

The Expedited Seminar on Mandatory Expedited Jury Trials



Friday, February 19, 2016
4:00pm - 5:30pm - Program
5:30pm - 6:30pm - Reception
The City Club of San Francisco
San Francisco, CA



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THE EXPEDITED SEMINAR ON MANDATORY EXPEDITED JURY TRIALS



Keith D. Chidlaw
Judge Mary Thornton House
Michael C. Kronland
Robert A. Olson



THE EXPEDITED JURY TRIAL *BEFORE* AB 555: A SHORT HISTORY

- Enacted in 2010, effective January 1, 2011 with a Sunset Provision for January 1, 2016
- Added Code of Civil Procedure §§630.01 to 630.12
- California Rules of Court 3.1545 to 3.1552 enacted to assist in implementation of the newly established procedure

THE ORIGINAL CONFIGURATION

1.
 - Voluntary
 - Binding
2.
 - Goal: Completion in 1 Day, But Not Required
3.
 - Appeal/Post-Trial Motions Limited

4. • 8 Person Jury
• No Alternates

5. • Voir Dire to be Conducted in 1 Hour
• Hour Included Split time for Parties, Judge, and for Challenges

6. • 3 Hour Limitation Per side for Presentation of the Trial, Including Cross-Examination
• 6 of 8 Needed to Reach Verdict

THE FIRST FIVE YEARS

- Usage was Infrequent
- Only About 200 Statewide
- Los Angeles County conducted approximately 75
- Sacramento County conducted approximately 20
- Despite low usage, juror satisfaction very high
- Verdicts reflected same results as longer trials
- Both Limited and General Jurisdiction trials were conducted

REASONS FOR UNDER-UTILIZATION

- Insufficient time existed to present their case
- Insufficient time existed to select a jury
- The lack of Appeal Rights
- Concern of legal malpractice suits/bad faith suits in the event of excess verdicts

2015 EJT TASK FORCE FORMED

- Chief Justice Cantil-Sakayue asked the Judicial Council's Governmental Affairs Office to gather together a group of interested parties
 - She met individually with many bar groups
- **Goal:** How to encourage/better utilize EJTs to benefit litigants and ease strain on courts with dwindling resources
- The Task Force included members from the Judicial Council, Judges, Consumer Attorneys and California Defense Counsel
- Judge House, Keith Chidlaw and Bob Olsen

CALIFORNIA DEFENSE COUNSEL'S GOALS

- Expansion of EJTs would be a Tool to Train Young Lawyer
- Exposure would be Limited
- A Need Existed to have a Cap in Order to get Insurer Buy-in

PROPOSALS

Consumer Attorneys:
All Cases Under
\$100K Should be
Subjected to EJT

CDC: There Should
be a Natural Cut-Off
Point for a Case to
be an EJT

VIEWS ON THE PROPOSALS

- If threshold set too high, the insurers will insist on experienced counsel
- Natural cut-off point should be \$25,000 (the cut-off point for unlimited/limited civil actions)
 - This threshold low enough to address concerns by insurers and clients

OTHER CONCERNS

- Need Right to Appeal
- Cases involving excess exposure above policy limits
- Potential malpractice claims
- Potential bad faith claims
- More peremptory challenges
- CDC: wanted opt out provisions if mandatory for certain case types

THE END RESULT:

- The Consumer Attorneys Agreed!
- Judges and Insurers on Board!
- **Deal Struck:** AB 555!

ENTER THE NEW MANDATORY EJT IN LIMITED JURISDICTION JURY TRIALS

- AB 555:
- Amends Code of Civil Procedure §§ 630.03, 630.11; adds §§ 630.20, 630.21, 630.22, 630.23, 630.24, 630.25, 630.26, 630.27, 630.28, 630.29, and 630.30; Repeals § 630.12
- Eliminated the sunset provision on the previous legislation
- Establishes two types of EJTs
- Voluntary
- Mandatory in Limited Jurisdiction actions except for UD's and other opt out events

SOME FURTHER DETAILS

- California Code of Civil Procedure §620 Enacted
- Effective July 1, 2016
- It's Retroactive
- Applies to Cases Filed after July 1, 2016
- Converts Pre-July 1, 2016 Cases to EJTs
- Proposed Rules and Forms for the Mandatory EJT Drafted and Out for Comment, Public Comment was Due on January 19, 2016
- CDC has provided comments
- Judicial Council will consider the comments and finalize rules and forms

A COMPARISON OF VEJT AND MEJT

Voluntary

- 5 hours total each for trial + voir dire
- 8 person jury, no alternates
- 3 peremptory challenges
- Limited appeal rights
- Proposed Consent Order required

Mandatory

- Same
- 8 person jury, 1 alternate
- 4 peremptory challenges
- All appeal rights
- CCP §§90-99 applicable
- Automatic EJT unless opt out

OPT OUT CATEGORIES: IF A CASE IS ONE OF THESE, THE PARTIES MUST AFFIRMATIVELY OPT OUT

CCP 630.20(a)-(f) provides as opt out categories:

- a) **Punitive damages** or **damages in excess of insurance policy limits** are sought;
- b) A party's insurer is providing a legal defense subject to a **reservation of rights**;
- c) The case involves a claim reportable to a governmental entity; a claim of **moral turpitude** that may affect an individual's **professional licensing**; or **claims of intentional conduct**;

CCP 630.20 PROVISIONS, CONTINUED

- d) The case has been **reclassified as unlimited**;
- e) The complaint contains a **demand for attorney's fees**, other than a demand for attorney's fees in an action to enforce a contract that provides for an award of attorney's fees and costs to the prevailing party; or
- f) The judge finds **good cause** exists for the action **not to proceed** under these provisions.

PROPOSED EJT FORM EJT-003: REQUEST TO OPT OUT

- This would be mandatory
- Declaration of attorney attesting to the basis for opt-out similar to a memorandum of costs
- No evidence need be submitted by the attesting attorney

TIMING OF THE OPT-OUT

- For cases filed prior to July 1, 2016, opt-out request must be filed at least 10 days before the trial.
- For cases filed on July 1, 2016 and following, the opt-out request must be filed 45 days prior to the date first set for trial.
- Any objection must be served and filed within 15 days after the date of service of the request, on form *Opposition to Request to Opt Out of Mandatory Expedited Jury Trial Procedures*, form EJT-004.
- "Good cause" escape clause is included.
- No time to file an objection is provided in cases prior to July 1, 2016, if the opt out is made 10 days prior to trial.

AFTER THE OPT-OUT IS FILED AND AN OBJECTION RECEIVED, THEN,

- Judicial officer rules on the request.
- It can be denied.
- It can be granted.
- If more information is required, the judicial officer can set it for a hearing.

Form EJT-004: Opposition to Request to Opt Out of Mandatory Expedited Jury Trial Procedures. The form includes fields for Case No., Date Filed, and Court. It contains several sections with checkboxes and text boxes for providing information and objections. A signature line is at the bottom.

ADC'S POSITION

- If the court does not outright grant the request to opt out, then requesting party should be entitled to a hearing.
- If the court grants a request to opt out over objection, the court has the discretion to set a hearing, but objecting party is not entitled to a hearing as a matter of right.

PRACTICE TIPS FOR TRYING AN EJT: JUDGE'S PERSPECTIVE

- First, check out California Code of Civil Procedure §§90-99!
- "Economic Litigation for Limited Civil Cases"
- Rules apply unless, upon notice motion, a request is made to have the rules not apply because it is impractical to prosecute or defend the action within the limitations of the provisions (CCP §91(c))
- Pleadings are limited, i.e. no special demurrers allowed and motions to strike can only be on the ground that the damages or relief sought are not supported by the allegations of the complaint.
- There are limits to discovery. (CCP §94)
- Special Request for Statement of Witnesses, Description and Copies of Evidence (CCP §96)

CCP 93 QUESTIONNAIRES

- Plaintiff has an option to serve case questionnaires with the complaint
- Plaintiff fills out the Judicial Council Form DISC-010
- Attaches a blank form for the Defendant to fill out
- If response not provided timely, there are consequences, such a motion to compel which can result in monetary, issue, and terminating sanctions
- This can be strategic in many ways because it adds another layer to statements recorded by others, statements made in the questionnaire, statements made at deposition and so forth.....

PREPARED TESTIMONY IN LIEU OF DIRECT TESTIMONY CCP §98

- A party can use a declaration or affidavit in lieu of live testimony if they
 - (1) Serve a copy on the party against whom it is offered at least 30 days prior to trial, together with a current address of the witness
 - (2) The statement is in the form of all or part of a deposition in the case and the opposing party had an opportunity to participate in the deposition.
- The court decides whether the affidavit or declaration shall be read into the record in lieu of oral testimony or admitted as a documentary exhibit.
- If you get one of these, evaluate whether you need that witness to be subpoenaed into court for cross-examination OR whether not having that witness testify at all is an advantage to your case.

TRYING THE EJT

- See if the judge will permit use of a short questionnaire that doesn't figure into the 5 hours.
- Start with a strategy that from discovery forward, you discover to evaluate the biggest weaknesses in the case and figure out how you can best allot the most time to those weaknesses.
- Work with opposing counsel to develop a set of undisputed facts, particularly foundational facts for introduction of documents and pictures.
- Have the judge read those stipulations with the jury instruction.
- Be as **visual** as you can!

PRACTICE TIPS & TACTICS FOR TRYING AN EJT: ATTORNEY'S PERSPECTIVE

- Should you opt out or stay in?
- With tactical usage of procedures set out in CCP §§90-99, you can have a more senior lawyer review and advise.
- Use of Jury Questionnaires: figure out what you really need and keep them short and case specific.
- Motions in Limine—use of CCP §§ 90-99 to limit the evidence to focus upon heart of the defense, what can be your tactics?
- Court Reporter?
- Request for pre-trial conference?
- **POP**: plan, organize, prioritize

ALTERNATIVE WAYS OF PRESENTING EVIDENCE

- Frontload the process by getting stipulations to authentication and admissibility
- Prepare individual booklets for each juror (Consider a Joint Booklet)
- Instead of booklet, use an I-Pad
- Qualify Expert "Via Resumes" placed in the booklet or if Expert is the focus, don't
- Use animations and simulations

TABLE OF CONTENTS

1. **CCP 630.20 - 630.30 (New - Mandatory Expedited Jury Trials)**
2. **CCP 630.01 - 630.11 (Existing Voluntary Expedited Jury Trials)**
3. **Cal. Rules of Court - Rules 3.1545 - 3.1552 (Existing re Voluntary EJT)**
4. **CCP 90 - 99 (re Limited Civil Actions)**
5. **Case Questionnaire for Limited Civil Cases (Form DISC-010-CCP § 93)**
6. **Invitation to Comment - Judicial Council of California
(Proposed CRC Rules 3.1545 - 3.1553 new and amended)**

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

630.20. (a) Except as provided in subdivisions (b) and (c), an action or special proceeding treated as a limited civil case pursuant to Article 1 (commencing with Section 85) of Chapter 5.1 of Title 1 of Part 1, including an action or special proceeding initially filed as a limited civil case or remanded as one thereafter, shall be conducted as a mandatory expedited jury trial pursuant to this chapter.

