

Client Alert.

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California Expedited Civil Jury Trials Act

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On September 30, 2010, California Governor Arnold Schwarzenegger signed into law the Expedited Jury Trials Act. The Act, introduced by a former insurance defense litigator, allows litigants to agree to a quicker, simpler, and cheaper jury trial option.

Under the Act, cases will be heard on a certain date, before a judge and an eight-person jury. Each party will be given three peremptory challenges in selecting the jury. Once the jury is empanelled, each side will be limited to three hours to put on its case—including opening and closing arguments. Unless the parties agree to relax the rules, the California Rules of Evidence will apply.

Although participation in the program is voluntary, verdicts—reached by six members of the jury—are binding unless the litigants discover evidence of fraud or misconduct. The binding aspect of the trial is less worrying, however, because the parties must agree to a confidential “high-low” damages payment prior to trial. This arrangement guarantees plaintiffs a minimum payment, while capping the defendants’ potential exposure.

The Judicial Council has until January 1, 2011, to create rules implementing the Act. The expedited jury trial rules will be followed in all counties in California, but each court will decide how to offer speedy trials. Where demand for expedited trials is high, courts may create separate divisions or appoint a particular judge to handle the expedited trials.

Expedited jury trials are obviously suited for use in small cases. Proponents of the rules believe cases where relatively small amounts of money are involved—between \$10,000 and \$30,000—are most likely to go to quick trials. But the expedited jury trial is an important option to keep in mind for a quick and cost-effective alternative to arbitration or a more lengthy trial process. For example, in high-value cases where damages are not disputed, but liability or comparative fault is at issue, an expedited trial might provide an ideal alternative because such issues potentially may be resolved in a day by a jury of everyday people, as opposed to a paid mediator.

Los Angeles Superior Court Judge Mary House, who chaired the group steering the legislation, noted that expedited jury trials are being used in higher-value cases of up to \$1 million in other states where comparable laws exist with results—for both plaintiffs and defendants—similar to verdicts awarded in longer trials. Moreover, some proponents estimate that expedited jury trials could reduce the cost of a simple jury trial by 80 percent; savings achieved through reduced hours for lawyers, presentation of witnesses, limited discovery, and far fewer out-of-pocket expenses.

According to Judge House, “We’re only limited by our imagination and what people are willing to agree to,” and “this could open doors to other creative ways to deal with case management.”

For more information about the Expedited Jury Trials Act, contact James W. Huston at jhuston@mofo.com.

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