

# Judicial Council of California

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## INVITATION TO COMMENT SPR18-11

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Title	Action Requested
Judicial Council–Sponsored Legislation: Limited Civil Cases and Unlawful Detainers	Review and submit comments by Friday, June 8, 2018
Proposed Rules, Forms, Standards, or Statutes Amend Code Civ. Proc., §§ 85, 86, 86.1, 91, 95, 96, 630.20, 630.28, 630.29, and 630.30; amend Cal. Rules of Court, rule 3.1546.	Proposed Effective Date January 1, 2020
Proposed by Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	Contact Anne M. Ronan, 415-865-8933 <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>

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### **Executive Summary and Origin**

This proposal from the Civil and Small Claims Advisory Committee would increase the jurisdictional amount of limited civil cases from \$25,000 to \$50,000 and would include unlawful detainer within that jurisdictional amount in all procedures applicable to limited civil cases, including mandatory expedited jury trials (EJTs). The proposal is based on the recommendations of the Commission on the Future of California’s Court System (Futures Commission).

### **Background**

The Futures Commission report, issued in May 2017, included recommendations for improving the litigation and adjudication of civil cases. These recommendations included increasing the jurisdictional limit of the limited civil case tier, developing an intermediate tier of cases with claims of higher value than that of limited cases, and streamline litigation within both tiers in several ways, including changing how and how much discovery is to be generally permitted. The Chief Justice directed the Civil and Small Claims Advisory Committee to develop legislative proposals to implement these recommendations of the Futures Commission.

Full consideration of all the recommendations from the Futures Commission relating to civil procedures, including development of a new intermediate civil tier and revised discovery rules for both the limited and the intermediate cases, is underway. This proposal represents a first step in implementing the recommendations, focusing solely on the recommendations relating to the jurisdictional amount of the limited civil case tier and the place of unlawful detainer cases within

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that tier. The advisory committee concluded that the efficiencies to be obtained from these proposals need not await the full development of all the recommendations in the report.

## **The Proposal**

The proposal consists of several amendments to the Code of Civil Procedure, which would be sponsored by the Judicial Council, plus one amendment to the California Rules of Court, approval of which would be conditioned on the enactment of the legislative proposal. The proposal and the rationale behind it are described below.

### **Increased jurisdictional amount**

This proposal would increase the jurisdictional amount of limited civil cases from \$25,000 to \$50,000. In developing this recommendation, the Futures Commission took into account the changes in the value of the dollar since the jurisdictional amount for limited civil cases (previously, for municipal courts) was last increased in 1986. As a result of inflation, a case worth \$25,000 in 1986 was worth \$55,000 in 2017.<sup>1</sup>

The Futures Commission noted that increasing the jurisdictional amount would result in more cases coming within the ambit of the existing economic litigation procedures that apply in limited civil cases. These simplified procedures could decrease the cost of litigation while increasing the public's access to the courts in these cases.<sup>2</sup> This would be true even without further amending the existing procedures for such cases.<sup>3</sup> Currently, economic litigation procedures simplify the trial and pretrial processes and limit discovery, thereby reducing the costs of litigation. Special demurrers are eliminated and motions to strike limited. Discovery by each party is limited to 35 written discovery requests in total, one deposition, disclosure of expert witnesses, and other limited discovery as set out in the limited civil cases statutes. Plaintiffs have the option to use a case questionnaire to elicit an exchange of fundamental factual information about the case. Either party may request pretrial exchanges of witness and exhibit lists, and parties may offer trial testimony in the form of affidavits or declarations under penalty of perjury. (See Code Civ. Proc., §§ 90–98.)<sup>4</sup>

The Futures Commission further noted that changing the jurisdictional limit for limited cases could also result in efficiencies for the courts. Because more cases would be subject to the provisions now in effect for limited cases, in-person case management conferences would not be required (see Cal. Rules of Court, rule 3.722(e)) for those cases, and generally mandatory

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<sup>1</sup> Jud. Branch of Cal., *Commission on the Future of California's Court System: Report to the Chief Justice* (Futures Commission report) (2017), p. 20. This value was calculated using the CPI Inflation Calculator from the Bureau of Labor Statistics.