(b) Either party may opt out of the mandatory expedited jury trial procedures if any of the following criteria is met:

(1) Punitive damages are sought.

(2) Damages in excess of insurance policy limits are sought.

(3) A party's insurer is providing a legal defense subject to a reservation of rights.

(4) The case involves a claim reportable to a governmental entity.

(5) The case involves a claim of moral turpitude that may affect an individual's professional licensing.

(6) The case involves claims of intentional conduct.

(7) The case has been reclassified as unlimited pursuant to Section 403.020.

(8) The complaint contains a demand for attorney's fees, unless those fees are sought pursuant to Section 1717 of the Civil Code.

(9) The judge finds good cause exists for the action not to proceed under the rules of this chapter. Good cause includes, but is not limited to, a showing that a party needs more than five hours to present or defend the action and that the parties have been unable to stipulate to additional time.

(c) This chapter does not apply to a proceeding in forcible entry or forcible or unlawful detainer.

(d) A judgment in a limited civil case conducted as a mandatory expedited jury trial may be appealed to the appellate division of the superior court in which the case was tried.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

For purposes of this chapter:

630.21. (a) "Mandatory expedited jury trial" means a jury trial before a reduced jury panel and a judge, conducted pursuant to this chapter.

(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.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (*Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.*)

630.22. (a) The procedures in this chapter and in the implementing rules of court shall apply to mandatory expedited jury trials conducted in limited civil cases, unless the parties agree otherwise, as permitted under subdivision (d) of Section 630.23, and the court so orders.

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

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

The following rules and procedures apply to mandatory expedited jury trials conducted pursuant to this chapter:

630.23.

(a) Each side shall have up to five hours in which to complete voir dire and to present its case.

(b) The jury shall be composed of eight jurors and one alternate, unless the parties have agreed to fewer jurors.

(c) Each side shall be limited to four peremptory challenges, unless the court permits an additional challenge in cases with more than two sides. 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.

(d) The parties may agree to modify the rules and procedures specified in this chapter and the implementing rules of court, subject to the court's approval.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

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

630.24. *(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)*

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

(a) The rules of evidence apply to mandatory expedited jury trials conducted in limited civil cases, unless the parties stipulate otherwise.

630.25.

(b) Any stipulation by the parties to use relaxed rules of evidence shall 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.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

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

630.26. (b) The verdict in a limited civil case following a mandatory expedited jury trial case shall be appealable under subdivision (d) of Section 630.20 and subject to any written high/low agreement or other stipulations concerning the amount of the award agreed upon by the parties.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

All statutes and rules governing costs and attorney's fees shall apply in limited civil cases that are conducted as mandatory expedited jury trials, unless the parties stipulate otherwise.

630.27.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Section operative July 1, 2016, pursuant to Section 630.29. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

The Judicial Council shall, on or before July 1, 2016, adopt rules and forms to establish uniform procedures implementing the provisions of this chapter, including, rules for the following:

630.28.

- (a) Pretrial exchanges and submissions.
- (b) Pretrial conferences.
- (c) Opt-out procedures pursuant to subdivision (b) of Section 630.20.
- (d) Presentation of evidence and testimony.
- (e) Any other procedures necessary to implement the provisions of this chapter.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Repealed as of July 1, 2019, pursuant to Section 630.30.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (*Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.*)

Sections 630.20 to 630.27, inclusive, shall become operative on July 1, 2016.

630.29. (*Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Repealed as of July 1, 2019, pursuant to Section 630.30.*)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases [630.20 - 630.30] (Chapter 4.6 added by Stats. 2015, Ch. 330, Sec. 5.)

630.30. This chapter shall remain in effect only until July 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2019, deletes or extends that date.

(Added by Stats. 2015, Ch. 330, Sec. 5. Effective January 1, 2016. Repealed as of July 1, 2019, by its own provisions. Note: Repeal affects Chapter 4.6, commencing with Section 630.20.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

For purposes of this chapter:

630.01. (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" does 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.

(Amended by Stats. 2011, Ch. 296, Sec. 37. Effective January 1, 2012.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

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

630.02. (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.

(Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

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 five hours in which to complete voir dire and 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.

(Amended by Stats. 2015, Ch. 330, Sec. 2. Effective January 1, 2016.)

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PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (*Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.*)

(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.

630.04.

(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.

(Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (*Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.*)

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

630.05. (*Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.*)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.)*

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.)*

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (*Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)*

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

630.06. (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.

(Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (*Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.*)

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.

(Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (*Part 2 enacted 1872.*)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (*Title 8 enacted 1872.*)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (*Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.*)

630.08. (a) By agreeing to participate in the expedited jury trial process, the parties agree to waive any motions for directed verdict, 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.

(Amended by Stats. 2011, Ch. 296, Sec. 38. Effective January 1, 2012.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

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.

(Added by Stats. 2010, Ch. 674, Sec. 2, Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

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.

630.10.

(Added by Stats. 2010, Ch. 674, Sec. 2. Effective January 1, 2011.)

CODE OF CIVIL PROCEDURE - CCP

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 8. OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS [577 - 674] (Title 8 enacted 1872.)

CHAPTER 4.5. Voluntary Expedited Jury Trials [630.01 - 630.11] (Heading of Chapter 4.5 amended by Stats. 2015, Ch. 330, Sec. 1.)

The Judicial Council shall, on or before July 1, 2016, update rules and forms to establish uniform procedures implementing the provisions of this chapter, including, but not limited to, rules for all of the following:

630.11.

- (a) Additional content of proposed consent orders.
- (b) Pretrial exchanges and submissions.
- (c) Pretrial conferences.
- (d) Presentation of evidence and testimony.
- (e) Any other procedures necessary to implement the provisions of this chapter.

(Amended by Stats. 2015, Ch. 330, Sec. 3. Effective January 1, 2016.)

Chapter 4.5. Expedited Jury Trials

Division 15, Trial—Chapter 4.5, Expedited Jury Trials, adopted effective January 1, 2011.

Rule 3.1545. Expedited jury trials

Rule 3.1546. Assignment of judicial officers

Rule 3.1547. Consent order

Rule 3.1548. Pretrial submissions

Rule 3.1549. Voir dire

Rule 3.1550. Time limits

Rule 3.1551. Case presentation

Rule 3.1552. Presentation of evidence

Rule 3.1545. Expedited jury trials

(a) Application

The rules in this chapter apply to civil actions in which the parties agree to an expedited jury trial under chapter 4.5 (commencing with section 630.01) of title 8 of part 2 of the Code of Civil Procedure.

(b) Definitions

As used in this chapter, unless the context or subject matter otherwise requires:

(1) “Consent order” means the consent order granting an expedited jury trial described in Code of Civil Procedure section 630.03.

(2) “Expedited jury trial,” “high/low agreement,” and “posttrial motions” have the same meanings as stated in Code of Civil Procedure section 630.01.

(c) Other programs

This chapter does not limit the adoption or use of other expedited trial or alternative dispute resolution programs or procedures.

Rule 3.1545 adopted effective January 1, 2011.

Rule 3.1546. Assignment of judicial officers

The presiding judge is responsible for the assignment of a judicial officer to conduct an expedited jury trial. The presiding judge may assign a temporary judge appointed by the court under rules 2.810–2.819 to conduct an expedited jury trial. A temporary judge requested by the parties under rules 2.830–2.835, whether or not privately compensated, may not be appointed to conduct an expedited jury trial.

Rule 3.1546 adopted effective January 1, 2011.

Rule 3.1547. Consent order

(a) Submitting proposed consent order to the court

(1) Unless the court otherwise allows, to be eligible to participate in an expedited jury trial, the parties must submit to the court, no later than 30 days before any assigned trial date, a proposed consent order granting an expedited jury trial.

(2) The parties may enter into written stipulations regarding any high/low agreements or other matters. Only in the following circumstances may a high/low agreement be submitted to the court with the proposed consent order or disclosed later in the action:

(A) Upon agreement of the parties;

(B) In any case involving either

(i) A self-represented litigant, or

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

(C) If necessary for entry or enforcement of the judgment.

(b) Optional content of proposed consent order

In addition to complying with the provisions of Code of Civil Procedure section 630.03(e), the proposed consent order may include other agreements of the parties, including the following:

(1) Modifications of the timelines for pretrial submissions required by rule 3.1548;

(2) Limitations on the number of witnesses per party, including expert witnesses;

(3) Modification of statutory or rule provisions regarding exchange of expert witness information and presentation of testimony by such witnesses;

(4) Allocation of the time periods stated in rule 3.1550, including how arguments and cross-examination may be used by each party in the three-hour time frame;

(5) Any evidentiary matters agreed to by the parties, including any stipulations or admissions regarding factual matters;

(6) Any agreements about what constitutes necessary or relevant evidence for a particular factual determination;

(7) Agreements about admissibility of particular exhibits or demonstrative evidence that are presented without the legally required authentication or foundation;

(8) Agreements about admissibility of video or written depositions and declarations;

- (9) Agreements about any other evidentiary issues or the application of any of the rules of evidence;
- (10) Agreements to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods for presenting information to the jury;
- (11) Agreements concerning the time frame for filing and serving motions in limine; and
- (12) Agreements concerning numbers of jurors required for jury verdicts in cases with fewer than eight jurors.

Rule 3.1547 adopted effective January 1, 2011.

Rule 3.1548. Pretrial submissions

(a) Service

Service under this rule must be by a means consistent with Code of Civil Procedure sections 1010.6, 1011, 1012, and 1013 or rule 2.251 and be reasonably calculated to assure delivery to the other party or parties no later than the close of business on the last allowable day for service as specified below.

