

AMENDED IN SENATE JUNE 21, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2284

Introduced by Assembly Member Evans

February 18, 2010

An act to add ~~Section 631.01 to~~ *Chapter 4.5 (commencing with Section 630.01) to Title 8 of Part 2 of the Code of Civil Procedure, relating to civil actions.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Evans. Jury trial: rules of court.

Existing law establishes the right to a trial by jury, and provides that a jury may be waived in a civil case only pursuant to specified manners. Under existing law, a jury trial consists of 12 persons, except that in civil actions and cases of misdemeanor, it may consist of 12 or any number less than 12, upon which the parties may agree. Existing law provides for the review of a judgment or order in a civil action or proceeding by appeal, and requires the Judicial Council to prescribe rules for the practice and procedure on appeal consistent with state law. Existing law requires the Judicial Council to provide by rule the practice and procedure for coordination of civil actions in convenient courts, including provision for giving notice and presenting evidence. Existing law authorizes the Judicial Council to promulgate rules governing pretrial conferences, and the time, manner, and nature thereof, in civil cases at issue, or in one or more classes thereof, in the superior courts.

This bill would *establish the Expedited Jury Trials Act.* ~~authorize the Judicial Council to adopt rules of court to~~ *The bill would establish procedures for conducting expedited jury trials in civil cases where the parties sign a consent order to stipulate that those rules and procedures*

shall apply, including ~~provision~~ provisions for a jury of fewer than 12 8 members, with no alternates, a limit of 3 peremptory challenges for each side, and a limit of 3 hours for each side to present its case. This bill would also provide that all parties waive all rights to appeal and move for directed verdict or to make any post-trial motions, except as provided. The bill would provide that the verdict in an expedited jury trial is binding, subject to any written high/low agreement, as defined. The bill would require the Judicial Council, on or before January 1, 2011, to adopt additional rules and uniform procedures, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the Expedited Jury
2 Trials Act.

3 SEC. 2. Chapter 4.5 (commencing with Section 630.01) is
4 added to Title 8 of Part 2 of the Code of Civil Procedure, to read:

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CHAPTER 4.5. EXPEDITED JURY TRIALS

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8 630.01. For purposes of this chapter:

9 (a) "Expedited jury trial" means a consensual, binding jury
10 trial before a reduced jury panel and a judicial officer.

11 (b) "High/low agreement" means a written agreement
12 voluntarily entered into by the parties that specifies a minimum
13 amount of damages that the plaintiff is guaranteed to receive from
14 the defendant, and a maximum amount of damages that the
15 defendant will be liable for, regardless of the ultimate verdict
16 issued by the jury. Neither the existence of, nor the amounts
17 contained in any high/low agreements, may be disclosed to the
18 jury.

19 630.02. The rules and procedures applicable to expedited jury
20 trials are as follows:

21 (a) The procedures in this chapter and in the implementing rules
22 of court apply to expedited jury trials, unless the parties agree
23 otherwise as permitted under subdivision (e) of Section 630.03
24 and the court so orders.

25 (b) Any matters not expressly addressed in this chapter, in the
26 implementing rules of court, or in a consent order authorized by

1 *this chapter and the implementing rules, are governed by*
2 *applicable statutes and rules governing civil actions.*

3 630.03. (a) *All parties agreeing to take part in an expedited*
4 *jury trial and, if represented, their counsel must sign a proposed*
5 *consent order granting an expedited jury trial.*

6 (b) *Except as provided in subdivision (d), the agreement to*
7 *participate in the expedited jury trial process is binding upon the*
8 *parties unless either of the following:*

9 (1) *All parties stipulate to end the agreement to participate.*

10 (2) *The court, on its own motion or at the request of a party by*
11 *noticed motion, finds that good cause exists for the action not to*
12 *proceed under the rules of this chapter.*

13 (c) *Any agreement to engage in an expedited jury trial under*
14 *this chapter may be entered into only after a dispute has arisen*
15 *and a case has been filed.*

16 (d) *For an expedited jury trial involving a minor, an incompetent*
17 *person, or a person for whom a conservator has been appointed,*
18 *the court must approve the use of an expedited jury trial and any*
19 *high/low agreements or other stipulations before the trial.*

20 (e) *The proposed consent order submitted to the court must*
21 *include all of the following:*

22 (1) *A preliminary statement that each named party and any*
23 *insurance carrier responsible for providing coverage or defense*
24 *on behalf of a party, individually identified in the proposed consent*
25 *order, has been informed of the rules and procedures for an*
26 *expedited jury trial and provided with a Judicial Council*
27 *information sheet regarding expedited jury trials, has agreed to*
28 *take part in the expedited jury trial process, and has agreed to all*
29 *the specific provisions set forth in the consent order.*

30 (2) *The parties' agreement to all of the following:*

31 (A) *That all parties waive all rights to appeal and to move for*
32 *directed verdict or make any post-trial motions, except as provided*
33 *in Sections 630.08 and 630.09.*

34 (B) *That each side will have up to three hours in which to*
35 *present its case.*

36 (C) *That the jury is to be composed of eight or fewer jurors with*
37 *no alternates.*

38 (D) *That each side will be limited to three peremptory*
39 *challenges, unless the court permits an additional challenge in*
40 *cases with more than two sides as provided in Section 630.04.*

1 (E) That the trial and pretrial matters will proceed under
2 subparagraphs (A) to (D), inclusive, and, unless the parties
3 expressly agree otherwise in the proposed consent order, under
4 all other provisions in this chapter and in the implementing rules
5 of court.

