



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

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| Title | Agenda Item Type |
| Trial Courts: Report on Expedited Jury Trials | Information Only |
| Submitted by | Date of Report |
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Executive Summary

This report provides data regarding the number of expedited jury trials that have been conducted in the California trial courts since the enactment of the Expedited Jury Trial Act and the dispositions achieved in those cases.

Previous Council Action

The Expedited Jury Trial Act (Assem. Bill 2284 [Evans]; Stats. 2010, ch. 674), which went into effect on January 1, 2011, established a new expedited jury trial process. This alternative, streamlined method for handling civil actions was designed to promote the speedy and economic resolution of cases and to conserve judicial resources.

Although not directly sponsored by the Judicial Council, Assembly Bill 2284 was the result of efforts encouraged and coordinated by the council. For several years before the bill's enactment, groups in the legal community had been discussing ways to make the litigation of civil cases

with smaller amounts in controversy more efficient. In light of those discussions and given the state's economic circumstances, a Small Civil Cases Working Group was formed at the request of the Chief Justice and the Administrative Director of the Courts. It was comprised of members of the council's Civil and Small Claims Advisory Committee and members of the plaintiff and defense bars, as well as liaisons from the insurance industry, business groups, and a consumer organization. The group's charge included consideration of innovative program models, including, but not limited to, summary jury trial programs, which could be implemented in California to enhance settlements and promote more effective and efficient administration of civil cases. The working group developed a proposal for new rules of court establishing expedited jury trial procedures and presented the proposal to the Civil and Small Claims Advisory Committee. At that committee's recommendation, the Rules and Projects Committee of the Judicial Council approved the circulation of the proposed rules for public comment in spring 2010.

While the proposal was out for comment, AB 2284—originally introduced to provide a general legislative authorization for developing rules governing an expedited jury trial program—was amended at the urging of several stakeholder groups that had taken part in the Small Civil Cases Working Group. The amended bill included the key elements from the rules proposal, codifying them in statute to establish the Expedited Jury Trials Act. The Judicial Council supported the legislation and, upon its enactment, adopted rules from the original proposal that were not included in the legislation. The Expedited Jury Trial Act contains a five-year sunset provision under which the act will automatically be repealed effective January 1, 2016, if it is not extended by statute.

Expedited Jury Trials in California Courts

In light of the approaching sunset of the Expedited Jury Trial Act, Judicial Council staff has gathered information as to how the act has been used in the trial courts.

Overview of Expedited Jury Trial Process

An expedited jury trial (EJT) is a streamlined jury trial—generally lasting only one day. It is intended to be quicker and less expensive than a traditional jury trial, saving time and money for all involved: litigants, lawyers, courts, and jurors. An EJT differs from a regular jury trial in the following key ways:

- *Shorter trial length.* Each side has 3 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 (3 per side); and
- *Swifter finality.* All parties must 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.

Data Requested

To assist in determining how the EJT program has been used, some basic data about EJTs was requested of the California superior courts statewide. Data was requested for the period beginning January 1, 2011, and ending August 31, 2014. Courts were asked whether EJTs had been used in any cases during the reporting period and, if so, requested some basic information about those cases.

1. Date of the filing;
2. Date that the parties requested an EJT;
3. Date the court granted/denied the consent order allowing parties to use an EJT;
4. Case numbers for these cases; and
5. Type of dispositions in cases where parties agreed to use EJT (including settlement prior to jury verdict).

Summary of Data Received

Response Rate. Thirty-nine of the 58 superior courts (67%) reported data on the use of EJTs. Of those 39 courts, 25 (64%) reported that EJTs had not been used in any cases during the reporting period. Fourteen courts (36%) reported that EJTs had been used in one or more cases during the reporting period.

- The 25 courts that reported no EJTs were: the Superior Courts of Butte, Calaveras, Colusa, Contra Costa, Del Norte, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Modoc, Plumas, San Benito, Santa Cruz, Shasta, Sierra, Sutter, Tehama, Trinity, Yolo, and Yuba counties.
- The 14 courts that reported one or more EJTs were: the Superior Courts of Alameda, Los Angeles, Monterey, Orange, Riverside, San Bernardino, San Francisco, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Solano, Tulare, and Ventura counties.

