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AB-555 Civil actions. (2015-2016)

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Assembly Bill No. 555

CHAPTER 330

An act to amend Sections 630.03 and 630.11 of, to amend the heading of Chapter 4.5 (commencing with Section 630.01) of Title 8 of Part 2 of, to add and repeal Chapter 4.6 (commencing with Section 630.20) of Title 8 of Part 2 of, and to repeal Section 630.12 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 28, 2015. Filed with Secretary of State September 28, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 555, Alejo. Civil actions.

Existing law establishes procedures for conducting expedited jury trials in civil cases where the parties sign a consent order to stipulate that those procedures apply. Pursuant to these procedures, all parties agree that each side has up to 3 hours to present its case and agree to waive all rights to appeal and to move for a directed verdict or to make any posttrial motions, except as provided. Existing law repeals these provisions on January 1, 2016.

This bill would modify procedures to provide that each party would have up to 5 hours to complete voir dire and present its case. The bill would require the Judicial Council to update rules and forms relating to these procedures by July 1, 2016. The bill would also delete the January 1, 2016, repeal date, thereby extending the operation of these provisions indefinitely.

Existing law requires that a designated action or special proceeding meeting certain conditions be treated as a limited civil case. Existing law authorizes a limited civil case to be brought in the small claims division if the case is within the jurisdiction of the small claims division as otherwise provided by statute.

The bill would establish procedures for conducting mandatory expedited jury trials in limited civil cases, including provisions for a jury of 8 or few members, with one alternate, and a limit of 5 hours for each side to complete voir dire and to present its case. The bill would authorize either party to opt out of the expedited jury trial procedures if certain requirements are met. The bill would provide that the verdict in an expedited jury trial case may be appealed and is subject to any written high/low agreement, as defined. The bill would require the Judicial Council to adopt additional rules and uniform procedures, as provided, by July 1, 2016.

The bill would delay the operative date of specified provisions relating to mandatory expedited jury trials until July 1, 2016. The bill would also repeal the provisions relating to mandatory expedited jury trials on July 1, 2019.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Chapter 4.5 (commencing with Section 630.01) of Title 8 of Part 2 of the Code of Civil Procedure is amended to read:

CHAPTER 4.5. Voluntary Expedited Jury Trials

SEC. 2. Section 630.03 of the Code of Civil Procedure is amended to read:

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.

SEC. 3. Section 630.11 of the Code of Civil Procedure is amended to read:

630.11. 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:

(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.

SEC. 4. Section 630.12 of the Code of Civil Procedure is repealed.

SEC. 5. Chapter 4.6 (commencing with Section 630.20) is added to Title 8 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 4.6. Mandatory Expedited Jury Trials in Limited Civil Cases

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.

630.21. For purposes of this chapter:

(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.

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.

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

(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.

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

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

(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.

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

(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.

630.27. 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.

630.28. 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:

(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.

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

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.