the "interests" of the state and federal systems can be reconciled, however, a court should endeavor to implement the rules of the state courts.[22]

Waiver of the Right.—Parties may enter into a stipulation waiving a jury and submitting the case to the court upon an agreed statement of facts, even without any legislative provision for waiver.[23] Prior to adoption of the Federal Rules, Congress had, "by statute, provided for the trial of issues of fact in civil cases by the court without the intervention of a jury, only when the parties waive their right to a jury by a stipulation in writing."[24] Under the Federal Rules of Civil Procedure, any party may make a timely demand for a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing, and failure so to serve a demand constitutes a waiver of the right.[25] However, a waiver is not to be implied from a request for a directed verdict.[26]

Application of the Amendment

Cases "at Common Law".—The coverage of the Amendment is "limited to rights and remedies peculiarly legal in their nature, and such as it was proper to assert in courts of law and by the appropriate modes and proceedings of courts of law."[27] The term "common law" was used in contradistinction to suits in which equitable rights alone were recognized at the time of the framing of the Amendment and equitable remedies were administered.[28] Illustrative of the Court's course of decision on this subject are two unanimous decisions holding that civil juries were required, one in a suit

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[22] Gasperini v. Center for Humanities, Inc., 518 U.S. 415 (1996). In *Gasperini*, the Court examined whether New York law, which required that state trial courts and courts of appeals review jury awards to determine if they "deviate materially from reasonable compensation," should be applied by federal courts exercising diversity jurisdiction. The Court, in what has been characterized as a "state-friendly" decision, *Leading Cases*, 110 HARV. L. REV. 266 (1996), found that absent inconsistent federal interests, the state standard of review should be applied by the federal courts. The Court held that a district court could apply such a standard consistent with Seventh Amendment precepts, but that the court of appeals could only review an award under an "abuse of discretion" standard. 518 U.S. at 434–35.

[23] *Henderson's Distilled Spirits*, 81 U.S. (14 Wall.) 44, 53 (1872); Rogers v. United States, 141 U.S. 548, 554 (1891); Parsons v. Armor, 28 U.S. (3 Pet.) 413 (1830); Campbell v. Boyreau, 62 U.S. (21 How.) 223 (1859).

[24] Baylis v. Travellers' Ins. Co., 113 U.S. 316, 321 (1885). The provision did not preclude other kinds of waivers, Duignan v. United States, 274 U.S. 195, 198 (1927), though every reasonable presumption was indulged against a waiver. Hodges v. Easton, 106 U.S. 408, 412 (1883).

[25] FED. R. CIV. P. 38.

[26] Aetna Life Ins. Co. v. Kennedy, 301 U.S. 389 (1937); Fed. R. Civ. P. 50(a).

[27] Shields v. Thomas, 59 U.S. (18 How.) 253, 262 (1856).

[28] Parsons v. Bedford, 28 U.S. (3 Pet.) 443, 447 (1930); Barton v. Barbour, 104 U.S. 126, 133 (1881). Formerly, it did not apply to cases where recovery of money damages was incidental to equitable relief even though damages might have been