<sup>2</sup> Futures Commission report, p. 23.

<sup>3</sup> The Futures Commission has recommended some additional changes to the procedures for limited cases, including amending the procedures for discovery in limited cases, for example, but the advisory committee will be considering those procedural changes when it considers similar changes recommended for larger cases.

<sup>4</sup> Futures Commission report, note 9 of chapter 1, p. 45.

expedited jury trial rules would apply to them, resulting in smaller juries and less time for jury selection and deliberation. (Code Civ. Proc., § 630.02.)<sup>5</sup>

### **Unlawful detainers as limited civil cases**

As noted above, most limited civil cases are subject to mandatory expedited jury trials. (Code Civ. Proc., § 630.02.) Unlawful detainer<sup>6</sup> actions—although generally within the jurisdiction of the limited civil case tier—are currently exempted from the economic litigation pretrial procedures of limited civil cases and from mandatory EJT. The Futures Commission noted that this is so even though more jury trials are held in those types of cases than in any other type of limited civil case.<sup>7</sup> The commission concluded that including these cases under the provisions of the mandatory EJT statute would make trials in unlawful detainers less costly for the parties and more efficient for the courts.<sup>8</sup> The advisory committee agrees. Moreover, the rule of court regarding mandatory expedited jury trials starts by providing that all cases subject to mandatory EJT are subject to the pretrial procedures for limited civil actions. (Rule 3.1546(a).) In following the recommendations of the Futures Commission, this proposal would remove the exemptions for unlawful detainer cases from the statutes setting out the limited civil pretrial procedures as well as from the statutes providing for mandatory EJT.

### **Specific statutes and rules to be amended**

To implement the changes described above, the attached proposal would amend the following statutes and rules.

***Amendments to the limited civil economic litigation procedures.*** Proposed amendments throughout sections 85, 86, and 86.1 of the Code of Civil Procedure<sup>9</sup> would replace the dollar amount \$25,000 with \$50,000.<sup>10</sup>

Section 91 is proposed to be amended in two places. The proposed amendment to subdivision (b) would delete the exemption for unlawful detainers. In addition, a new subdivision (d) is proposed to be added, immediately following the provision allowing a party to move to be withdrawn from the economic litigation procedures, providing for a shorter time frame for making the motion in

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<sup>5</sup> Futures Commission report, p. 23.

<sup>6</sup> The phrase *unlawful detainer* is used here to represent all proceedings under chapter 4 (commencing with section 1159) of title 3 of part 3 of the Code of Civil Procedure.

<sup>7</sup> Futures Commission report, p. 25. Judicial Branch Statistical Information System reports show that almost half of the limited civil cases reported as disposed by jury trial are unlawful detainer cases.

<sup>8</sup> Futures Commission report, p. 25.

<sup>9</sup> All references to statutes are to the Code of Civil Procedure unless otherwise noted. All references to rules are to the California Rules of Court.

<sup>10</sup> No other changes would be made to limited civil case jurisdiction. For example, cases seeking permanent injunctions, determination of title to real property, modification of child or spousal support, and most declaratory relief are all now—and will continue to be—unlimited civil cases, no matter the value placed on such relief. Similarly, any cases that are statutorily exempt from limited civil jurisdiction, such as family law cases and probate proceedings, would continue to be exempt.

unlawful detainer actions. This is consistent with existing procedures in unlawful detainers which generally provide for shorter time for notice of motions, given the expedited nature of the proceedings. For example, section 1170.7 provides for five days' notice for summary judgment motions in unlawful detainers, and section 1170.8 provides for five days' notice for discovery motions in such actions. Rule 3.1347 provides for opposition either orally at hearing or in writing at least one court day in advance of hearing. Similar timing provisions have been included here as proposed subdivision (d).<sup>11</sup>

Proposed amendments to section 95 would provide for a shorter time frame in unlawful detainer cases for the noticed motion authorized by the statute.

Proposed amendments to section 96 similarly would provide a shorter time frame for requesting a pretrial statement and for the exchange of such statements. The suggested time frame is based on the provision in section 1170.5 that a trial in an unlawful detainer case is to be set no more than 20 days after the request for trial, once the case is at issue.