Percentage of EJTs. Table 1 shows the total number of jury trials and EJTs that took place during the reporting period in each of the 14 courts that reported one or more EJTs. As this table shows, these courts reported a total of 156 EJTs over the entire reporting period. This represents 4.3% of the total civil jury trials that took place in these courts during the reporting period.¹ For individual courts, the percentage of EJTs ranged from 2% to 9% of the jury trials during the reporting period.

¹ The 156 EJTs represent 4.0% of the all the jury trials in all 39 reporting courts.

Table 1. Percentage of Expedited Jury Trials Compared to Standard Jury Trials

| Court | Civil Jury Trials ¹ | | | | EJTs (Jan. 1, 2011–Aug. 31, 2014) ² | % of EJTs |
|---------------------|--------------------------------|--------------|--------------|--------------|---|-------------|
| | FY 2010-11 | FY 2011-12 | FY 2012-13 | Total | | |
| Alameda | 64 | 56 | 45 | 165 | 9 | 5% |
| Los Angeles | 479 | 623 | 542 | 1,644 | 62 | 4% |
| Monterey | 9 | 11 | 11 | 31 | 1 | 3% |
| Orange ² | 246 | 253 | 187 | 686 | 32 | 5% |
| Riverside | 54 | 49 | 50 | 153 | 6 | 4% |
| San Bernardino | 66 | 95 | 92 | 253 | 7 | 3% |
| San Francisco | 83 | 43 | 92 | 218 | 18 | 8% |
| San Joaquin | 26 | 33 | 29 | 88 | 6 | 7% |
| San Mateo | 21 | 11 | 31 | 63 | 1 | 2% |
| Santa Barbara | 14 | 16 | 18 | 48 | 1 | 2% |
| Santa Clara | 19 | 23 | 47 | 89 | 2 | 2% |
| Solano | 3 | 12 | 8 | 23 | 2 | 9% |
| Tulare | 10 | 10 | 10 | 30 | 1 | 3% |
| Ventura | 68 | 36 | 38 | 142 | 8 | 6% |
| Total | 1,162 | 1,271 | 1,200 | 3,633 | 156 | 4.3% |

¹ The *Court Statistics Report (CSR)* was used to report the number of Civil Jury Trials for most courts.

² For Orange, the *Jury Data Report* was used to report Civil Jury Trials in FY 2010–2011 and FY 2011–2012; CSR data was not available.

Dispositions in EJTs. Based on a 2005 *Civil Justice Survey of State Courts*, plaintiffs won in 53% of jury trials overall.³ Although our data reflects a similar pattern, it is difficult to say with certainty whether EJT dispositions match dispositions in overall jury trials due to the small reporting numbers and because many courts had two or fewer EJTs in the reporting period. However, if we look only at those courts with greater than 10 EJTs, the percentage breakdown reflects 55% judgment for plaintiff and 45% judgment for defendant. Additionally, if we look at the court with the highest reported number of EJTs ($n=62$), the breakdown shifts slightly but still reflects an almost 50/50 breakdown at 52% judgment for defendant and 48% judgment for plaintiff.

² The Expedited Jury Trials Act took effect January 1, 2011, so to best capture the data, this report looks at each calendar year. Other civil jury data is reported by fiscal year.

³ Langton & Cohen, *Civil Bench and Jury Trials in State Courts, 2005*, (2008, rev. 2009) Bureau of Justice Statistics Special Report, NCJ 223851, Washington, DC: United States Department of Justice, Office of Justice Programs.

Table 2. Disposition Data on Judgment for Plaintiff/Defendant Only (Courts with > 10 EJTs)

| Court | EJTs | Judgment for Plaintiff | | Judgment for Defendant | | Judgment | |
|--|------|------------------------|-----|------------------------|-----|----------|-----|
| | | Total | % | Total | % | Total | % |
| Courts w/ > 10 EJT¹ | 112 | 52 | 55% | 43 | 45% | 95 | 85% |
| 1 Court (= 62 EJT)² | 62 | 29 | 48% | 31 | 52% | 60 | 97% |

¹ This includes those courts that reported more than 10 EJTs (72% of all reported EJTs).

² This includes a single court that reported 62 EJTs (40% of all reported EJTs).

Next Steps

The stakeholders who urged the enactment of the Expedited Jury Trial Act in 2010 are expected to return to the Legislature in the near future to request that the sunset provision be extended or removed. This report provides information regarding the experience of the trial courts under the act, and may be useful in the Legislature’s evaluation of the act.