(b) Pretrial exchange

No later than 25 days before trial, each party must serve on all other parties the following:

- (1) Copies of any documentary evidence that the party intends to introduce at trial (except for documentary evidence to be used solely for impeachment or rebuttal), including, but not limited to, medical bills, medical records, and lost income records;
- (2) A list of all witnesses whom the party intends to call at trial, except for witnesses to be used solely for impeachment or rebuttal, and designation of whether the testimony will be in person, by video, or by deposition transcript;
- (3) A list of depositions that the party intends to use at trial, except for depositions to be used solely for impeachment or rebuttal;
- (4) A copy of any audiotapes, videotapes, digital video discs (DVDs), compact discs (CDs), or other similar recorded materials that the party intends to use at trial for evidentiary purposes, except recorded materials to be used solely for impeachment or rebuttal and recorded material intended to be used solely in closing argument;
- (5) A copy of any proposed jury questionnaires (parties are encouraged to agree in advance on a questionnaire);
- (6) A list of proposed approved introductory instructions, preinstructions, and instructions to be read by the judge to the jury;

(7) A copy of any proposed special jury instructions in the form and format described in rule 2.1055;

(8) Any proposed verdict forms;

(9) A special glossary, if the case involves technical or unusual vocabulary; and

(10) Motions in limine.

(c) Supplemental exchange

No later than 20 days before trial, a party may serve on any other party any additional documentary evidence and a list of any additional witnesses whom the party intends to use at trial in light of the exchange of information under subdivision (b).

(d) Submissions to court

No later than 20 days before trial, each party must file all motions in limine and must lodge with the court any items served under (b)(2)–(9) and (c).

(e) Preclusionary effect

Unless good cause is shown for any omission, failure to serve documentary evidence as required under this rule will be grounds for preclusion of the evidence at the time of trial.

(f) Pretrial conference

No later than 15 days before trial, unless that period is modified by the consent order, the judicial officer assigned to the case must conduct a pretrial conference, at which time objections to any documentary evidence previously submitted will be ruled on. If there are no objections at that time, counsel must stipulate in writing to the admissibility of the evidence. Matters to be addressed at the pretrial conference, in addition to the evidentiary objections, include the following:

(1) Any evidentiary matters agreed to by the parties, including any stipulations or admissions regarding factual matters;

(2) Any agreement of the parties regarding limitations on necessary or relevant evidence, including any limitations on expert witness testimony;

(3) Any agreements of the parties to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods of presenting information to the jury;

(4) Admissibility of any exhibits or demonstrative evidence without legally required authentication or foundation;

(5) Admissibility of video or written depositions and declarations and objections to any

portions of them;

(6) Objections to and admissibility of any recorded materials that a party has designated for use at trial;

(7) Jury questionnaires;

(8) Jury instructions;

(9) Special verdict forms;

(10) Allocation of time for each party's case; and

(11) Motions in limine filed before the pretrial conference.

(g) Expert witness documents

Any documents produced at the deposition of an expert witness are deemed to have been timely exchanged for the purpose of (c) above.

Rule 3.1548 adopted effective January 1, 2011.

Rule 3.1549. Voir dire

Approximately one hour will be devoted to voir dire, with 15 minutes allotted to the judicial officer and 15 minutes to each side. Parties are encouraged to submit a joint form questionnaire to be used with prospective jurors to help expedite the voir dire process.

Rule 3.1549 adopted effective January 1, 2011.

Rule 3.1550. Time limits

Excluding jury selection, each side will be allowed three hours to present its case, including opening statements and closing arguments, unless the court, upon a finding of good cause, allows additional time. The amount of time allotted for each side includes the time that the side spends on cross-examination. The parties are encouraged to streamline the trial process by limiting the number of live witnesses. The goal is to complete an expedited jury trial within one full trial day.

Rule 3.1550 adopted effective January 1, 2011.

Rule 3.1551. Case presentation

(a) Methods of presentation

Upon agreement of the parties and with the approval of the judicial officer, the parties may present

summaries and may use photographs, diagrams, slides, electronic presentations, overhead projections, individual notebooks of exhibits for submission to the jurors, or other innovative methods of presentation approved at the pretrial conference.

(b) Exchange of items

Anything to be submitted to the jury as part of the evidentiary presentation of the case in chief must be exchanged 20 days in advance of the trial, unless that period is modified by the consent order. This rule does not apply to items to be used solely for closing argument.

(c) Stipulations regarding facts

The parties should stipulate to factual and evidentiary matters to the greatest extent possible.

Rule 3.1551 adopted effective January 1, 2011.

Rule 3.1552. Presentation of evidence

(a) Stipulations regarding rules of evidence

The parties may offer such evidence as is relevant and material to the dispute. An agreement to modify the rules of evidence for the trial made pursuant to the expedited jury trial statutes commencing with Code of Civil Procedure section 630.01 may be included in the consent order. To the extent feasible, the parties should stipulate to modes and methods of presentation that will expedite the process, either in the consent order or at the pretrial conference.

(b) Objections

Objections to evidence and motions to exclude evidence must be submitted in a timely manner. Except as provided in rule 3.1548(f), failure to raise an objection before trial does not preclude making an objection or motion to exclude at trial.

Rule 3.1552

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

Except where changed by the provisions of this article, all provisions of law applicable to civil actions generally apply to actions subject to this article.

90.

(*Amended by Stats. 2003, Ch. 149, Sec. 3. Effective January 1, 2004.*)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

(a) Except as otherwise provided in this section, the provisions of this article apply to every limited civil case.

91. (b) The provisions of this article do not apply to any action under Chapter 5.5 (commencing with Section 116.110) or any proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

(c) Any action may, upon noticed motion, be withdrawn from the provisions of this article, upon a showing that it is impractical to prosecute or defend the action within the limitations of these provisions.

(Amended by Stats. 1998, Ch. 931, Sec. 36. Effective September 28, 1998.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

(a) The pleadings allowed are complaints, answers, cross-complaints, answers to cross-complaints and general demurrers.

92.

(b) The answer need not be verified, even if the complaint or cross-complaint is verified.

(c) Special demurrers are not allowed.

(d) Motions to strike are allowed only on the ground that the damages or relief sought are not supported by the allegations of the complaint.

(e) Except as limited by this section, all other motions are permitted.

(Amended by Stats. 1983, Ch. 102, Sec. 2. Effective June 16, 1983.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

93. (a) The plaintiff has the option to serve case questionnaires with the complaint, using forms approved by the Judicial Council. The questionnaires served shall include a completed copy of the plaintiff's completed case questionnaire, and a blank copy of the defendant's case questionnaire.

(b) Any defendant upon whom a case questionnaire is served shall serve a completed defendant's case questionnaire upon the requesting plaintiff with the answer.

(c) The case questionnaire shall be designed to elicit fundamental information about each party's case, including names and addresses of all witnesses with knowledge of any relevant facts, a list of all documents relevant to the case, a statement of the nature and amount of damages, and information covering insurance coverages, injuries and treating physicians. The Judicial Council shall design and develop forms for case questionnaires.

(d) Approved forms shall be made available by the clerk of the court.

(e) If a party on whom a case questionnaire has been served under subdivision (a) or (b) fails to serve a timely or a complete response to that questionnaire, the party serving the questionnaire may move for an order compelling a response or a further response and for a monetary sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. If a party then fails to obey an order compelling a response or a further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4.

(Amended by Stats. 2004, Ch. 182, Sec. 5. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

94. Discovery is permitted only to the extent provided by this section and Section 95. This discovery shall comply with the notice and format requirements of the particular method of discovery, as provided in Title 4 (commencing with Section 2016.010) of Part 4. As to each adverse party, a party may use the following forms of discovery:

(a) Any combination of 35 of the following:

(1) Interrogatories (with no subparts) under Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4.

(2) Demands to produce documents or things under Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4.

(3) Requests for admission (with no subparts) under Chapter 16 (commencing with Section 2033.010) of Title 4 of Part 4.

(b) One oral or written deposition under Chapter 9 (commencing with Section 2025.010), Chapter 10 (commencing with Section 2026.010), or Chapter 11 (commencing with Section 2028.010) of Title 4 of Part 4. For purposes of this subdivision, a deposition of an organization shall be treated as a single deposition even though more than one person may be designated or required to testify pursuant to Section 2025.230.

(c) Any party may serve on any person a deposition subpoena duces tecum requiring the person served to mail copies of documents, books, or records to the party's counsel at a specified address, along with an affidavit complying with Section 1561 of the Evidence Code.

The party who issued the deposition subpoena shall mail a copy of the response to any other party who tenders the reasonable cost of copying it.

(d) Physical and mental examinations under Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4.

(e) The identity of expert witnesses under Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

(Amended by Stats. 2006, Ch. 538, Sec. 61. Effective January 1, 2007.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

95. (a) The court may, on noticed motion and subject to such terms and conditions as are just, authorize a party to conduct additional discovery, but only upon a showing that the moving party will be unable to prosecute or defend the action effectively without the additional discovery. In making a determination under this section, the court shall take into account whether the moving party has used all applicable discovery in good faith, and whether the party has attempted to secure the additional discovery by stipulation or by means other than formal discovery.

(b) The parties may stipulate to additional discovery.

(*Added by Stats. 1982, Ch. 1581, Sec. 1.*)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

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CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

(a) Any party may serve on any other party a request in substantially the following form:

96. TO: ,

attorney for :

You are requested to serve on the undersigned, within 20 days, a statement of: the names and addresses of witnesses (OTHER THAN A PARTY WHO IS AN INDIVIDUAL) you intend to call at trial; a description of physical evidence you intend to offer; and a description and copies of documentary evidence you intend to offer or, if the documents are not available to you, a description of them. Witnesses and evidence that will be used only for impeachment need not be included. YOU WILL NOT BE PERMITTED TO CALL ANY WITNESS, OR INTRODUCE ANY EVIDENCE, NOT INCLUDED IN THE STATEMENT SERVED IN RESPONSE TO THIS REQUEST, EXCEPT AS OTHERWISE PROVIDED BY LAW.

(b) The request shall be served no more than 45 days or less than 30 days prior to the date first set for trial, unless otherwise ordered.

(c) A statement responding to the request shall be served within 20 days from the service of the request.

(d) No additional, amended or late statement is permitted except by written stipulation or unless ordered for good cause on noticed motion.

(e) No request or statement served under this section shall be filed, unless otherwise ordered.

(f) The clerk shall furnish forms for requests under this rule.

(g) The time for performing acts required under this section shall be computed as provided by law, including Section 1013.

(Added by Stats. 1982, Ch. 1581, Sec. 1.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

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CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

97. (a) Except as provided in this section, upon objection of a party who served a request in compliance with Section 96, no party required to serve a responding statement may call a witness or introduce evidence, except for purposes of impeachment, against the objecting party unless the witness or evidence was included in the statement served.

(b) The exceptions to subdivision (a) are:

(1) A person who, in his or her individual capacity, is a party to the litigation and who calls himself or herself as a witness.