***Amendments to the mandatory expedited jury trial statutes.*** Proposed amendments to section 630.20 would remove the subdivision that exempts unlawful detainers from the mandate of an expedited jury trial. No other substantive amendments have been proposed to the section.

Proposed amendments to sections 630.28 and 630.29 would allow for amendment of the rules of court relating to making motions to opt out of mandatory EJTs (a shorter time frame needs to be added for unlawful detainers).<sup>12</sup>

A proposed amendment to section 630.30, the sunset provision, would eliminate the sunset for mandatory EJTs generally, but would add a sunset of the proposed revocation of the unlawful detainer exemption to allow for time to evaluate the impact of making unlawful detainer proceedings subject to these statutes.<sup>13</sup>

***Amendments to rules of court regarding pretrial procedures for mandatory EJTs.*** The proposed amendment to rule 3.1546 includes new paragraph (4) of subdivision (c) to address timing of a request to opt out, and any objection thereto in unlawful detainer cases. Generally, the time for making such a request is at least 45 days before the date set for trial, with a response due within 15 days. Because unlawful detainer trials are set in an expedited fashion, this time

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<sup>11</sup> If this legislation is enacted, the advisory committee will develop rules to ensure timely service of such motions and of any written oppositions.

<sup>12</sup> A proposed amendment to the mandatory EJT rules is being circulated with this legislative proposal, so that it can be adopted by the council without delay if the legislation is enacted.

<sup>13</sup> The advisory committee notes that under the current law, all the mandatory EJT statutes will sunset by the time the proposed amendment to those statutes goes into effect unless some other legislative action is taken before July 1, 2019. A bill is currently pending at the Legislature to eliminate this sunset. See Assembly Bill 3248.

frame has been adjusted for such cases. This rule change would only be recommended if the legislative proposal is enacted.

In addition, because this rule will need to be amended for the above purpose, the committee proposes amending it at the same time to eliminate obsolete provisions originally included in the rule to address how to apply opt-out timing in cases that were already on file at the time the law providing for mandatory EJTs became operative. These provisions of the rule are somewhat confusing because the time frame to which they apply has passed. (See proposed deletions to paragraph (2) of subdivision (c) and of the advisory committee comment.)

## **Alternatives Considered**

### **Jurisdictional limit of \$50,000**

Because the Civil and Small Claims Advisory Committee has been directed by the Chief Justice to develop a legislative proposal to implement certain recommendations of the Futures Commission, the advisory committee did not consider the alternative of not making this proposal. The committee did consider, however, the alternative of delaying this proposal until it has developed all the details of a larger proposal, enveloping all the recommendations regarding limited civil cases, developing a new intermediate tier, and making significant changes to the way discovery is handled in both sets of cases. However, because the other recommendations are complex and will take a longer time to develop than this first set, the committee decided to move forward with this set of proposals first. The committee will continue to work on the other recommendations in the Futures Commission report, with the goal of having a further set of proposals ready to circulate in the next comment cycle.

Within the committee, some members supported increasing the limited case jurisdiction only with respect to those cases with claims between \$25,000 and \$50,000 that involved simple issues and limited numbers of parties. Those members pointed out that some cases within that dollar range, such as certain employment cases, may include claims that involve complex issues and multiple parties and thus may be inappropriate for litigating within the more streamlined procedures and limited discovery that apply to limited civil cases. Most of the members concluded, however, that such cases could be handled appropriately either by a party's moving under section 91 to withdraw from the streamlined procedures on the grounds that litigating the case under them is not practicable, moving under section 96 for leave to conduct additional discovery, or showing good cause for not using the mandatory expedited jury trial (should it be applicable to the case) under section 630.20(b)(9). The committee also considered the concern that some employment cases with lost earnings within the limited case jurisdictional amount include claims for emotional damages that may go over the \$50,000 limit, but noted that in such cases, as in personal injury cases, a plaintiff may plead the case and complete the civil cover sheet in such a way that the case will be filed as an unlimited civil case.

