

Assembly Bill No. 1659

Passed the Assembly April 21, 2014

Chief Clerk of the Assembly

Passed the Senate June 26, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 629, 659a, and 663a of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1659, Chau. Civil actions: post-verdict motions.

Existing law establishes procedures by which a court, either on its own motion or on motion of a party against whom a verdict has been rendered, may render judgment in favor of the aggrieved party notwithstanding the verdict. Existing law also establishes the procedures by which a party to a court action may make a motion to set aside and vacate a judgment.

This bill would require that the moving, opposing, and reply briefs and accompanying documents in support or opposition to a motion for judgment notwithstanding the verdict or in support or opposition to a motion to set aside and vacate a judgment be served and filed in accordance with the deadlines applicable to a motion for new trial.

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

SECTION 1. Section 629 of the Code of Civil Procedure is amended to read:

629. (a) The court, before the expiration of its power to rule on a motion for a new trial, either of its own motion, after five days' notice, or on motion of a party against whom a verdict has been rendered, shall render judgment in favor of the aggrieved party notwithstanding the verdict whenever a motion for a directed verdict for the aggrieved party should have been granted had a previous motion been made.

(b) A motion for judgment notwithstanding the verdict shall be made within the period specified by Section 659 for the filing and service of a notice of intention to move for a new trial. The moving, opposing, and reply briefs and any accompanying documents shall be filed and served within the periods specified by Section 659a and the hearing on the motion shall be set in the same manner as the hearing on a motion for new trial under Section 660. The

making of a motion for judgment notwithstanding the verdict shall not extend the time within which a party may file and serve notice of intention to move for a new trial. The court shall not rule upon the motion for judgment notwithstanding the verdict until the expiration of the time within which a motion for a new trial must be served and filed, and if a motion for a new trial has been filed with the court by the aggrieved party, the court shall rule upon both motions at the same time. The power of the court to rule on a motion for judgment notwithstanding the verdict shall not extend beyond the last date upon which it has the power to rule on a motion for a new trial. If a motion for judgment notwithstanding the verdict is not determined before that date, the effect shall be a denial of that motion without further order of the court.

(c) If the motion for judgment notwithstanding the verdict is denied and if a new trial is denied, the appellate court shall, when it appears that the motion for judgment notwithstanding the verdict should have been granted, order judgment to be so entered on appeal from the judgment or from the order denying the motion for judgment notwithstanding the verdict.

(d) If a new trial is granted to the party moving for judgment notwithstanding the verdict, and the motion for judgment notwithstanding the verdict is denied, the order denying the motion for judgment notwithstanding the verdict shall nevertheless be reviewable on appeal from that order by the aggrieved party. If the court grants the motion for judgment notwithstanding the verdict or of its own motion directs the entry of judgment notwithstanding the verdict and likewise grants the motion for a new trial, the order granting the new trial shall be effective only if, on appeal, the judgment notwithstanding the verdict is reversed, and the order granting a new trial is not appealed from or, if appealed from, is affirmed.

SEC. 2. Section 659a of the Code of Civil Procedure is amended to read:

659a. Within 10 days of filing the notice, the moving party shall serve upon all other parties and file any brief and accompanying documents, including affidavits in support of the motion. The other parties shall have 10 days after that service within which to serve upon the moving party and file any opposing briefs and accompanying documents, including counter-affidavits. The moving party shall have five days after that service to file any

reply brief and accompanying documents. These deadlines may, for good cause shown by affidavit or by written stipulation of the parties, be extended by any judge for an additional period not to exceed 10 days.

SEC. 3. Section 663a of the Code of Civil Procedure is amended to read:

663a. (a) A party intending to make a motion to set aside and vacate a judgment, as described in Section 663, shall file with the clerk and serve upon the adverse party a notice of his or her intention, designating the grounds upon which the motion will be made, and specifying the particulars in which the legal basis for the decision is not consistent with or supported by the facts, or in which the judgment or decree is not consistent with the special verdict, either:

(1) After the decision is rendered and before the entry of judgment.

(2) Within 15 days of the date of mailing of notice of entry of judgment by the clerk of the court pursuant to Section 664.5, or service upon him or her by any party of written notice of entry of judgment, or within 180 days after the entry of judgment, whichever is earliest.

(b) Except as otherwise provided in Section 12a, the power of the court to rule on a motion to set aside and vacate a judgment shall expire 60 days from the mailing of notice of entry of judgment by the clerk of the court pursuant to Section 664.5, or 60 days after service upon the moving party by any party of written notice of entry of the judgment, whichever is earlier, or if that notice has not been given, then 60 days after filing of the first notice of intention to move to set aside and vacate the judgment. If that motion is not determined within the 60-day period, or within that period, as extended, the effect shall be a denial of the motion without further order of the court. A motion to set aside and vacate a judgment is not determined within the meaning of this section until an order ruling on the motion is (1) entered in the permanent minutes of the court, or (2) signed by the judge and filed with the clerk. The entry of an order to set aside and vacate the judgment in the permanent minutes of the court shall constitute a determination of the motion even though that minute order, as entered, expressly directs that a written order be prepared, signed, and filed. The minute entry shall, in all cases, show the date on

which the order actually is entered in the permanent minutes, but failure to comply with this direction shall not impair the validity or effectiveness of the order.

(c) The provisions of Section 1013 extending the time for exercising a right or doing an act where service is by mail shall not apply to extend the times specified in paragraphs (1) and (2) of subdivision (a).

(d) The moving, opposing, and reply briefs and any accompanying documents shall be filed and served within the periods specified by Section 659a and the hearing on the motion shall be set in the same manner as the hearing on a motion for new trial under Section 660.

(e) An order of the court granting a motion may be reviewed on appeal in the same manner as a special order made after final judgment.

Approved _____, 2014

Governor