(2) An adverse party.

(3) Witnesses and evidence used solely for purposes of impeachment.

(4) Documents obtained by discovery authorized by this chapter.

(5) The court may, upon such terms as may be just (including, but not limited to, continuing the trial for a reasonable period of time and awarding costs and litigation expenses), permit a party to call a witness or introduce evidence which is required to be, but is not included in such party's statement so long as the court finds that such party has made a good faith effort to comply with subdivision (c) of Section 96 or that the failure to comply was the result of his or her mistake, inadvertence, surprise or excusable neglect as provided in Section 473.

(c) Nothing in this article limits the introduction of evidence in any hearing pursuant to Section 585.

(Amended by Stats. 1983, Ch. 102, Sec. 3. Effective June 16, 1983.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

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ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

98. A party may, in lieu of presenting direct testimony, offer the prepared testimony of relevant witnesses in the form of affidavits or declarations under penalty of perjury. The prepared testimony may include, but need not be limited to, the opinions of expert witnesses, and testimony which authenticates documentary evidence. To the extent the contents of the prepared testimony would have been admissible were the witness to testify orally thereto, the prepared testimony shall be received as evidence in the case, provided that either of the following applies:

- (a) A copy has been served on the party against whom it is offered at least 30 days prior to the trial, together with a current address of the affiant that is within 150 miles of the place of trial, and the affiant is available for service of process at that place for a reasonable period of time, during the 20 days immediately prior to trial.
- (b) The statement is in the form of all or part of a deposition in the case, and the party against whom it is offered had an opportunity to participate in the deposition.

The court shall determine whether the affidavit or declaration shall be read into the record in lieu of oral testimony or admitted as a documentary exhibit.

(Amended by Stats. 1983, Ch. 102, Sec. 4. Effective June 16, 1983.)

CODE OF CIVIL PROCEDURE - CCP

PART 1. OF COURTS OF JUSTICE [35 - 286] (*Part 1 repealed and added by Code Amendments 1880, Ch. 35.)*

TITLE 1. ORGANIZATION AND JURISDICTION [35 - 155] (*Title 1 repealed and added by Code Amendments 1880, Ch. 35.)*

CHAPTER 5.1. Limited Civil Cases [85 - 100] (*Chapter 5.1 added by Stats. 1998, Ch. 931, Sec. 28.)*

ARTICLE 2. Economic Litigation for Limited Civil Cases [90 - 100] (*Article 2 heading repealed (as part of Chapter 5) and added (to Chapter 5.1) by Stats. 1998, Ch. 931, Sec. 35.)*

99. A judgment or final order, in respect to the matter directly adjudged, is conclusive between the parties and their successors in interest but does not operate as collateral estoppel of a party or a successor in interest to a party in other litigation with a person who was not a party or a successor in interest to a party to the action in which the judgment or order is rendered.

(*Added by Stats. 1982, Ch. 1581, Sec. 1.*)

**DO NOT FILE WITH THE COURT
THIS IS NOT AN ANSWER OR RESPONSE TO THE COMPLAINT**

DISC-010

SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER
CASE QUESTIONNAIRE—FOR LIMITED CIVIL CASES (Under \$25,000)	

REQUESTING PARTY (Name):

RESPONDING PARTY (Name):

—INSTRUCTIONS—

- A. The purpose of the case questionnaire is to help the parties settle their differences without spending a lot of money. This is accomplished by exchanging information about the case early in the lawsuit. The exchange of case questionnaires may be started only by a plaintiff (or cross-complainant) in a limited civil case. The case questionnaire is optional, and if plaintiff (or cross-complainant) exercises the option, only this form may be used.
- B. Instructions for plaintiffs (and cross-complainants)**
1. Under Code of Civil Procedure section 93, a plaintiff (or cross-complainant) may serve a completed case questionnaire and a blank questionnaire with a complaint (or cross-complaint).
 2. This is the only way you can require defendants (or cross-defendants) to serve you with a completed case questionnaire.
- C. Instructions for defendants (and cross-defendants)**
1. If you have been served with a completed case questionnaire by a plaintiff (or cross-complainant), then you must fill in the blank case questionnaire. Your completed case questionnaire must be served on that same plaintiff (or cross-complainant) with your answer to the complaint (or cross-complaint).
 2. **THIS IS NOT AN ANSWER OR RESPONSE TO THE COMPLAINT.**
- D. Instructions for all parties**
1. **ALL QUESTIONS REFER TO THE INCIDENT OR AGREEMENT IN THIS LAWSUIT ONLY.**
 2. Answer each question. If a question is not applicable, answer "NA."
 3. Your answers are not limited to your personal knowledge, but you are required to furnish information available to you or to anyone acting on your behalf, whether you are a plaintiff, defendant, cross-complainant, or cross-defendant.
 4. Type or legibly print your answer below each question. If you cannot completely answer a question in the space provided on the case questionnaire, check the "attachment" box and put the number of the question and the complete answer on an attached sheet of paper or form MC-025. You should *not* put part of an answer on the case questionnaire and part on the attachment. You may put more than one answer on each attached page.
 5. When you have completed the case questionnaire, sign the verification and serve the original.
 6. You may compel compliance with these requirements under Code of Civil Procedure section 93.
 7. **DO NOT FILE THIS CASE QUESTIONNAIRE WITH THE COURT.**

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**CASE QUESTIONNAIRE—FOR LIMITED CIVIL CASES
(Under \$25,000)**

DO NOT FILE WITH THE COURT

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
--	--------------

—QUESTIONS—

1. FOR ALL CASES

a. State your name and street address.

b. State your current business name and street address, the type of business entity, and your title.

c. Describe in detail your claims or defenses and the facts on which they are based, giving relevant dates.

See attachment for answer number 1c.

d. State the name, street address, and telephone number of each person who has knowledge of facts relating to this lawsuit, and specify his or her area of knowledge.

See attachment for answer number 1d.

e. Describe each document or photograph that relates to the issues or facts. You are encouraged to attach a copy of each. For each that you have described but not attached, state the name, street address, and telephone number of each person who has it.

See attachment for answer number 1e.

DISC-010

DO NOT FILE WITH THE COURT

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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1. f. Describe each item of physical evidence that relates to the issues and facts; give its location; and state the name, street address, and telephone number of each person who has it.

See attachment for answer number 1f.

g. State the name and street address of each insurance company and the number of each policy that may cover you in whole or part for the damages claimed.

See attachment for answer number 1g.

2. FOR PERSONAL INJURY OR PROPERTY DAMAGE CASES

a. Describe each injury or illness that you received and your present complaints about each.

See attachment for answer number 2a.

b. State the name, street address, and telephone number of each physician, dentist, or other health care provider who treated or examined you; the type of treatment; the dates of treatment; and the charges by each to date.

See attachment for answer number 2b.

c. Itemize the medical expenses you anticipate in the future.

See attachment for answer number 2c.

d. Itemize your loss of income to date, give the name and street address of each source, and show how the loss is computed.

DO NOT FILE WITH THE COURT

See attachment for answer number 2d.

DO NOT FILE WITH THE COURT

DISC-010

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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2. e. Itemize the loss of income you anticipate in the future, give the name and street address of each source, and show how the loss is computed.

See attachment for answer number 2e.

f. Itemize your property damage, and state the amount or attach an itemized bill or estimate.

See attachment for answer number 2f.

9. Describe each other item of damage or cost that you claim, and state the amount.

See attachment for answer number 2g.

3. FOR CASES BASED ON AGREEMENTS

a. In addition to your answer to 1e, state all the terms and give the date of any part of the agreement that is not in writing.

See attachment for answer number 3a.

b. Describe each item of damage or cost you claim, state the amount, and show how it is computed.

See attachment for answer number 3b.

VERIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶
(SIGNATURE)

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT W16-02

Title	Action Requested
Civil Procedure: Expedited Jury Trials	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt new rule 3.1546, amend rules 3.1545, and 3.1547–3.1552, and renumber rule 3.1553; adopt new forms EJT-003 and EJT-004; approve new forms EJT-005, and EJT-018; revise and renumber forms EJT-001-INFO and EJT-022A; and revise form EJT-020.	July 1, 2016
	Contact
	Anne M. Ronan, Senior Attorney 415-865-8933, anne.ronan@jud.ca.gov
Proposed by	
Civil and Small Claims Advisory Committee Hon. Raymond M. Cadei, Chair	

Executive Summary and Origin

Assembly Bill 555 (Alejo; Stats. 2015, ch. 330) lifts the sunset provisions in the Expedited Jury Trial Act, which went into effect on January 1, 2011, to establish an expedited jury trial process—a consensual process designed to promote the speedy and economic resolution of cases and to conserve judicial resources. The bill also amends the time frame applicable to such trials from three hours per side to five hours per side, and significantly expands the statute to require expedited jury trials in most limited civil actions other than unlawful detainers. This proposal amends and revises the rules and forms applicable to the current voluntary expedited jury trials to reflect the amendments to the time frame, and includes new rules and forms for the mandatory expedited jury trials in limited civil cases. The statute mandates that the new and amended rules and forms be operative by July 1, 2016.

Background

The original expedited jury trial (EJT) process was developed to address litigants' lack of access to the courts in smaller civil cases and the high expense of going to trial under existing civil laws and procedures. It is a consensual process, intended to be quicker and less expensive than a traditional jury trial, saving time and money for all involved: litigants, lawyers, courts, and jurors. The original EJT differs from a regular jury trial in the following key ways:

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee.

These proposals are circulated for comment purposes only.

- *Shorter trial length.* Each side had three hours to put on all its witnesses, show the jury its evidence, and argue its case.
- *Smaller jury.* The jury consists of 8 jurors instead of 12, with no alternates.
- *Faster jury selection process.* The parties exercise fewer peremptory challenges (three per side); and voir dire is limited to 15 minutes per side (plus 15 minutes for the judge).
- *Swifter finality.* All parties had to waive their rights to appeal. In order to help keep down the costs of litigation, there are no appeals following an expedited jury trial except in very limited circumstances.

In order to assure that the parties would be ready to proceed swiftly on the day of trial, the rules provide for pretrial exchanges of exhibits and witnesses and early filing of motions in limine. The EJT process was set up to be very flexible, allowing the parties to enter into agreements governing the rules of procedure for the trial and pretrial exchanges, including the manner and method of presenting evidence and high/low agreements on damages. The scheduling of expedited jury trials and the assignment of judicial officers is left to each superior court. As enacted in 2010, the law included a sunset date of December 31, 2015.