### **Unlawful detainer actions**

The advisory committee, in developing proposed legislation to implement the recommendation of the Futures Commission to treat unlawful detainers like other limited civil cases and include them within the mandatory EJT provisions, considered concerns raised by certain members of

the committee that, even when unlawful detainers are simple, they have very high stakes, with the defendant potentially facing homelessness. These committee members suggested that, given these stakes, unlawful detainer actions should not be subject to mandatory expedited jury trials or the more limited discovery procedures generally applicable in limited civil cases. The majority of the committee noted, however, that mandatory EJT procedures provide five hours per side for voir dire and trial, which, with only eight jurors, should generally be sufficient for limited civil cases. They also noted that parties could ask to opt out of the mandatory EJT if they had good cause for a longer trial. Ultimately, the majority of the committee decided that the proposal to include unlawful detainer proceedings in mandatory EJTs, as recommended in the Futures Report, should be circulated for comment.

In addition, while considering how limited civil case procedures would apply to unlawful detainer proceedings, the committee considered the alternative of amending the limited case statutes to provide for a shorter time frame for discovery in such cases. The committee concluded that it need not recommend that the council sponsor legislation to amend section 94 (listing the discovery that may be conducted in limited civil cases) because the statute does not include any timing provisions. The advisory committee notes that the statutes authorizing most of the types of discovery listed in section 94 already provide shorter time frames for making and responding to the discovery requests in unlawful detainer proceedings.<sup>14</sup>

The committee further notes, however, that no such special provisions relating to unlawful detainer cases have are currently in the statutes relating to the disclosure of expert witnesses (sections 2034.220 and 2034.230), which section 94 also expressly includes in the discovery allowed in limited civil cases. The committee decided not to include an amendment to those sections to address the timeframe in this proposal, but asks that commenters consider whether such an amendment would be appropriate and, if so, in what form it should be.

### **Implementation Requirements, Costs, and Operational Impacts**

The primary impacts of this proposal would be: (1) more cases in the limited tier, and (2) more trials held as mandatory EJTs. The former is likely to result in loss of filing fee revenues because more cases can be filed under the lower filing fee of limited cases, as discussed below. The latter is likely to result in savings for courts, with smaller jury pools required in more cases. This should provide significant court economies in unlawful detainer cases, which constitute a significant portion of limited civil jury trials. There will also be training costs, however, and potentially costs to change computerized case management programs to include unlawful detainers as EJTs.

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<sup>14</sup> For most of the types of discovery listed in section 94, statutory provisions provide that discovery requests in unlawful detainer proceedings may be served 5 days after service of process (rather than after 20 days, in other cases) and must be responded to within 10 (rather than 30) days. See § 2025.270 (depositions), §§ 2030.010 and 2030.260 (interrogatories), §§ 2031.020 and 2031.260 (requests for inspection of documents), and §§ 2033.020 and 2033.250 (requests for admission).

The Futures Commission noted that with no change to the filing fee structure, the creation of this tier could result in some loss of revenue from filing fees. Currently, the filing fee for higher-value limited cases is \$65 less than for unlimited cases. With more cases filed as limited civil cases, fewer will be filed as unlimited cases, resulting in a loss of revenue from filing fees. Some idea of the impact of changes in the jurisdictional amount can be gathered from the impact of previous changes. When the jurisdictional amount for municipal court cases was tripled from \$5,000 to \$15,000 effective July 1, 1979, approximately 8 to 10 percent more municipal court cases were filed the next year. When the jurisdictional amount was increased from \$15,000 to \$25,000 effective January 1, 1986, the impact was a 3 to 4 percent increase in municipal court filings. (See *Judicial Council Report on Raising Municipal Court Jurisdiction and Economic Litigation from \$25,000 to \$50,000*, October 24, 1995, at pp. 3, 10–11.) This data suggests that doubling the jurisdictional amount from \$25,000 to \$50,000 might result in an increase of 5 to 7 percent of cases being filed as limited cases.<sup>15</sup> This point will require further analysis to determine the most likely fiscal impact.

The advisory committee notes that the proposal should have no impact on distribution of funds to law libraries. Law libraries receive a substantial amount of their funding from first paper filing fees in civil actions.<sup>16</sup> The distributions to the law library fund are a set amount per filing; the total amount differs from county to county, but within each county it does not change based on whether the case is characterized as limited or unlimited. (See Bus. & Prof. Code, § 6321(a).)

