

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 21, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2284**

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**Introduced by Assembly Member Evans**

February 18, 2010

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An act to add *and repeal* Chapter 4.5 (commencing with Section 630.01) ~~to~~ of 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 *that would be operative until January 1, 2016*. The bill would establish procedures

for conducting expedited jury trials in civil cases where the parties sign a consent order to stipulate that those procedures apply, including provisions for a jury of 8 or fewer than 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 a 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:

5  
 6 CHAPTER 4.5. EXPEDITED JURY TRIALS  
 7

8 630.01. For purposes of this chapter:

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

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

18 630.02. The rules and procedures applicable to expedited jury  
 19 trials are as follows:

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

1 (b) Any matters not expressly addressed in this chapter, in the  
2 implementing rules of court, or in a consent order authorized by  
3 this chapter and the implementing rules, are governed by applicable  
4 statutes and rules governing civil actions.

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

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

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

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

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

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

22 (e) The proposed consent order submitted to the court ~~must~~ shall  
23 include all of the following:

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

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

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

36 (B) That each side ~~will~~ shall have up to three hours in which to  
37 present its case.

38 (C) That the jury ~~is to~~ shall be composed of eight or fewer jurors  
39 with no alternates.

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

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

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

13 630.04. (a) Juries in expedited jury trial cases ~~will~~ *shall* be  
14 composed of eight jurors, unless the parties have agreed to fewer.  
15 No alternates ~~will~~ *shall* be selected.

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

22 630.05. Nothing in this chapter is intended to preclude a jury  
23 from deliberating as long as needed.

24 630.06. (a) The rules of evidence apply in expedited jury trials,  
25 unless the parties stipulate otherwise to relaxed rules.

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

30 (c) The right to issue subpoenas and notices to appear to secure  
31 the attendance of witnesses or the production of documents at trial  
32 ~~is as provided in~~ *shall be issued in accordance with* the Code of  
33 Civil Procedure.

34 630.07. (a) The verdict in an expedited jury trial case is  
35 binding, subject to any written high/low agreement or other  
36 stipulations concerning the amount of the award agreed upon by  
37 the parties.

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

1 630.08. (a) Parties ~~must~~ *shall* agree to waive any motions for  
2 directed verdicts, motions to set aside the verdict or any judgment  
3 rendered by the jury, or motions for a new trial on the basis of  
4 inadequate or excessive damages.

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

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

14 (1) Judicial officer misconduct that materially affected the  
15 substantial rights of a party.

16 (2) Misconduct of the jury.

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

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

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

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

31 630.10. All statutes and rules governing costs and attorney's  
32 fees *shall* apply in expedited jury trials, unless the parties agree  
33 otherwise in the consent order.

34 630.11. The Judicial Council shall, on or before January 1,  
35 2011, adopt rules and forms to establish uniform procedures  
36 implementing the provisions of this chapter, including, but not  
37 limited to, rules for all of the following:

38 (a) Additional content of proposed consent orders.

39 (b) Pretrial exchanges and submissions.

40 (c) Pretrial conferences.

- 1 (d) Time limits for jury selection.
- 2 (e) Time limits for trial, including presentation of evidence and
- 3 argument.
- 4 (f) Presentation of evidence and testimony.
- 5 (g) Any other procedures necessary to implement the provisions
- 6 of this chapter.
- 7 *630.12. This chapter shall remain in effect only until January*
- 8 *1, 2016, and as of that date is repealed, unless a later enacted*
- 9 *statute, that is enacted before January 1, 2016, deletes or extends*
- 10 *that date.*