Assembly Bill 555 (AB 555)¹ addresses two concerns that were seen as hampering wider use of the EJT process: the extremely short time frame allotted for trial (three hours per side) and the lack of appeal rights. The Legislature ultimately concluded that the current consensual or voluntary EJT procedures should continue, with a longer, five-hour time period for each side at trial (folding jury voir dire into that time). Code Civ. Proc., § 630.03(e)(2).² The Legislature also concluded that EJTs should be *required* in most smaller civil cases, although with appeal rights, and so included provisions for mandatory EJTs in most limited civil cases. § 630.20. Parties may opt out of the mandatory EJTs if a limited civil case meets certain criteria. *Id.* AB 555 directs the Judicial Council to develop procedures for opting out, along with other rules and forms appropriate for mandatory EJTs. § 630.28.

The Proposal

New and Amended Rules

The proposal amends the current rules of court on EJTs, beginning at rule 3.1545, to provide for both mandatory EJTs and voluntary EJTs.

Mandatory EJT rule. New rule 3.1546 applies only to mandatory EJTs. It provides that the parties in those cases should follow the pretrial procedures (including the limitations on discovery) and case management procedures that apply to limited civil cases generally. Rule 3.1546(a), (b).

¹ AB 555 may be viewed at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB555.

² All statutory references herein are to the Code of Civil Procedure, unless otherwise noted. All rules references are the California Rules of Court.

The new rule also sets out the procedure for opting out of a mandatory EJT:

- The newly developed mandatory form (proposed form EJT-003) must be used to make the request.
- For cases filed after July 1, 2016, unless good cause is shown, the request must be served and filed by at least 45 days before the date first set for trial.³
- For cases already on file at the time the rule (and the new law) becomes operative, and so potentially closer to or past the date first set for trial, parties must file any opt out request at least 10 days before trial.
- Any objection to the request must be served and filed within 15 days after service of the request, using a mandatory form. (See proposed form EJT-004.)

Rule 3.1546(c): The rules do not anticipate that a hearing must be held on these requests to opt out, because in most the party will have the right to opt out under section 630.20(b) and the request will be routinely granted by the court on the paper filed. Should the court decide a hearing is necessary, the proposed optional order form allows the courts to set one. See proposed form EJT-005.

Rule 3.1546(d) notes that the parties may agree to modify the pretrial and trial procedures (see § 630.23(d) expressly allowing this), and identifies proposed new form EJT-018 and its attachment form as a means to formalize any such agreement.

Voluntary EJT rules. Minor amendments are proposed to current rules 3.1547 and 3.1548, as described below:⁴

- First, the titles of both rules and pertinent subparts are changed to clarify they apply only to voluntary EJTs.
- Second, rule 3.1547(b)(1) has been amended to clarify that the requirements of, as well as timelines for, the pretrial submissions may be modified by agreement of the parties. (A similar change has been made to the attachment to the consent order (form EJT-022A.)
- Third, rule 3.1547(b)(4) was amended to change the three-hour time frame for each side's case to a five-hour time frame.
- Finally, an additional item was added to the list of subjects to be considered at the pretrial conference—the issue of how the award of attorney's fees and costs is to be handled in cases with high/low agreements.

³ That date parallels the earliest date on which a party in a limited civil case may ask the other side for a pretrial statement identifying planned trial witnesses and exhibits. See § 96.

⁴ As noted in the discussion of Alternatives Considered, below, the advisory committee is contemplating further amendments to these provisions in the future.

Rules applicable to all EJTs. The time limits regarding voir dire (in rule 3.1550) were eliminated and the time frame in rule 3.1551 was amended to reflect the change in the statute. Former rule 3.1546 was moved to this new article and renumbered as rule 3.1553. The remaining trial rules otherwise remain the same, amended only to clarify that they are applicable to both types of EJTs.

New and Amended Forms

New forms are proposed for the opt-out procedure and potential agreements of the parties in mandatory EJTs. The current EJT forms are being amended to reflect the increased trial time and to make some of them usable in mandatory EJT cases as well as in voluntary EJT cases.

EJT-001-INFO, Expedited Jury Trial Information Sheet. The information sheet is renumbered (it had been EJT-010-INFO), so that it will remain the first form in this form series, and has been revised in order to cover both types of expedited jury trials.

EJT-003, Request to Opt Out of Mandatory Expedited Jury Trial. This new form is the mandatory form to be used for a request to opt out. There are check boxes for each of the criteria for opting out in § 630.20(b), and a space to set out good cause. There is also an item to address any good cause for late filing. The form must be completed under penalty of perjury. The back of the form has instructions for requesting an opt-out and for objecting to such a request.

EJT-004, Objection to Request to Opt Out of Mandatory Expedited Jury Trial

This new form is a very simple mandatory form that provides spaces to identify the applicant and date of request; identify the ground given and explain why not applicable; and/or explain why the request was not timely. This form, too, must be completed under penalty of perjury

EJT-005, Order on Request to Opt Out of Mandatory Expedited Jury Trial

This is a new optional order form for a court to use in acting on the request, to grant, deny, or set a hearing.

EJT-018, Agreement of Parties (Mandatory Expedited Jury Trial Procedures)

This is a new form intended to permit the parties to memorialize any agreements they reach to modify procedures or streamline the trial, including limiting number of witnesses, etc. This form may be used on its own or as a cover sheet for the attachment form that lists the several areas that had been previously determined to be ripe for modification in EJTs. (See form EJT-022A, previously form EJT-020A.)

EJT-020, Proposed Consent Order. This form has been amended to clarify that it is for use in voluntary EJTs only, and the references to trial time limits and to various forms have been changed.

EJT-022A Attachment. This form, previously numbered EJT-020A as the attachment to the proposed consent order, has been revised so that it can also be used by parties in mandatory EJTs as well.

Alternatives Considered

Because the Legislature mandated new rules and procedures be developed to reflect the changes to the voluntary EJT provisions and the enactment of the new mandatory EJT provisions, the committee did not consider whether to develop new rules and forms, but merely how to do so.

Pretrial Procedures for Mandatory EJTs

The committee considered making the current rules regarding mandatory pretrial conferences and pretrial submissions for voluntary EJTs (see rule 3.1548) applicable to mandatory EJTs as well. The committee decided, however, that those rules—particularly the pretrial conference mandated 15 days before the trial—would be overly burdensome if required in all limited civil cases, and declined to do so. The committee decided instead that mandatory EJT cases should comply with the existing statutory pretrial provisions for limited civil cases, which provide for limited discovery in such cases and the potential of a pretrial exchange of witness and exhibit lists. See §§ 90–100.

In developing procedures for parties to opt out of mandatory EJTs under section 630.20, the committee considered different time frames for opting out. The proposal provides that, in cases filed on or after July 1, 2016, the request may be made up to 45 days before the date first set for trial, the same time at which the parties may ask for a pretrial exchange of witness and exhibit lists (§ 96). The advisory committee considered an earlier deadline for opting out, 60 or 90 days after the first responsive pleading was filed. Many of the criteria set out in section 630.20(b) as grounds for opting out can be identified at the time the complaint or responsive pleading has been filed. With an earlier date, the parties would know from early in the case whether they were likely to be engaging in an EJT. The committee noted, however, that some of the criteria could change over the course of a case. Moreover, pretrial procedures in these limited civil actions will remain the same whether or not the eventual trial is an EJT. The only impacts of opting out of the mandatory EJT procedures will be that the non-EJT case will use more jurors at trial and may take somewhat longer to try than the two to three days an EJT will take. In light of these considerations, the committee concluded there was not good reason to limit a party's ability to opt out to early in the case, although the committee does ask for comments on this point.

In considering the opt-out procedures, the committee also considered whether it should develop a rule to clarify that, after a party has opted out of the mandatory EJT procedures based on a case meeting one or more of the conditions in section 630.20(b), a court may return the case to

mandatory EJT status should the relevant conditions no longer apply. The committee asks for comments on whether such a rule should be developed to clarify that a case can be returned to mandatory EJT status when appropriate, even after an opt-out has been approved by the court.

Pretrial Procedures for Voluntary EJTs

The committee considered amending the current pretrial rule for voluntary EJTs (rule 3.1548) in light of concerns raised that the early deadlines for pretrial exchanges and the mandatory pretrial conferences were burdensome, particularly in smaller cases, and discouraged parties from agreeing to EJTs. Some members noted that the current rules were often not complied with because many voluntary EJTs were agreed to just before trial, after the time in the rule for exchanges and submissions had already passed. The committee decided to defer proposing any amendments to that provision at this time, focusing instead on the new mandatory EJTs. However, the committee seeks comments on whether such changes are called for and, if so, what changes might make the rules more effective in furthering speedy short trials in cases other than those covered by the mandatory EJT rules. The committee may consider making future recommendations to amend this rule in light of comments received.

Implementation Requirements, Costs, and Operational Impacts

The statutory changes in AB 555 will require significant education of judicial officers and courtroom personnel in any event, regarding the mandatory EJTs that will be held in many limited civil cases starting in July 2016, as well as the criteria for parties to be able to opt out of that type of trial. The new rules and forms relating to requests to opt out are intended to simplify the process, but they will also result in further training needs for court personnel and judicial officers. Those courts that decide to add the optional order form to their computerized case management system will have the added cost of doing that, but it is recommended as an optional form so that courts can make the decision.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is the deadline for requesting to opt out of an expedited jury trial provided in proposed rule 3.1546(c) appropriate, or should the rule provide for a deadline significantly earlier in the case?
- Should there be a rule to clarify that courts may require that a limited civil case be tried as an expedited jury trial even after an opt-out has been granted on a ground provided in Code of Civil Procedure section 630.20(b), if that ground is no longer applicable at the time of trial?
- Are the current pretrial rules for voluntary expedited jury trials in rule 3.1548 overly burdensome? Should the time frames be changed? Should other aspects of the rule be changed?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal (the rules and forms) provide cost savings? If so please quantify.
- What would the implementation requirements (for the rules and forms) be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 3.1545–3.1553
2. Forms EJT-001-INFO, EJT-003, EJT-004, EJT-005, EJT-018, EJT-020, EJT-022A
3. Assembly Bill 555 may be viewed at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB555

Rules 3.1545 and 3.1547–3.1552 of the California Rules of Court would be amended, rule 3.1546 would be adopted, and rule 3.1553 would be renumbered, effective July 1, 2016, to read:

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Division 15. Trial

Chapter 4.5. Expedited Jury Trials

Article 1. Applicability

Rule 3.1545. Expedited jury trials

(a) Application

The rules in this chapter apply to civil actions in which the parties either

(1) agree to an a voluntary expedited jury trial under chapter 4.5 (commencing with section 630.01) of title 8 of part 2 of the Code of Civil Procedure, or

(2) Are required to take part in an expedited jury trial under chapter 4.6 (commencing with section 630.20) of title 8 of part 2 of the Code of Civil Procedure.