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<sup>15</sup> Futures Commission report, p. 47. The Judicial Council’s *2017 Court Statistics Report* shows that 352,562 limited civil cases were filed in fiscal year 2016.

<sup>16</sup> The required distributions of the filing fees in civil cases are stated in Government Code sections 68085.3 (distribution of filing fees in unlimited cases, family law matters, and general probate cases) and 68085.4 (distribution of filing fees in limited cases, guardianships, and probates of small value estates). Both statutes contain the same provision for distributions for law libraries, at subdivision (b)(1): “To the county law library fund, the amount described in Sections 6321 and 6322.1 of the Business and Professions Code.”

## 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?
- Should the increase in the limited civil case jurisdictional amount in Code of Civil Procedure sections 85, 86, and 86.1 to \$50,000 be a blanket increase, as proposed here, or should exceptions be made for some cases with demands between \$25,000 and \$50,000? If there should be exceptions, what would they include or how would they be defined?
- Can unlawful detainer jury trials generally be completed within the time frames of the mandatory expedited jury trial statutes (Code Civ. Proc., § 630.23)? Is it appropriate to handle them under those provisions?
- Should Code of Civil Procedure sections 2034.220 and 2034.230 regarding the disclosure of the identity of expert witnesses be amended to provide a shorter time frame for making and responding to requests for such disclosure in unlawful detainer proceedings?

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

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements 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 10 weeks from the enactment of the proposed legislation until its effective date provide sufficient time for implementation? Or should additional time be requested?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Text of proposed amended Code of Civil Procedure sections 85, 86, 86.1, 91, 95, 96, 630.20, 630.28, 630.29, and 630.30, at pages 9–15
2. Text of proposed amended Cal. Rules of Court, rule 3.1546, at pages 16–17

Code of Civil Procedure sections 85, 86, 86.1, 91, 95, 96, 630.20, 630.28, 630.29, and 630.30 would be amended, effective January 1, 2020, to read:

1 **85.**

2 An action or special proceeding shall be treated as a limited civil case if all of the  
3 following conditions are satisfied, and, notwithstanding any statute that classifies an  
4 action or special proceeding as a limited civil case, an action or special proceeding shall  
5 not be treated as a limited civil case unless all of the following conditions are satisfied:

6  
7 (a) The amount in controversy does not exceed ~~twenty-five~~ fifty thousand dollars  
8 (~~\$25,000~~ \$50,000). As used in this section, “amount in controversy” means the amount of  
9 the demand, or the recovery sought, or the value of the property, or the amount of the  
10 lien, that is in controversy in the action, exclusive of attorneys’ fees, interest, and costs.

11  
12 (b) The relief sought is a type that may be granted in a limited civil case.

13  
14 (c) The relief sought, whether in the complaint, a cross-complaint, or otherwise, is  
15 exclusively of a type described in one or more statutes that classify an action or special  
16 proceeding as a limited civil case or that provide that an action or special proceeding is  
17 within the original jurisdiction of the municipal court, including, but not limited to, the  
18 following provisions:

19 (1) Section 798.61 or 798.88 of the Civil Code.

20 (2) Section 1719 of the Civil Code.

21 (3) Section 3342.5 of the Civil Code.

22 (4) Section 86.

23 (5) Section 86.1.

24 (6) Section 1710.20.

25 (7) Section 7581 of the Food and Agricultural Code.

26 (8) Section 12647 of the Food and Agricultural Code.

27 (9) Section 27601 of the Food and Agricultural Code.

28 (10) Section 31503 of the Food and Agricultural Code.

29 (11) Section 31621 of the Food and Agricultural Code.

30 (12) Section 52514 of the Food and Agricultural Code.

31 (13) Section 53564 of the Food and Agricultural Code.

32 (14) Section 53069.4 of the Government Code.

33 (15) Section 53075.6 of the Government Code.

34 (16) Section 53075.61 of the Government Code.

35 (17) Section 5411.5 of the Public Utilities Code.

36 (18) Section 9872.1 of the Vehicle Code.

37 (19) Section 10751 of the Vehicle Code.