6 (f) The court must issue the consent order as proposed by the
7 parties, unless the court finds good cause why the action should
8 not proceed through the expedited jury trial process, in which case
9 the court may deny the proposed consent order in its entirety.

10 630.04. (a) Juries in expedited jury trial cases will be
11 composed of eight jurors, unless the parties have agreed to fewer.
12 No alternates will be selected.

13 (b) The court must allow each side three peremptory challenges.
14 If there are more than two parties in a case and more than two
15 sides, as determined by the court under subdivision (c) of Section
16 231, the parties may request one additional peremptory challenge
17 each, which is to be granted by the court as the interests of justice
18 may require.

19 630.05. Nothing in this chapter is intended to preclude a jury
20 from deliberating as long as needed.

21 630.06. (a) The rules of evidence apply in expedited jury trials,
22 unless the parties stipulate otherwise to relaxed rules.

23 (b) Any stipulation by the parties to use relaxed rules of evidence
24 may not be construed to eliminate or in any way affect the right
25 of a witness or party to invoke any applicable privilege or other
26 law protecting confidentiality.

27 (c) The right to issue subpoenas and notices to appear to secure
28 the attendance of witnesses or the production of documents at trial
29 is as provided in the Code of Civil Procedure.

30 630.07. (a) The verdict in an expedited jury trial case is
31 binding, subject to any written high/low agreement or other
32 stipulations concerning the amount of the award agreed upon by
33 the parties.

34 (b) A vote of six of the eight jurors is required for a verdict,
35 unless the parties stipulate otherwise.

36 630.08. (a) Parties must agree to waive any motions for
37 directed verdicts, motions to set aside the verdict or any judgment
38 rendered by the jury, or motions for a new trial on the basis of
39 inadequate or excessive damages.

1 (b) *The court may not set aside any verdict or any judgment,*
2 *may not direct that judgment be entered in favor of a party entitled*
3 *to judgment as a matter of law, and may not order a new trial,*
4 *except on the grounds stated in Section 630.09.*

5 630.09. (a) *By agreeing to take part in the expedited jury trial*
6 *process, the parties agree to waive the right to bring post-trial*
7 *motions or to appeal from the determination of the matter, except*
8 *as stated in this section. The only grounds on which a party may*
9 *move for a new trial or appeal are any of the following:*

10 (1) *Judicial officer misconduct that materially affected the*
11 *substantial rights of a party.*

12 (2) *Misconduct of the jury.*

13 (3) *Corruption, fraud, or other undue means employed in the*
14 *proceedings of the court, jury, or adverse party in such a way that*
15 *either party was prevented from having a fair expedited jury trial.*

16 (b) *Within 10 court days of the entry of a jury verdict, a party*
17 *may apply for a new trial on any of the grounds in subdivision (a).*

18 (c) *Except as provided in subdivision (b), parties to an expedited*
19 *jury trial may not make any post-trial motions except for motions*
20 *relating to costs and attorney's fees.*

21 (d) *Before filing an appeal, a party must make a motion for a*
22 *new trial under subdivision (b). If the motion for a new trial is*
23 *denied, the party may appeal the judgment to the appropriate court*
24 *with appellate jurisdiction and seek a new expedited jury trial on*
25 *any of the grounds in subdivision (a). Parties to an expedited jury*
26 *trial may not appeal on any other ground.*

27 630.10. *All statutes and rules governing costs and attorney's*
28 *fees apply in expedited jury trials, unless the parties agree*
29 *otherwise in the consent order.*

30 630.11. *The Judicial Council shall, on or before January 1,*
31 *2011, adopt rules and forms to establish uniform procedures*
32 *implementing the provisions of this chapter, including, but not*
33 *limited to, rules for all of the following:*

34 (a) *Additional content of proposed consent orders.*

35 (b) *Pretrial exchanges and submissions.*

36 (c) *Pretrial conferences.*

37 (d) *Time limits for jury selection.*

38 (e) *Time limits for trial, including presentation of evidence and*
39 *argument.*

40 (f) *Presentation of evidence and testimony.*

1 (g) Any other procedures necessary to implement the provisions
2 of this chapter.

3 ~~SECTION 1. Section 631.01 is added to the Code of Civil
4 Procedure, to read:~~

5 ~~631.01. The Judicial Council, consistent with its rulemaking
6 authority, is specifically authorized to adopt rules of court to
7 establish procedures for conducting expedited jury trials in civil
8 cases where the parties stipulate that those rules and procedures
9 shall apply, including provision for a jury of fewer than 12
10 members pursuant to Section 220.~~