Attachments

1. Attachment A: Expedited Jury Trial & Jury Trial Data Reporting Summary
2. Attachment B: Expedited Jury Trial—Disposition Summary

Expedited Jury Trial & Jury Trial Data Reporting Summary¹

| Court | Civil Jury Trials | | | | Expedited Jury Trials ² | | | | | % |
|---------------------------|-------------------|-------------|-------------|-------------|------------------------------------|-----------|-----------|-----------|------------|-------------|
| | FY2010-11 | FY2011-12 | FY2012-13 | Total | CY2011 | CY2012 | CY2013 | CY2014 | Total | |
| Alameda | 64 | 56 | 45 | 165 | 1 | 2 | 2 | 4 | 9 | 5% |
| Alpine | | | | | | | | | | |
| Amador | | | | | | | | | | |
| Butte | 2 | 6 | 10 | 18 | 0 | 0 | 0 | 0 | 0 | 0% |
| Calaveras | 6 | 2 | 2 | 10 | 0 | 0 | 0 | 0 | 0 | 0% |
| Colusa | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Contra Costa | 15 | 11 | 20 | 46 | 0 | 0 | 0 | 0 | 0 | 0% |
| Del Norte | 1 | 5 | 1 | 7 | 0 | 0 | 0 | 0 | 0 | 0% |
| El Dorado | | | | | | | | | | |
| Fresno | | | | | | | | | | |
| Glenn | | | | | | | | | | |
| Humboldt | 6 | 3 | 2 | 11 | 0 | 0 | 0 | 0 | 0 | 0% |
| Imperial | 6 | 7 | 7 | 20 | 0 | 0 | 0 | 0 | 0 | 0% |
| Inyo | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0% |
| Kern | | | | | | | | | | |
| Kings | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Lake | 3 | 4 | 2 | 9 | 0 | 0 | 0 | 0 | 0 | 0% |
| Lassen | 2 | 2 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0% |
| Los Angeles | 479 | 623 | 542 | 1644 | 21 | 21 | 15 | 5 | 62 | 4% |
| Madera | 9 | 2 | 7 | 18 | | | | | 0 | |
| Marin | | | | | | | | | | |
| Mariposa | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Mendocino | 1 | 3 | 3 | 7 | 0 | 0 | 0 | 0 | 0 | 0% |
| Merced | | | | | | | | | | |
| Modoc | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0% |
| Mono | | | | | | | | | | |
| Monterey | 9 | 11 | 11 | 31 | 0 | 1 | 0 | 0 | 1 | 3% |
| Napa | | | | | | | | | | |
| Nevada | | | | | | | | | | |
| Orange³ | 246 | 253 | 187 | 686 | 13 | 4 | 9 | 6 | 32 | 5% |
| Placer | | | | | | | | | | |
| Plumas | 0 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0% |
| Riverside | 54 | 49 | 50 | 153 | 2 | 0 | 4 | 0 | 6 | 4% |
| Sacramento | | | | | | | | | | |
| San Benito | 4 | 2 | 4 | 10 | 0 | 0 | 0 | 0 | 0 | 0% |
| San Bernardino | 66 | 95 | 92 | 253 | 1 | 5 | 1 | 0 | 7 | 3% |
| San Diego | | | | | | | | | | |
| San Francisco | 83 | 43 | 92 | 218 | 7 | 6 | 3 | 2 | 18 | 8% |
| San Joaquin | 26 | 33 | 29 | 88 | 2 | 1 | 1 | 2 | 6 | 7% |
| San Luis Obispo | | | | | | | | | | |
| San Mateo | 21 | 11 | 31 | 63 | 0 | 0 | 0 | 1 | 1 | 2% |
| Santa Barbara | 14 | 16 | 18 | 48 | 1 | 0 | 0 | 0 | 1 | 2% |
| Santa Clara | 19 | 23 | 47 | 89 | 1 | 1 | 0 | 0 | 2 | 2% |
| Santa Cruz | 8 | 8 | 9 | 25 | 0 | 0 | 0 | 0 | 0 | 0% |
| Shasta | 9 | 7 | 6 | 22 | 0 | 0 | 0 | 0 | 0 | 0% |
| Sierra | 0 | ND | ND | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Siskiyou | | | | | | | | | | |
| Solano | 3 | 12 | 8 | 23 | 0 | 1 | 1 | 0 | 2 | 9% |
| Sonoma | | | | | | | | | | |
| Stanislaus | | | | | | | | | | |
| Sutter | 8 | 5 | 3 | 16 | 0 | 0 | 0 | 0 | 0 | 0% |
| Tehama | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Trinity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0% |
| Tulare | 10 | 10 | 10 | 30 | 0 | 1 | 0 | 0 | 1 | 3% |
| Tuolumne | | | | | | | | | | |
| Ventura | 68 | 36 | 38 | 142 | 0 | 0 | 2 | 6 | 8 | 6% |
| Yolo | 2 | 4 | 8 | 14 | 0 | 0 | 0 | 0 | 0 | 0% |
| Yuba | 3 | 5 | 2 | 10 | 0 | 0 | 0 | 0 | 0 | 0% |
| Total of 1+EJTs | 1162 | 1271 | 1200 | 3633 | 49 | 43 | 38 | 26 | 156 | 4.3% |
| | | | | | | | | | AVG of AVG | 4.5% |
| Total of Reporting | 1248 | 1348 | 1288 | 3884 | | | | | 156 | 4.0% |

