to comply with a call issued pursuant to this subsection when, in his opinion, compliance will be injurious to the public interest.

(b) Without limitation on account of anything contained in subsection (a) of this section, the court may, in accordance with its rules, provide additional means for the discovery of any relevant facts, books, papers, documents or tangible things, not privileged.

(c) The Court of Federal Claims may use all recorded and printed reports made by the committees of the Senate or House of Representatives.

(June 25, 1948, ch. 646, 62 Stat. 977; Sept. 3, 1954, ch. 1263, §55(a)-(c), 68 Stat. 1247; Pub. L. 97-164, title I, §139(f), Apr. 2, 1982, 96 Stat. 42; Pub. L. 102-572, title IX, §902(a), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §272 (Mar. 3, 1911, ch. 231, §164, 36 Stat. 1140).

Words “or agency” were added. (See reviser’s note under section 1345 of this title.)

Changes were made in phraseology.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572, §902(a)(1), substituted “United States Court of Federal Claims” for “United States Claims Court”.

Subsec. (c). Pub. L. 102-572, §902(a)(2), substituted “Court of Federal Claims” for “Claims Court”.

1982—Subsec. (a). Pub. L. 97-164, §139(f)(1), substituted “United States Claims Court” for “Court of Claims”.

Subsec. (c). Pub. L. 97-164, §139(f)(2), substituted “Claims Court” for “Court of Claims”.

1954—Act Sept. 3, 1954, substituted “Calls and discovery” for “Calls on departments for information” in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).