38 (20) Section 14607.6 of the Vehicle Code.

39 (21) Section 40230 of the Vehicle Code.

40 (22) Section 40256 of the Vehicle Code.

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1 **86.**

2 (a) The following civil cases and proceedings are limited civil cases:

3  
4 (1) A case at law in which the demand, exclusive of interest, or the value of the property  
5 in controversy amounts to ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000) or less.

6 This paragraph does not apply to a case that involves the legality of any tax, impost,  
7 assessment, toll, or municipal fine, except an action to enforce payment of delinquent  
8 unsecured personal property taxes if the legality of the tax is not contested by the  
9 defendant.

10  
11 (2) An action for dissolution of partnership where the total assets of the partnership do  
12 not exceed ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000); an action of interpleader  
13 where the amount of money or the value of the property involved does not exceed fifty  
14 thousand dollars (~~\$25,000~~ \$50,000).

15  
16 (3) An action to cancel or rescind a contract when the relief is sought in connection with  
17 an action to recover money not exceeding ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~  
18 \$50,000) or property of a value not exceeding ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~  
19 \$50,000), paid or delivered under, or in consideration of, the contract; an action to revise  
20 a contract where the relief is sought in an action upon the contract if the action otherwise  
21 is a limited civil case.

22  
23 (4) A proceeding in forcible entry or forcible or unlawful detainer where the whole  
24 amount of damages claimed is ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000) or  
25 less.

26  
27 (5) An action to enforce and foreclose a lien on personal property where the amount of  
28 the lien is ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000) or less.

29  
30 (6) An action to enforce and foreclose, or a petition to release, a lien arising under  
31 Chapter 4 (commencing with Section 8400) of Title 2 of Part 6 of Division 4 of the Civil  
32 Code, or to enforce and foreclose an assessment lien on a common interest development  
33 as defined in Section 4100 or 6534 of the Civil Code, where the amount of the liens is  
34 ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000) or less. However, if an action to  
35 enforce the lien affects property that is also affected by a similar pending action that is  
36 not a limited civil case, or if the total amount of liens sought to be foreclosed against the  
37 same property aggregates an amount in excess of ~~twenty-five~~ fifty thousand dollars  
38 (~~\$25,000~~ \$50,000), the action is not a limited civil case.

39  
40 (7) An action for declaratory relief when brought pursuant to either of the following:  
41

1 (A) By way of cross-complaint as to a right of indemnity with respect to the relief  
2 demanded in the complaint or a cross-complaint in an action or proceeding that is  
3 otherwise a limited civil case.

4  
5 (B) To conduct a trial after a nonbinding fee arbitration between an attorney and client,  
6 pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the  
7 Business and Professions Code, where the amount in controversy is ~~twenty-five~~ fifty  
8 thousand dollars (~~\$25,000~~ \$50,000) or less.

9  
10 (8) An action to issue a temporary restraining order or preliminary injunction; to take an  
11 account, where necessary to preserve the property or rights of any party to a limited civil  
12 case; to make any order or perform any act, pursuant to Title 9 (commencing with  
13 Section 680.010) of Part 2 (enforcement of judgments) in a limited civil case; to appoint a  
14 receiver pursuant to Section 564 in a limited civil case; to determine title to personal  
15 property seized in a limited civil case.

16  
17 (9) An action under Article 3 (commencing with Section 708.210) of Chapter 6 of  
18 Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to  
19 enforce the liability of the debtor of a judgment debtor where the interest claimed  
20 adversely is of a value not exceeding ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ 50,000)  
21 or the debt denied does not exceed ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000).

22  
23 (10) An arbitration-related petition filed pursuant to either of the following:

24  
25 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except  
26 for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the  
27 Insurance Code, if the petition is filed before the arbitration award becomes final and the  
28 matter to be resolved by arbitration is a limited civil case under paragraphs (1) to (9),  
29 inclusive, of subdivision (a) or if the petition is filed after the arbitration award becomes  
30 final and the amount of the award and all other rulings, pronouncements, and decisions  
31 made in the award are within paragraphs (1) to (9), inclusive, of subdivision (a).