¹Courts with values left blank did not report EJT data.²The Expedited Jury Trials Act took effect January 1, 2011, so to best capture the data, this report looks at each calendar year. Other civil jury data is reported by fiscal year.³For Orange FY2010-11 and FY2011-12, Jury Data Report was used to determine number of Civil Jury Trials (all other courts, years, CSR was used).

Expedited Jury Trials -Summary of Reported Disposition Data¹

January 1, 2011 through August 31, 2014

| Court | EJTs | Withdrawn | Settlement, before trial | Settlement, during trial | Dismissal | Judgment for Plaintiff, punitive damages awarded | Judgment for Plaintiff, no punitive damages awarded | Judgment for Plaintiff, unknown | Judgment for Defendant | Mistrial | Other | Don't know |
|-----------------|------------|-----------|-----------------------------|-----------------------------|-----------|--|---|---------------------------------------|------------------------------|----------|----------|---------------|
| Alameda | 9 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 3 | 0 | 0 | 0 |
| Alpine | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Amador | | | | | | | | | | | | |
| Butte | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Calaveras | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Colusa | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Contra Costa | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Del Norte | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| El Dorado | | | | | | | | | | | | |
| Fresno | | | | | | | | | | | | |
| Glenn | | | | | | | | | | | | |
| Humboldt | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Imperial | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Inyo | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kern | | | | | | | | | | | | |
| Kings | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lake | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Lassen | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles | 62 | 0 | 0 | 0 | 0 | 0 | 0 | 29 | 31 | 0 | 2 | 0 |
| Madera | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Marin | | | | | | | | | | | | |
| Mariposa | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mendocino | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Merced | | | | | | | | | | | | |
| Modoc | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mono | | | | | | | | | | | | |
| Monterey | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Napa | | | | | | | | | | | | |
| Nevada | | | | | | | | | | | | |
| Orange | 32 | 0 | 0 | 0 | 9 | 0 | 14 | 0 | 8 | 0 | 1 | 0 |
| Placer | | | | | | | | | | | | |
| Plumas | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Riverside | 6 | 0 | 0 | 0 | 1 | 1 | 4 | 0 | 0 | 0 | 0 | 0 |
| Sacramento | | | | | | | | | | | | |
| San Benito | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| San Bernardino | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |
| San Diego | | | | | | | | | | | | |
| San Francisco | 18 | 0 | 2 | 2 | 0 | 0 | 9 | 0 | 4 | 0 | 1 | 0 |
| San Joaquin | 6 | 0 | 0 | 0 | 3 | 0 | 2 | 0 | 0 | 0 | 1 | 0 |
| San Luis Obispo | | | | | | | | | | | | |
| San Mateo | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Santa Barbara | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Santa Clara | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 |
| Santa Cruz | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Shasta | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sierra | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Siskiyou | | | | | | | | | | | | |
| Solano | 2 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Sonoma | | | | | | | | | | | | |
| Stanislaus | | | | | | | | | | | | |
| Sutter | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tehama | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Trinity | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tulare | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Tuolumne | | | | | | | | | | | | |
| Ventura | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 3 | 0 | 0 | 1 |
| Yolo | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Yuba | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 156 | 0 | 3 | 3 | 13 | 3 | 37 | 35 | 49 | 0 | 5 | 8 |

¹ Courts with values left blank did not report EJT data.