(b) Definitions

As used in this chapter unless the context or subject matter otherwise requires:

(1) “Consent order” means the consent order granting an expedited jury trial described in Code of Civil Procedure section 630.03.

(2) “Expedited jury trial” is a short jury trial before a reduced jury panel, and may be either a “mandatory expedited jury trial” or a “voluntary expedited jury trial”.

(3) “Mandatory expedited jury trial” has the same meaning as stated in Code of Civil Procedure 630.21.

(4) “Voluntary expedited jury trial” has the same meaning as stated for “expedited jury trial” in Code of Civil Procedure section 630.01.

(5) ~~“Expedited jury trial”~~ “High/low agreement” and “posttrial motions” have the same meanings as stated in Code of Civil Procedure section 630.01.

(c) Other programs

This chapter does not limit the adoption or use of other expedited trial or alternative dispute resolution programs or procedures.

1
2 Article 2. Rules Applicable Only to Cases with Mandatory Expedited Jury Trials
3

4 **Rule 3.1546. Pretrial procedures for mandatory expedited jury trials**
5

6 **(a) Pretrial procedures**
7

8 The pretrial procedures for limited civil actions set out in the Code of Civil Procedure,
9 sections 90–100 are applicable to all cases with mandatory expedited jury trials. The
10 statutory procedures include limited discovery, optional case questionnaires, optional
11 requests for pretrial statements identifying trial witnesses and exhibits, and the possibility
12 of presenting testimony in the form of affidavits or declarations.
13

14 **(b) Case management**
15

16 The case management rules in chapter 3 of division 7 of these rules, starting at rule 3.720
17 are applicable to all cases with mandatory expedited jury trials, except to the extent the
18 rules have been modified by local court rules applicable to limited civil cases.
19

20 **(c) Opting out of mandatory expedited jury trial procedures**
21

22 (1) Parties seeking to opt out of mandatory expedited jury trial procedures on grounds
23 stated in Code of Civil Procedure section 630.20(b) must file a *Request to Opt Out of*
24 *Mandatory Expedited Jury Trial Procedures*, form EJT-003.
25

26 (2) In cases filed on or after July 1, 2016, except on a showing of good cause, the request
27 must be served and filed at least 45 days before the date first set for trial. In cases filed
28 before July 1, 2016, except on a showing of good cause, the request must be served and
29 filed at least 10 days before trial.
30

31 (3) Any objection to the request must be served and filed within 15 days after date of
32 service of the request, on form *Opposition to Request to Opt Out of Mandatory*
33 *Expedited Jury Trial Procedures*, form EJT-004.
34

35 **(d) Agreements regarding pretrial and trial procedures**
36

37 Parties are encouraged to agree to procedures or limitations on pretrial procedures and on
38 presentation of information at trial that could streamline the case, including but not limited
39 to those items described below in rule 3.1547(b). The parties may use *Agreement of*
40 *Parties (Mandatory Expedited Jury Trial Procedures)* (form EJT-018) and the attachment
41 (form EJT-022A) to describe such agreements.
42
43

1 Article 3. Rules Applicable Only to Cases with Voluntary Expedited Jury Trials

2
3 **Rule 3.1547. Consent order for voluntary expedited jury trial**

4
5 **(a) Submitting proposed consent order to the court**

- 6 (1) Unless the court otherwise allows, to be eligible to participate in ~~an~~ a voluntary
7 expedited jury trial, the parties must submit to the court, no later than 30 days before
8 any assigned trial date, a proposed consent order granting an expedited jury trial.
9
10 (2) The parties may enter into written stipulations regarding any high/low agreements or
11 other matters. Only in the following circumstances may a high/low agreement be
12 submitted to the court with the proposed consent order or disclosed later in the
13 action:
14
15 (A) Upon agreement of the parties;
16
17 (B) In any case involving either
18
19 (i) A self-represented litigant, or
20
21 (ii) A minor, an incompetent person, or a person for whom a conservator has
22 been appointed; or
23
24 (C) If necessary for entry or enforcement of the judgment.

25
26 **(b) Optional content of proposed consent order**

27
28 In addition to complying with the provisions of Code of Civil Procedure section 630.03(e),
29 the proposed consent order may include other agreements of the parties, including the
30 following:

- 31
32 (1) Modifications of the requirements or timelines for pretrial submissions required by
33 rule 3.1548;
34
35 (2) Limitations on the number of witnesses per party, including expert witnesses;
36
37 (3) Modification of statutory or rule provisions regarding exchange of expert witness
38 information and presentation of testimony by such witnesses;
39
40 (4) Allocation of the time periods stated in rule 3.1550 including how arguments and
41 cross-examination may be used by each party in the ~~three~~ five-hour time frame;
42
43 (5) Any evidentiary matters agreed to by the parties, including any stipulations or
44 admissions regarding factual matters;
45

- 1 (6) Any agreements about what constitutes necessary or relevant evidence for a
2 particular factual determination;
3
4 (7) Agreements about admissibility of particular exhibits or demonstrative evidence that
5 are presented without the legally required authentication or foundation;
6
7 (8) Agreements about admissibility of video or written depositions and declarations;
8
9 (9) Agreements about any other evidentiary issues or the application of any of the rules
10 of evidence;
11
12 (10) Agreements to use photographs, diagrams, slides, electronic presentations, overhead
13 projections, notebooks of exhibits, or other methods for presenting information to the
14 jury;
15
16 (11) Agreements concerning the time frame for filing and serving motions in limine; and
17
18 (12) Agreements concerning numbers of jurors required for jury verdicts in cases with
19 fewer than eight jurors.
20

21 **Rule 3.1548. Pretrial submissions for voluntary expedited jury trials**

22
23 **(a) Service**

24
25 Service under this rule must be by a means consistent with Code of Civil Procedure
26 sections 1010.6, 1011, 1012, and 1013 or rule 2.251 and be reasonably calculated to assure
27 delivery to the other party or parties no later than the close of business on the last
28 allowable day for service as specified below.
29

30 **(b) Pretrial exchange for voluntary expedited jury trials**

31
32 Unless otherwise agreed by the parties, no later than 25 days before trial, each party must
33 serve on all other parties the following:
34

- 35 (1) Copies of any documentary evidence that the party intends to introduce at trial
36 (except for documentary evidence to be used solely for impeachment or rebuttal),
37 including, but not limited to, medical bills, medical records, and lost income records;
38
39 (2) A list of all witnesses whom the party intends to call at trial, except for witnesses to
40 be used solely for impeachment or rebuttal, and designation of whether the testimony
41 will be in person, by video, or by deposition transcript;
42
43 (3) A list of depositions that the party intends to use at trial, except for depositions to be
44 used solely for impeachment or rebuttal;
45

- 1 (4) A copy of any audiotapes, videotapes, digital video discs (DVDs), compact discs
2 (CDs), or other similar recorded materials that the party intends to use at trial for
3 evidentiary purposes, except recorded materials to be used solely for impeachment or
4 rebuttal and recorded material intended to be used solely in closing argument;
5
6 (5) A copy of any proposed jury questionnaires (parties are encouraged to agree in
7 advance on a questionnaire);
8
9 (6) A list of proposed approved introductory instructions, preinstructions, and
10 instructions to be read by the judge to the jury;
11
12 (7) A copy of any proposed special jury instructions in the form and format described in
13 rule 2.1055;
14
15 (8) Any proposed verdict forms;
16
17 (9) A special glossary, if the case involves technical or unusual vocabulary; and
18
19 (10) Motions in limine.
20

21 **(c) Supplemental exchange for voluntary expedited jury trials**

22
23 No later than 20 days before trial, a party may serve on any other party any additional
24 documentary evidence and a list of any additional witnesses whom the party intends to use
25 at trial in light of the exchange of information under subdivision (b).
26

27 **(d) Submissions to court for voluntary expedited jury trials**

28
29 No later than 20 days before trial, each party must file all motions in limine and must lodge
30 with the court any items served under (b)(2)–(9) and (c).
31

32 **(e) Preclusionary effect**

33
34 Unless good cause is shown for any omission, failure to serve documentary evidence as
35 required under this rule will be grounds for preclusion of the evidence at the time of trial.
36

37 **(f) Pretrial conference for voluntary expedited jury trials**

38
39 No later than 15 days before trial, unless that period is modified by the consent order, the
40 judicial officer assigned to the case must conduct a pretrial conference, at which time
41 objections to any documentary evidence previously submitted will be ruled on. If there are
42 no objections at that time, counsel must stipulate in writing to the admissibility of the
43 evidence. Matters to be addressed at the pretrial conference, in addition to the evidentiary
44 objections, include the following:
45

- 1 (1) Any evidentiary matters agreed to by the parties, including any stipulations or
2 admissions regarding factual matters;
3
4 (2) Any agreement of the parties regarding limitations on necessary or relevant
5 evidence, including any limitations on expert witness testimony;
6
7 (3) Any agreements of the parties to use photographs, diagrams, slides, electronic
8 presentations, overhead projections, notebooks of exhibits, or other methods of
9 presenting information to the jury;
10
11 (4) Admissibility of any exhibits or demonstrative evidence without legally required
12 authentication or foundation;
13
14 (5) Admissibility of video or written depositions and declarations and objections to any
15 portions of them;
16
17 (6) Objections to and admissibility of any recorded materials that a party has designated
18 for use at trial;
19
20 (7) Jury questionnaires;
21
22 (8) Jury instructions;
23
24 (9) Special verdict forms;
25
26 (10) Allocation of time for each party's case; ~~and~~
27
28 (11) Motions in limine filed before the pretrial conference; and
29
30 (12) The parties' intention on how any high/low agreement will affect an award of fees
31 and costs.
32

33 **(g) Expert witness documents**
34

35 Any documents produced at the deposition of an expert witness are deemed to have been
36 timely exchanged for the purpose of (c) above.
37

38 **Article 3. Rules Applicable to All Expedited Jury Trials**
39

40 **Rule 3.1549 Voir dire**
41

42 ~~Approximately one hour will be devoted to voir dire, with 15 minutes allotted to the judicial~~
43 ~~officer and 15 minutes to each side.~~ Parties are encouraged to submit a joint form questionnaire
44 to be used with prospective jurors to help expedite the voir dire process.
45