32 (B) To confirm, correct, or vacate a fee arbitration award between an attorney and client  
33 that is binding or has become binding, pursuant to Article 13 (commencing with Section  
34 6200) of Chapter 4 of Division 3 of the Business and Professions Code, where the  
35 arbitration award is ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000) or less.

36  
37 (b) The following cases in equity are limited civil cases:

38  
39 (1) A case to try title to personal property when the amount involved is not more than  
40 ~~twenty-five~~ fifty thousand dollars (~~\$25,000~~ \$50,000).

1 (2) A case when equity is pleaded as a defensive matter in any case that is otherwise a  
2 limited civil case.

3  
4 (3) A case to vacate a judgment or order of the court obtained in a limited civil case  
5 through extrinsic fraud, mistake, inadvertence, or excusable neglect.

6  
7 **86.1.**

8 An action brought pursuant to the Long-Term Care, Health, Safety, and Security Act of  
9 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and  
10 Safety Code) is a limited civil case if civil penalties are not sought or amount to ~~twenty-~~  
11 five fifty thousand dollars (~~\$25,000~~ \$50,000) or less.

12  
13 **91.**

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

16  
17 (b) The provisions of this article do not apply to any action under Chapter 5.5  
18 (commencing with Section 116.110) ~~or any proceeding under Chapter 4 (commencing~~  
19 ~~with Section 1159) of Title 3 of Part 3.~~

20  
21 (c) Any action may, upon noticed motion, be withdrawn from the provisions of this  
22 article, upon a showing that it is impractical to prosecute or defend the action within the  
23 limitations of these provisions.

24  
25 (d) Notwithstanding (c), when such a motion is made in an unlawful detainer action or  
26 other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3,  
27 such motion may be made on 5 days' notice, with any opposition to be made either orally  
28 at the hearing or, if in writing, served and filed one court day before the hearing.

29  
30 **95.**

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

38  
39 (b) Notwithstanding (a), when such a motion is made in an unlawful detainer action or  
40 other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3,  
41 such motion may be made on 5 days' notice, with any opposition to be made either orally  
42 at the hearing or, if in writing, served and filed one court day before the hearing.

1 ~~(b)~~ (c) The parties may stipulate to additional discovery.

2  
3 **96.**

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

5 TO: \_\_\_\_\_,

6 attorney for: \_\_\_\_\_

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

16  
17 (b) The request shall be served no more than 45 days or less than 30 days prior to the date  
18 first set for trial, unless otherwise ordered.

19  
20 (c) A statement responding to the request shall be served within 20 days from the service  
21 of the request.

22  
23 (d) Notwithstanding (a), (b), and (c), when such a statement is requested in an unlawful  
24 detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of  
25 Title 3 of Part 3, the request shall be served no more than 20 days or less than 10 days  
26 prior to the date first set for trial, unless otherwise ordered, and a statement responding to  
27 the request shall be served within 5 days from service of the request. The content of the  
28 request in (a) must be amended to reflect this time for response.

29  
30 ~~(d)~~ (e) No additional, amended or late statement is permitted except by written stipulation  
31 or unless ordered for good cause on noticed motion.

32  
33 ~~(e)~~ (f) No request or statement served under this section shall be filed, unless otherwise  
34 ordered.

35  
36 ~~(f)~~ (g) The clerk shall furnish forms for requests under this rule.

37  
38 ~~(g)~~ (h) The time for performing acts required under this section shall be computed as  
39 provided by law, including Section 1013.

40  
41 **630.20.**

42 (a) Except as provided in subdivisions (b) ~~and (c)~~, an action or special proceeding treated  
43 as a limited civil case pursuant to Article 1 (commencing with Section 85) of Chapter 5.1

1 of Title 1 of Part 1, including an action or special proceeding initially filed as a limited  
2 civil case or remanded as one thereafter, shall be conducted as a mandatory expedited  
3 jury trial pursuant to this chapter.

4  
5 (b) Either party may opt out of the mandatory expedited jury trial procedures if any of the  
6 following criteria is met:

7 (1) Punitive damages are sought.

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

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

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

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

13 (6) The case involves claims of intentional conduct.

