

# Mandatory One Day Jury Trials Are Here— *Are You Prepared?*

By Barry P. Goldberg



**R**EADY OR NOT, EFFECTIVE July 1, mandatory one day jury trials have come to limited jurisdiction courts in California, with few lawyers considering the ramifications and even fewer preparing for the new law.

Since a large portion of automobile accident cases fall within the limited jurisdiction court's ceiling of \$25,000, it is likely that the new one day trials will largely impact personal injury law firms and insurance defense counsel. However, the new law is not restricted to personal injury cases.

About five years ago, there was a rumble throughout the Los Angeles County legal community that the voluntary one day jury trial promised to revolutionize standard auto accident cases and other limited jurisdiction

cases. The Expedited Jury Trial law coincided with the massive financial cuts facing the court system and, frankly, seemed like a good idea and decent solution to some budgetary concerns.

It is easy to recall that the presiding judges were touting the expedited trials and that frequent seminars were offered to familiarize trial lawyers with the rules and procedures. Despite the effort, the voluntary one day jury trial did not really take hold with the vast majority of lawyers.

Obtaining the required stipulation for the voluntary one day trial proved to be next to impossible, and with limited exceptions, all parties had to agree that each side had up to three hours to present its case and agree to waive all rights to appeal. From the plaintiff's bar,

the voluntary one day trial was not fully embraced primarily because plaintiffs' lawyers did not want to be limited in jury selection and then be forced to rush through witnesses and trial presentation. Further, if the case was one of disputed liability or more than a single medical expert was required, there was substantial doubt whether a case could even be concluded in only three hours.

Also, the advantages of a low cost, quick trial were fairly elusive. In fact, the costs incurred during a one day trial were not all that more than those of a two or three day proceeding. Medical experts are paid no matter what, and preparation of demonstrative evidence costs the same no matter how long a trial lasts. Further, if the case had any substantial upside over \$25,000, there was simply no compelling reason to limit the amount of trial. As a result, no real advantage was perceived by the plaintiff's bar.

Even if the plaintiff's attorney pushed for a one day trial stipulation, the insurance defense counsel rarely agreed, citing the lack of the right to appeal as the primary reason. Besides, in limited jurisdiction cases, the access to unlimited resources in a regular jury trial provided the defense with a distinct advantage, one that it would not readily relinquish that advantage by making it substantially less expensive for a plaintiff to have his or her day in court.

Fast forward to September 28, 2015; Assembly Bill 555 was approved by Governor Jerry Brown. The new law made one day jury trials mandatory in most limited jurisdiction cases, effective July 1 of this year.<sup>1</sup> The new mandatory law eliminates the need for a stipulation and includes provisions for a jury of eight members and one alternate. Most significantly, the new law allows up to



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five hours for each side to complete voir dire and to present its case.<sup>2</sup> Recognizing resistance to the voluntary law, the new mandatory law also allows appeals to the appellate division of the Superior Court in which the case was tried.<sup>3</sup>

The new mandatory law considers most obstacles to conducting a fair trial without an unfair advantage to either side. For example, even though the trial is relatively quick, the law places no time limit on jury deliberation.<sup>4</sup>

Under §630.20(b), either party can (try to) opt out of the mandatory expedited jury trial if any of the following criteria are 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.

The true test of whether the mandatory nature of the one day jury law will survive balances on how the courts will handle the motions to opt out pursuant to §630.20(b)(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."

Assuming that the courts will be reluctant to find good cause, trial lawyers should be intimately familiar with the statutory Economic Litigation Rules for limited civil cases.<sup>5</sup> In particular, all evidence must be included in a §96 statement and the trial lawyer may introduce testimony by an affidavit in lieu of live testimony.<sup>6</sup>

In order to make the mandatory one day trial even more cost effective, a trial lawyer should carefully consider serving a reasonable CCP §998 Offer to Compromise in order to increase the chances of recovering expert and other costs in addition to the regular statutory costs.

Finally, in so-called disputed liability cases, carefully drafted Request for Admissions are essential. Denial of a request for admission can lead to an additional award of costs and attorney's fees incurred by the propounding party in proving those facts if that party proves the truth of the facts at trial.<sup>7</sup> With limited exceptions, the court is required to award those costs and fees.<sup>8</sup> Because trial time and costs are so critical to the one day jury trial, the courts may be receptive to awarding costs and attorney's fees.

The new law anticipates that the Judicial Council will adopt additional rules and uniform procedures to further implement the mandatory one day trials. As of the date of this article, we have not seen any such published additional rules and procedures. That said, the existing rules and statutes are probably sufficient to fully implement the new law at present. 

<sup>1</sup> California Code of Civil Procedure §630.20, et seq.

<sup>2</sup> CCP §630.23.

<sup>3</sup> CCP §630.20(d).

<sup>4</sup> CCP §630.24.

<sup>5</sup> CCP §90, et seq.

<sup>6</sup> CCP §98.

<sup>7</sup> CCP §2033.420(a).

<sup>8</sup> *Grace v. Mansourian*, 240 Cal.App.4th 523 (2015).

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