1 **Rule 3.1550. Time limits**

2
3 ~~Excluding~~ Including jury selection ~~voir dire~~, each side will be allowed ~~three~~ five hours to present
4 its case, including opening statements and closing arguments, unless the court, upon a finding of
5 good cause, allows additional time. The amount of time allotted for each side includes the time
6 that the side spends on cross-examination. The parties are encouraged to streamline the trial
7 process by limiting the number of live witnesses. The goal is to complete an expedited jury trial
8 within ~~one full~~ two trial days.
9

10 **Rule 3.1551. Case presentation**

11
12 **(a) Methods of presentation**

13
14 Upon agreement of the parties and with the approval of the judicial officer, the parties may
15 present summaries and may use photographs, diagrams, slides, electronic presentations,
16 overhead projections, individual notebooks of exhibits for submission to the jurors, or
17 other innovative methods of presentation approved at the pretrial conference.
18

19 **(b) Exchange of items**

20
21 Anything to be submitted to the jury under (a) as part of the evidentiary presentation of the
22 case in chief must be exchanged 20 days in advance of the trial, unless that period is
23 modified by the consent order or agreement of the parties. This rule does not apply to items
24 to be used solely for closing argument.
25

26 **(c) Stipulations regarding facts**

27
28 The parties should stipulate to factual and evidentiary matters to the greatest extent
29 possible.
30

31 **Rule 3.1552. Presentation of evidence**

32
33 **(a) Stipulations regarding rules of evidence**

34
35 The parties may offer such evidence as is relevant and material to the dispute. An
36 agreement to modify the rules of evidence for the trial made pursuant to the expedited jury
37 trial statutes commencing with Code of Civil Procedure section 630.01 may be included in
38 the consent order or agreement of the parties. To the extent feasible, the parties should
39 stipulate to modes and methods of presentation that will expedite the process, either in the
40 consent order or at the pretrial conference.
41

42 **(b) Objections**

43
44 Objections to evidence and motions to exclude evidence must be submitted in a timely
45 manner. Except as provided in rule 3.1548(f), failure to raise an objection before trial does
46 not preclude making an objection or motion to exclude at trial.

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Rule 3.15461553 Assignment of judicial officers

The presiding judge is responsible for the assignment of a judicial officer to conduct an expedited jury trial. The presiding judge may assign a temporary judge appointed by the court under rules 2.810–2.819 to conduct an expedited jury trial. A temporary judge requested by the parties under rules 2.830–2.835, whether or not privately compensated, may not be appointed to conduct ~~an~~ a voluntary expedited jury trial.

EJT-001-INFO**Expedited Jury Trial Information Sheet**

This information sheet is for anyone involved in a civil lawsuit who will be taking part in an **expedited jury trial**—a trial that is shorter and has a smaller jury than a traditional jury trial.

You can find the law and rules governing expedited jury trials in Code of Civil Procedure sections 630.01–630.29 and in rules 3.1545–3.1553 of the California Rules of Court. You can find these at any county law library or online. The statutes are online at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. The rules are at www.courts.ca.gov/rules.

1 What is an expedited jury trial?

An expedited jury trial is a short trial, generally lasting only one or two days. It is intended to be quicker and less expensive than a traditional jury trial.

As in a traditional jury trial, a jury will hear your case and will reach a decision about whether one side has to pay money to the other side. An expedited jury trial differs from a regular jury trial in several important ways:

- **The trial will be shorter.** Each side has 5 hours to pick a jury, put on all its witnesses, show the jury its evidence, and argue its case.
- **The jury will be smaller.** There will be 8 jurors instead of 12.
- **Choosing the jury will be faster.** The parties will exercise fewer challenges.

2 What cases have expedited jury trials?

- **Mandatory expedited jury trials.** All limited civil cases—cases where the demand for damages or the value of property at issue is \$25,000 or less—come within the *mandatory expedited jury trial* procedures. These can be found in the Code of Civil Procedure, starting at section 630.20. Unless your case is an unlawful detainer (eviction) action, or meets one of the exceptions set out in the statute, it will be within the expedited jury trial procedures. These exceptions are explained more in **8** below.
- **Voluntary expedited jury trials.** If your civil case is not a limited civil case, or even if it is, you can choose to take part in a *voluntary expedited jury trial*, if all the parties agree to do so. Voluntary expedited jury trials have the same shorter time frame and smaller jury that the mandatory ones do,

but have one other important aspect—**all parties must waive their rights to appeal.** In order to help keep down the costs of litigation, there are no appeals following a *voluntary* expedited jury trial except in very limited circumstances. These are explained more fully in **10**.

3 Will the case be in front of a judge?

The trial will take place at a courthouse and a judge, or, if you agree, a temporary judge (a court commissioner or an experienced attorney that the court appoints to act as a judge) will handle the trial.

4 Does the jury have to reach a unanimous decision?

No. Just as in a traditional civil jury trial, only three-quarters of the jury must agree in order to reach a decision in an expedited jury trial. With 8 people on the jury, that means that at least 6 of the jurors must agree on the verdict in an expedited jury trial.

5 Is the decision of the jury binding on the parties?

Generally, yes, but not always. A verdict from a jury in an expedited jury trial is like a verdict in a traditional jury trial. The court will enter a judgment based on the verdict, the jury's decision that one or more defendants will pay money to the plaintiff or that the plaintiff gets no money at all.

But parties in an expedited jury trial, like in other kinds of trials, are allowed to make an agreement before the trial that guarantees that the defendant will pay a certain amount to the plaintiff even if the jury decides on a lower payment or no payment. That agreement may also put a cap on the highest amount that a defendant has to pay, even if the jury decides on a higher amount. These agreements are known as "high/low agreements." You should discuss with your attorney whether you should enter into such an agreement in your case and how it will affect you.

6 How else is an expedited jury trial different?

The goal of the expedited jury trial process is to have shorter and less expensive trials.

- The cases that come within the mandatory expedited jury trial procedures are all limited civil actions, and they must proceed under the limited discovery and pretrial rules that apply to those actions. See Code of



Civil Procedure §§ 90–100.

- The voluntary expedited jury trial rules set up some special procedures to help those cases have shorter and less expensive trials. For example, the rules require that several weeks before the trial takes place, the parties show each other all exhibits and tell each other what witnesses will be at the trial. In addition, the judge will meet with the attorneys before the trial to work out some things in advance.

The other big difference is that the parties in either kind of expedited jury trial can make agreements about how the case will be tried so that it can be tried quickly and effectively. These agreements may include what rules will apply to the case, how many witnesses can testify for each side, what kind of evidence may be used, and what facts the parties already agree to and so do not need to take to the jury. The parties can agree to modify many of the rules that apply to trials generally or to any pretrial aspect of the expedited jury trials.

8 Do I have to have an expedited jury trial if my case is for \$25,000 or less?

Not always. There are some exceptions.

- The mandatory expedited jury trial procedures do not apply to any unlawful detainer or eviction case.
- Any party may ask to opt out of the procedures if the case meets the criteria set out in Code of Civil Procedure section 630.20(b), all of which are also described in item 2 of the *Request to Opt Out of Mandatory Expedited Jury Trial*, form EJT-003. Any request to opt out must be made on that form, and it must be made within a certain time period, as set out in Cal. Rules of Court, rule 3.1546(c). Any opposition must be filed within 15 days after the request has been served.

The remainder of this information sheet applies only to voluntary expedited jury trials.

9 Who can take part in a voluntary expedited jury trial?

The process can be used in any civil case that the parties agree may be tried in one or two days. To have a voluntary expedited jury trial, both sides must want one. Each side must agree to all the rules described in 1, and to waive most appeal rights. The agreements between the parties must be put into writing in a

document called a *[Proposed] Consent Order for a Voluntary Expedited Jury Trial*, which will be submitted to the court for approval. (Form EJT-020 may be used for this.) The court must 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.

10 Why do I give up most of my rights to an appeal in a voluntary expedited jury trial?

To keep costs down and provide a faster end to the case, all parties who agree to take part in a voluntary expedited jury trial must agree to waive the right to appeal the jury verdict or decisions by the judicial officer concerning the trial unless one of the following happens:

- Misconduct of the judicial officer that materially affected substantial rights of a party;
- Misconduct of the jury; or
- Corruption or fraud or some other bad act that prevented a fair trial.

In addition, parties may not ask the judge to set the jury verdict aside, except on those same grounds. Neither you nor the other side will be able to ask for a new trial on the grounds that the jury verdict was too high or too low, that legal mistakes were made before or during the trial, or that new evidence was found later.

11 Can I change my mind after agreeing to a voluntary expedited jury trial?

No, unless the other side or the court agrees. Once you and the other side have agreed to take part in a voluntary expedited jury trial, that agreement is binding on both sides. It can be changed only if **both** sides want to change it or stop the process or if a court decides there are good reasons the voluntary expedited jury trial should not be used in the case. This is why it is important to talk to your attorney **before** agreeing to a voluntary expedited jury trial. This information sheet does not cover everything you may need to know about voluntary expedited jury trials. It only gives you an overview of the process and how it may affect your rights. **You should discuss all the points covered here and any questions you have about expedited jury trials with an attorney before agreeing to a voluntary expedited jury trial.**

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY TRIAL PROCEDURES	CASE NUMBER:

See instructions on back.