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

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

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

21  
22 ~~(e) This chapter does not apply to a proceeding in forcible entry or forcible or unlawful~~  
23 ~~detainer.~~

24  
25 ~~(d)~~ (c) A judgment in a limited civil case conducted as a mandatory expedited jury trial  
26 may be appealed to the appellate division of the superior court in which the case was  
27 tried.

28  
29 **630.28.**

30 The Judicial Council shall, on or before January 1, ~~2016~~ 2020, adopt rules and forms to  
31 establish uniform procedures implementing the provisions of this chapter, including, rules  
32 for the following:

33  
34 (a) Pretrial exchanges and submissions.

35  
36 (b) Pretrial conferences.

37  
38 (c) Opt-out procedures pursuant to subdivision (b) of Section 630.20, including opt out  
39 procedures in unlawful detainer actions or other proceeding under Chapter 4  
40 (commencing with Section 1159) of Title 3 of Part 3.

41  
42 (d) Presentation of evidence and testimony.

1 (e) Any other procedures necessary to implement the provisions of this chapter.

2

3 **630.29.**

4 Sections 630.20 to ~~630.27, inclusive,~~ shall become operative on January 1, ~~2016~~ 2020.

5

6 **630.30**

7 ~~This chapter shall remain in effect only until July 1, 2019, and as of that date is repealed,~~

8 ~~unless a later enacted statute, that is enacted before July 1, 2019, deletes or extends that~~

9 ~~date.~~ The revocation of section 630.20(c) shall last only until January 1, 2024, and as of

10 that date is reinstated unless a later enacted statute, that is enacted before January 1, 2024,

11 deletes or extends that date.

Rule 3.1546 of the California Rules of Court would be amended, effective January 1, 2020, to read:

1 **Rule 3.1546. Pretrial procedures for mandatory expedited jury trials**

2  
3 **(a)–(b) \* \* \***

4  
5 **(c) Opting out of mandatory expedited jury trial procedures**

6  
7 (1) Parties seeking to opt out of mandatory expedited jury trial procedures on  
8 grounds stated in Code of Civil Procedure section 630.20(b) must file a  
9 *Request to Opt Out of Mandatory Expedited Jury Trial Procedures* (form  
10 EJT-003).

11  
12 (2) Except on a showing of good cause, the request to opt out must be served and  
13 filed at least 45 days before the initial trial date ~~or, in cases in which the date~~  
14 ~~first set for trial occurred before July 1, 2016, 45 days before the first trial~~  
15 ~~date after July 1, 2016.~~

16  
17 (3) Except on a showing of good cause, any objection to the request must be  
18 served and filed within 15 days after the date of service of the request, on an  
19 *Objection to Request to Opt Out of Mandatory Expedited Jury Trial*  
20 *Procedures* (form EJT-004).

21  
22 (4) Notwithstanding (2) and (3), in unlawful detainer actions or other  
23 proceedings under chapter 4 (commencing with section 1159) of title 3 of  
24 part 3 of the Code of Civil Procedure, except on a showing of good cause, the  
25 request to opt out must be served and filed at least 10 days before the date  
26 first set for trial, and any objection to the request must be served and filed  
27 within 5 days after the date of service on the request.

28  
29 ~~(4)~~(5) If the grounds on which a party or parties have opted out of mandatory  
30 expedited jury trial procedures no longer apply to a case, the parties must  
31 promptly inform the court, and the case may be tried as a mandatory  
32 expedited jury trial.

33  
34 **(d) \* \* \***

35  
36 **Advisory Committee Comment**

37  
38 ~~Because Code of Civil Procedure section 630.20, which becomes operative July 1, 2016,~~  
39 ~~applies to cases already on file and possibly already set for trial, as well as cases filed~~  
40 ~~after the statutory provisions go into effect, the deadlines in rule 3.1546(c) for opt outs~~  
41 ~~and objections may be problematic as applied to cases set for trial within the first couple~~  
42 ~~of months after the rule goes into effect. It is expected that the good cause provisions~~

*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.*

- 1 ~~within the rules regarding deadlines, along with judicious use of continuances as~~
- 2 ~~appropriate, will be liberally used to permit courts to manage those cases fairly,~~
- 3 ~~appropriately, and efficiently.~~