

AMENDED IN SENATE AUGUST 18, 2010

AMENDED IN SENATE JULY 15, 2010

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 and repeal Chapter 4.5 (commencing with Section 630.01) 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~~ 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~~ a 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~~ *returned*
16 by the jury. Neither the existence of, nor the amounts contained
17 in any high/low agreements, may be disclosed to the jury.

18 (c) "*Post-trial motions*" do not include motions relating to costs
19 and attorney's fees, motions to correct a judgment for a clerical
20 error, and motions to enforce a judgment.

21 630.02. The rules and procedures applicable to expedited jury
22 trials are as follows:

1 (a) The procedures in this chapter and in the implementing rules
2 of court shall apply to expedited jury trials, unless the parties agree
3 otherwise, as permitted under *subparagraph (E) of paragraph (1)*
4 *of subdivision (e) of Section 630.03*, and the court so orders.

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

9 630.03. (a) All parties agreeing to ~~take part~~ *participate* in an
10 expedited jury trial and, if represented, their counsel, shall sign a
11 proposed consent order granting an expedited jury trial.

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

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

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

19 (c) Any agreement to ~~engage~~ *participate* in an expedited jury
20 trial under this chapter may be entered into only after a dispute
21 has arisen and ~~a case~~ *an action* has been filed.

22 ~~(d) For an expedited jury trial involving a minor, an incompetent~~
23 ~~person, or a person for whom a conservator has been appointed,~~
24 ~~the~~

25 (d) *The court shall approve the use of an expedited jury trial*
26 *and any high/low agreements or other stipulations before the trial*
27 *for an expedited jury trial involving either of the following:*

28 (1) *A self-represented litigant.*

29 (2) *A minor, an incompetent person, or a person for whom a*
30 *conservator has been appointed.*

31 (e) The proposed consent order submitted to the court shall
32 include all of the following:

33 (1) A preliminary statement that each named party and any
34 insurance carrier responsible for providing coverage or defense
35 on behalf of ~~a~~ *that* party, individually identified in the proposed
36 consent order, ~~has~~ *have* been informed of the rules and procedures
37 for an expedited jury trial and provided with a Judicial Council
38 information sheet regarding expedited jury trials, ~~has~~ *have* agreed
39 to take part in *or, in the case of a responsible insurance carrier,*

1 *not object to*, the expedited jury trial process, and ~~has~~ *have* agreed
2 to all the specific provisions set forth in the consent order.

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

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

7 (B) That each side shall have up to three hours in which to
8 present its case.

9 (C) That the jury shall be composed of eight or fewer jurors
10 with no alternates.

11 (D) That each side shall be limited to three peremptory
12 challenges, unless the court permits an additional challenge in
13 cases with more than two sides as provided in Section 630.04.

14 (E) That the trial and pretrial matters will proceed under
15 subparagraphs (A) to (D), inclusive, and, unless the parties
16 expressly agree otherwise in the proposed consent order, under all
17 other provisions in this chapter and in the implementing rules of
18 court.

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

23 630.04. (a) Juries in expedited jury trial cases shall be
24 composed of eight jurors, unless the parties have agreed to fewer.
25 No alternates shall be selected.

26 (b) The court shall allow each side three peremptory challenges.
27 If there are more than two parties in a case and more than two
28 sides, as determined by the court under subdivision (c) of Section
29 231, the parties may request one additional peremptory challenge
30 each, which is to be granted by the court as the interests of justice
31 may require.

32 630.05. Nothing in this chapter is intended to preclude a jury
33 from deliberating as long as needed.

34 630.06. (a) The rules of evidence apply in expedited jury trials,
35 unless the parties stipulate otherwise ~~to relaxed rules~~.

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

1 (c) The right to issue subpoenas and notices to appear to secure
2 the attendance of witnesses or the production of documents at trial
3 shall be issued in accordance with the Code of Civil Procedure in
4 accordance with this code.

5 630.07. (a) The verdict in an expedited jury trial case is
6 binding, subject to any written high/low agreement or other
7 stipulations concerning the amount of the award agreed upon by
8 the parties.

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

11 630.08. (a) ~~Parties shall~~ By agreeing to participate in the
12 expedited jury trial process, the parties agree to waive any motions
13 for directed verdicts, motions to set aside the verdict or any
14 judgment rendered by the jury, or motions for a new trial on the
15 basis of inadequate or excessive damages.

16 (b) The court ~~may shall~~ not set aside any verdict or any
17 judgment, ~~may shall~~ not direct that judgment be entered in favor
18 of a party entitled to judgment as a matter of law, and ~~may shall~~
19 not order a new trial, except on the grounds stated in Section
20 630.09.

21 630.09. (a) By agreeing to ~~take part~~ participate in the expedited
22 jury trial process, the parties agree to waive the right to bring
23 post-trial motions or to appeal from the determination of the matter,
24 except as provided in this section. The only grounds on which a
25 party may move for a new trial or appeal are any of the following:

26 (1) ~~Judicial officer~~ misconduct that materially affected the
27 substantial rights of a party.

28 (2) Misconduct of the jury.

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

33 (b) Within 10 court days of the entry of a jury verdict, a party
34 may ~~apply~~ file with the clerk and serve on each adverse party a
35 notice of the intention to move for a new trial on any of the grounds
36 specified in subdivision (a). The notice shall be deemed to be a
37 motion for a new trial.

38 (c) Except as provided in subdivision (b), parties to an expedited
39 jury trial ~~may shall~~ not make any post-trial motions except for

1 motions relating to costs and attorney’s fees, *motions to correct a*
2 *judgment for clerical error, and motions to enforce a judgment.*

3 (d) Before filing an appeal, a party shall make a motion for a
4 new trial under subdivision (b). If the motion for a new trial is
5 denied, the party may appeal the judgment to the appropriate court
6 with appellate jurisdiction and seek a new ~~expedited jury~~ trial on
7 any of the grounds *specified* in subdivision (a). Parties to an
8 expedited jury trial may not appeal on any other ground.

9 630.10. All statutes and rules governing costs and attorney’s
10 fees shall apply in expedited jury trials, unless the parties agree
11 otherwise in the consent order.

12 630.11. The Judicial Council shall, on or before January 1,
13 2011, adopt rules and forms to establish uniform procedures
14 implementing the provisions of this chapter, including, but not
15 limited to, rules for all of the following:

- 16 (a) Additional content of proposed consent orders.
- 17 (b) Pretrial exchanges and submissions.
- 18 (c) Pretrial conferences.
- 19 (d) Time limits for jury selection.
- 20 (e) Time limits for trial, including presentation of evidence and
21 argument.
- 22 (f) Presentation of evidence and testimony.
- 23 (g) Any other procedures necessary to implement the provisions
24 of this chapter.

25 630.12. This chapter shall remain in effect only until January
26 1, 2016, and as of that date is repealed, unless a later enacted
27 statute, that is enacted before January 1, 2016, deletes or extends
28 that date.