1. (Name of party): _____ requests to opt out of the mandatory expedited jury trial procedures in this case because it meets one of the criteria set forth Code of Civil Procedure section 630.20(b).
2. The ground for asking to opt out is (check one or more of the following grounds from Code of Civil Procedure section 630.20(b)):
 - a. Punitive damages are sought in the case. (§ 630.20(b)(1).)
 - b. Damages in excess of insurance policy limits are sought in the case. (§ 630.20(b)(2).)
 - c. A party's insurer is providing a legal defense subject to a reservation of rights. (§ 630.20(b)(3).)
 - d. The case involves a claim reportable to a governmental entity. (§ 630.20(b)(4).)
 - e. The case involves a claim of moral turpitude that may affect an individual's professional license. (§ 630.20(b)(5).) (Identify the individual and the license):
 - f. The case involves claims of intentional conduct. (§ 630.20(b)(6).)
 - g. The case has been reclassified as unlimited pursuant to Code of Civil Procedure section 403.020. (§ 630.20(b)(7).)
 - h. The complaint contains a demand for attorney's fees other than fees sought under Civil Code section 1717. (§ 630.20(b)(8).) (A complaint seeking attorney's fees provided for in a contract is not exempt.)
 - i. Other good cause for not proceeding as an expedited jury trial (§ 630.20(b)(9)) (specify):

3 If the request is not made within the time frame required under Cal. Rules of Court, rule 3.1546, describe the good cause for late filing:

Check here if you need more space to describe the good cause for the request, or for delay, and attach a separate page or pages describing it. At the top of each page, write "EJT-003, item 2" or "EJT-003, item 3," as applicable.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

—INSTRUCTIONS—

1. This form is to be used by any party in a limited civil action seeking to opt out of the mandatory expedited jury trial procedures set out in Code of Civil Procedure sections 630.20–630.29. Those procedures are also described in the *Expedited Jury Trial Information Sheet*, form EJT-001-INFO.
2. The law provides that mandatory expedited jury trial procedures apply to all limited civil cases (except for unlawful detainer or eviction cases), unless the case meets one of the criteria set out in Code of Civil Procedure section 630.20(b). Those are listed on the front of this form, at items 2a–2i. If a case fits into one of those criteria, either party may ask to opt out of the mandatory expedited jury trial procedures.
3. **If you want to opt out:** If you believe the case meets one of the criteria listed in item 2 and you want to opt out of the expedited jury trial procedures, fill out this form, serve a copy on all other parties in the case, and file the original with the court along with a proof of service (you can use form POS-040 for this). The form should be served and filed at least 45 days before the date first set for trial. If you have good cause for filing it later, explain that in item 3.
4. **If you received a copy of this form:** If you disagree that the the case meets any of the criteria listed in item 2, you can object. To do that, fill out the *Objection to Request to Opt Out of Mandatory Expedited Jury Trial Procedures*, form EJT-004, serve a copy on all other parties in the case, and file the original with the court along with a proof of service (you can use form POS-040 for this). *You must file the opposition within 15 days of the date the request was served on you.*
5. **Court action:** After the court has reviewed the request and any objection that has been filed within 15 days, the court will issue an order that will do one of the following:
 - a. grant the request,
 - b. deny the request, or
 - c. set a hearing to hear further from the parties.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="text-align: center;">DRAFT 12/01/15</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
OBJECTION TO REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY TRIAL PROCEDURES	CASE NUMBER:

1. (Name of party): _____ objects to the request to opt out of mandatory expedited jury trial procedures.
3. The request to opt out was filed by (name of applicant): _____ and was served on (date): _____
3. The case does not meet the criteria that the applicant has identified in the *Request to Opt Out* (identify each ground that was checked in item 2 of the Request, and explain why it does not apply to this case): _____
4. The request to opt out is not timely under Cal. Rules of Court, rule 3.1546, and there is no good cause for a late request. (Explain below.)

Check here if you need more space and attach a separate page or pages. At the top of each page, write "EJT-004, item 3" or "EJT-004, item 4" as applicable.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="text-align: center;">DRAFT 12/01/15</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
ORDER ON REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY PROCEDURES	CASE NUMBER:

The court has reviewed the request to opt out, along with any objection thereto, and makes the following orders:

1. The court grants the request. The case will *not* proceed under the mandatory expedited jury procedures.
2. The court denies the request to opt out for the following reason(s):
3. The court needs more information to decide whether to grant the request. A hearing is set on the date below:

Name and address of court if different from above:

Hearing Date	→ Date: _____ Time: _____
	Dept.: _____ Room: _____

Date: _____

JUDICIAL OFFICER

Clerk's Certificate of Service

I certify that I am not a party to this action and (check one):

- A certificate of mailing is attached.
- I handed a copy of this order to the applicant listed above, at the court, on the date below.
- This order was mailed first class, postage paid, to the applicant at the address listed above, from (city): _____, California on the date below.

Date: _____

By: _____
DEPUTY CLERK

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
AGREEMENT OF PARTIES (MANDATORY EXPEDITED JURY TRIAL PROCEDURES)	CASE NUMBER:

Under Code of Civil Procedure section 630.23(d), parties are encouraged to agree to modifications or limitations on pretrial procedures and presentation of information at trial that could streamline the case, including but not limited to those items described in form EJT-022A. This form along with form EJT-022A may be used to record any such agreements.

EACH PARTY AGREES AS FOLLOWS:

1. The parties to the action are:
 - a. Plaintiff (name):
 - b. Defendant (name):
 - c. Other party (name and party):
2. The parties have agreed: as described in attached form EJT-022A. as described below.

Date:

 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▶ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

Date:

 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▶ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

Date:

 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▶ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

- It is so **ORDERED**.
- The proposed consent order is **DENIED** for good cause.

Date:

 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
[PROPOSED] CONSENT ORDER FOR VOLUNTARY EXPEDITED JURY TRIAL	CASE NUMBER:
This form is to be signed by all parties and their attorneys of record consenting to a voluntary expedited jury trial under California Code of Civil Procedure sections 630.01–630.12 and rules 3.1545–3.1553 of the California Rules of Court. Before completing this form, all parties should review <i>Expedited Jury Trial Information Sheet</i> (form EJT-001-INFO).	

EACH PARTY AGREES AS FOLLOWS:

1. The parties to the action, each of whom has the authority to consent to an expedited jury trial (EJT), are:
 - a. Plaintiff (name):
 - b. Defendant (name):
 - c. Other party (name and party):
2.
 - a. Plaintiff is represented by an attorney who has advised plaintiff about the EJT procedures and provided plaintiff with an *Expedited Jury Trial Information Sheet* (form EJT-001-INFO).
 - b. Defendant is represented by an attorney who has advised defendant about the EJT procedures and provided defendant with an *Expedited Jury Trial Information Sheet* (form EJT-001-INFO).
 - c. I (name): am representing myself and understand the voluntary expedited jury trial procedures as set forth in Code of Civil Procedure sections 630.01–630.12 and rules 3.1545–3.1553 of the California Rules of Court.
 - d. Insurance carriers responsible for providing coverage or defense for the following parties have been informed of the EJT procedures and provided with an *Expedited Jury Trial Information Sheet* (form EJT-010) and do not object to the procedures:
 - (1) Insurance carrier (name of carrier):
for (name of party):
 - (2) Insurance carrier (name of carrier):
for (name of party):
 - (3) Additional insurance carriers and parties are listed on attached form MC-025.
3. A party to this action is is not a minor, an incompetent person, or a person for whom a conservator has been appointed.
4. Each party understands and agrees to the voluntary expedited jury trial procedures, as follows:
 - a. That all parties **waive all rights to appeal**, to move for directed verdict, or to make any posttrial motions, except as provided in Code of Civil Procedure sections 630.08 and 630.09;
 - b. That each side will have up to **five hours** in which to **complete jury voir dire and** present its case;
 - c. That the jury will be composed of **eight or fewer jurors** with no alternates;
 - d. That each side will be **limited to three peremptory challenges**, unless the court permits an additional challenge in cases with more than two sides as provided in Code of Civil Procedure section 630.04; and
 - e. That the trial and pretrial matters will proceed under a–d above and, unless the parties expressly agree otherwise in this agreement or the attachment to it, under all other provisions for voluntary expedited jury trials (Code Civ. Proc., § 630.01 et seq.) and the rules of court for voluntary expedited jury trials (Cal. Rules of Court, rules 3.1545–3.1553).

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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5. Each party understands that only three-quarters of the jury need to agree in order to reach a decision, unless otherwise agreed by the parties.
6. Each party understands that the parties may make additional agreements concerning the trial in terms of applicable rules, number of witnesses, types of evidence, or other matters in order to shorten the length of time in which the matter will be tried to the jury. Any such agreements are described in item 9 below or in Attachment to [Proposed] Consent Order for **Voluntary Expedited Jury Trial** (form EJT-022A).
7. Each party understands that the parties may enter a confidential high-low agreement specifying a minimum amount of damages that a plaintiff is guaranteed to receive from defendant and a maximum amount that defendant will be liable for, regardless of the verdict returned by the jury.
8. Each party understands that any award of attorney's fees and costs will be decided by the court.
9. Other agreements are described in attached form EJT-022A. are as follows:

10. Total number of pages attached: . The consents below apply to all the agreements described in those pages.

After reading the above and any attachments, I hereby consent to the voluntary expedited jury trial procedures for this case as stated in these documents.

PARTIES

Date:

(TYPE OR PRINT NAME AND TITLE, IF ANY)



(SIGNATURE OF PLAINTIFF)

Date:

(TYPE OR PRINT NAME AND TITLE, IF ANY)



(SIGNATURE OF DEFENDANT)

Date:

(TYPE OR PRINT NAME AND TITLE, IF ANY)



(SIGNATURE OF (describe party)):

ATTORNEYS

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY FOR PLAINTIFF)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY FOR (describe party)):

- It is so **ORDERED**.
- The proposed consent order is **DENIED** for good cause.

Date:

JUDICIAL OFFICER

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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ATTACHMENT TO

- [PROPOSED] CONSENT ORDER FOR VOLUNTARY EXPEDITED JURY TRIAL
- AGREEMENT OF PARTIES (MANDATORY EXPEDITED JURY TRIAL PROCEDURES)

(This attachment may be used with form EJT-018 OR EJT-020)

The parties have agreed to the following (check all items on which agreements have been reached and describe the agreements in detail. If more space is needed for any item, use form MC-025 and complete item 15 below):

1. (For voluntary expedited jury trial cases only) Modifications of the timeline for, or other aspects of, the pretrial submissions required by rule 3.1548 of the California Rules of Court (describe timeline or other changes):

2. Limitations on the number of witnesses per party, including expert witnesses (describe):

3. Modifications of statutory or rule provisions regarding exchange of expert witness information and presentation of testimony by such witnesses (describe):

4. Allocation of time periods stated in rule 3.1550 of the California Rules of Court, including how arguments and cross-examination may be used by each party in the five-hour time frame (describe):

5. Agreement as to any evidentiary matters, including any stipulations or admissions regarding factual matters (state such matters in detail):

6. Agreement about what constitutes necessary or relevant evidence for a particular factual determination (describe):

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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7. Agreement about admissibility of particular exhibits or demonstrative evidence presented without the legally required authentication or foundation (*describe*):
8. Agreement about admissibility of video or written depositions and declarations (*describe*):
9. Agreement about any other evidentiary issues or the application of any of the rules of evidence (*describe*):
10. Agreement to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods for presenting information to the jury (*describe*):
11. Agreement concerning the time frame for filing and serving motions in limine (*describe*):
12. Agreement that fewer than eight jurors may hear this case (*describe*):
13. Agreement concerning the number of jurors required to reach a verdict in this case (*describe, including any agreement regarding loss of juror after trial starts*):
14. Other agreements (*describe*):
15. Form MC-025 is attached, with further details concerning items (*list items*):