

Assembly Bill No. 2284

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

Passed the Senate August 20, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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 to 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.

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

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

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

CHAPTER 4.5. EXPEDITED JURY TRIALS

630.01. For purposes of this chapter:

(a) “Expedited jury trial” means a consensual, binding jury trial before a reduced jury panel and a judicial officer.

(b) “High/low agreement” means a written agreement entered into by the parties that specifies a minimum amount of damages that a plaintiff is guaranteed to receive from the defendant, and a maximum amount of damages that the defendant will be liable for, regardless of the ultimate verdict returned by the jury. Neither the existence of, nor the amounts contained in any high/low agreements, may be disclosed to the jury.

(c) “Post-trial motions” do not include motions relating to costs and attorney’s fees, motions to correct a judgment for a clerical error, and motions to enforce a judgment.

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

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

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

630.03. (a) All parties agreeing to participate in an expedited jury trial and, if represented, their counsel, shall sign a proposed consent order granting an expedited jury trial.

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

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

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

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

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

(1) A self-represented litigant.

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

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

(1) A preliminary statement that each named party and any insurance carrier responsible for providing coverage or defense on behalf of that party, individually identified in the proposed consent order, have been informed of the rules and procedures for an expedited jury trial and provided with a Judicial Council information sheet regarding expedited jury trials, have agreed to take part in or, in the case of a responsible insurance carrier, not object to, the expedited jury trial process, and have agreed to all the specific provisions set forth in the consent order.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The right to issue subpoenas and notices to appear to secure the attendance of witnesses or the production of documents at trial shall be in accordance with this code.

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

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

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

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

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

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

(2) Misconduct of the jury.

(3) Corruption, fraud, or other undue means employed in the proceedings of the court, jury, or adverse party that prevented a party from having a fair trial.

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

(c) Except as provided in subdivision (b), parties to an expedited jury trial shall not make any post-trial motions except for motions relating to costs and attorney's fees, motions to correct a judgment for clerical error, and motions to enforce a judgment.

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

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

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

(a) Additional content of proposed consent orders.

(b) Pretrial exchanges and submissions.

(c) Pretrial conferences.

(d) Time limits for jury selection.

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

(f) Presentation of evidence and testimony.

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

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

Approved _____, 2010

Governor