



STATUTE CHANGES

January 1 usually means new statutes take effect, and this year is no exception. There are two we feel are important to highlight this year for the practitioner and the consumer. (For those of you who aren't practitioners, "consumer" means you.)

Changes in jury selection

How many times have you been in a courtroom where a judge has told you, "You have 15 minutes to question all 18 potential jurors, there will be no jury questionnaire and you cannot have the random order list"?

Members of the plaintiffs' bar, defense bar and judges recognized this as a growing issue. As a result of alternative dispute resolution and the Discovery Act, more cases settle. Some of the newer judges on the civil bench have not had the opportunity to try a large number of civil cases as lawyers nor do they understand the impact artificial time limits and the inability to get complete juror information creates.

As a result, the California Legislature amended California Code of Civil Procedure § 222.5. The statute itself, which can be viewed here (<http://1.usa.gov/zn8DrU>), is worth a read. Some of the key points are:

- No arbitrary or blanket time limits. The parties' counsel have the right to examine potential jurors. The issue of time limits is specifically addressed in the statute. The judge shall not impose a blanket policy of time limits nor can specific unreasonable or arbitrary time limits be imposed in any case. While the legislative intent of this section seems clear, we expect it may be the subject of vigorous discussion in courtrooms over the coming months.
- Mini-openings. The trial judge should allow "a brief opening statement by counsel for each party prior to the commencement of the oral questioning phase of the voir dire process." This process, sometimes referred to as the mini-opening, has been coming into vogue over the years but not enacted as a rule. There are strategy considerations for the mini-opening that would require a separate article to explore. The short version? Simply doing a shortened version of your full opening may not be the best choice.
- Written questionnaires and time for review. The court may not arbitrarily or unreasonably refuse to submit reasonable written questionnaires. In addition, the parties should be given reasonable time to evaluate the questionnaires before oral voir dire. Again, we expect there will be some debate over what is considered reasonable.
- Access to the random and alphabetic juror lists. In order to facilitate the jury selection process, the judge "should provide the parties with both the



alphabetical list and the list of prospective jurors in the order in which they will be called.” While it was unusual for this request to have been refused in the past, we’ve had experiences where the court or a clerk has refused to do so. With no rule on point, it was difficult to argue. This change should solve the problem.

We hope the Legislature’s changes will help clear up any misunderstandings lawyers and judges have over jury selection’s importance to the civil trial process. We’re also interested in hearing from you about your experiences with the modified statute and how it is being implemented.

Small-claims court limits raised from \$7,500 to \$10,000 for individuals
Sometimes small-claims court is the right solution. Say you were in an accident, had minor car damage, saw a doctor or chiropractor a few times and your medical bills are \$1,000. You made a full recovery within a few months without any lost time at work. The response from the other driver’s insurance company? Nothing for your medical expenses or the damage to you as a person for the couple months’ discomfort.

Small-claims court can be a good venue for this. California just raised the limit to \$10,000 for individuals bringing suit. The limit for car accident bodily injury where the defendant is insured is \$7,500 but you can seek an additional \$2,500 for property damage. You cannot have a lawyer in a small claims case, nor can the defendant, meaning you will not be facing the insurance company’s lawyer in court.

We always recommend running a case by a lawyer before you make the decision of where to pursue it, though. Our initial consultations are free and we can help make sure you are heading in the right direction.