

Regular Session, 2013

HOUSE BILL NO. 321

BY REPRESENTATIVES HUVAL AND ABRAMSON

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL/JURY TRIALS: Provides relative to expedited jury trials

1 AN ACT

2 To enact Code of Civil Procedure Article 1553 and Chapter 8 of Title V of Book II of the
3 Code of Civil Procedure, to be comprised of Articles 1815 through 1838, relative to
4 expedited jury trials; to provide for the procedures for expedited jury trials; to
5 provide for pretrial conferences; to provide that motions of summary judgment be
6 filed prior to trial; to provide for the number of jurors; to provide that a cash deposit
7 for all costs associated with jury costs be timely made; to provide for the service,
8 swearing, and examination of jurors; to provide for the selection of a foreperson; to
9 provide for challenges for cause; to provide for peremptory challenges; to provide
10 for a time limit for an expedited trial jury; to provide for expert witnesses, their fees,
11 and the presentation of their evidence; to provide for the admittance of exhibits; to
12 provide for charges to the jury; to provide for the use of juror notes; to authorize
13 jurors to take evidence into the jury room; to provide for the number of jurors needed
14 for the court to render a verdict; to provide for general verdicts; to provide for verdict
15 forms and interrogatories; to provide for post-verdict relief; to provide for appeals;
16 and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Code of Civil Procedure Article 1553 and Chapter 8 of Title V of Book
19 II of the Code of Civil Procedure, comprised of Articles 1815 through 1838, are hereby
20 enacted to read as follows:

1 Art. 1553. Expedited jury trial pretrial conference; order

2 A. If an expedited jury trial has been requested, the parties shall prepare and
3 present to the court at the pretrial conference a proposed joint pretrial order
4 containing the following:

5 (1) A list of all witnesses for each party.

6 (2) A list of all exhibits for each party.

7 (3) A list of all experts and a designation as to whether each of them will
8 testify in person, by report, or by deposition.

9 (4) A certification that each party can present its case within the time limits
10 of Article 1828.

11 B. The pretrial order may, by agreement of the parties, contain additional
12 stipulations, which shall be binding on the court and all parties, including but not
13 limited to the following:

14 (1) A limitation of damages to an amount not in excess of the stated limits
15 of a policy of insurance.

16 (2) Any maximum or minimum amounts that shall apply to the jury's verdict.

17 (3) A waiver of any right to an appeal or limitations as to appealable issues.

18 (4) A waiver of any right to move for a new trial.

19 (5) A waiver of any provision of the Code of Evidence.

20 (6) An agreement as to the payment of the cash deposit for the jury costs.

21 C. The court shall conduct the expedited jury trial within one hundred twenty
22 days after the pretrial conference.

23 D. The date of the expedited jury trial shall be set at the pretrial conference
24 even if discovery has not yet been completed.

25 E. In the pretrial order, the court shall fix the deadline for filing the cash
26 deposit, which shall be no later than thirty days prior to trial.

27 F. The parties or their attorneys, as well as the court, shall sign the pretrial
28 order and file it into the record. The signature of a party or his attorney shall

1 constitute a certification that the party agreed to the terms of the pretrial order and
2 an expedited jury trial.

3 G. The court may amend a pretrial order at any time, but only with the
4 agreement of all parties.

5 * * *

6 CHAPTER 8. EXPEDITED JURY TRIALS

7 Art. 1815. Expedited jury trials

8 An expedited jury trial is a method of trial by jury in which the parties
9 present their evidence in an efficient, expedited fashion.

10 Art. 1816. Joint motion for an expedited jury trial

11 Upon joint motion of all parties for an expedited jury trial, the court shall set
12 the matter for a pretrial conference in accordance with Article 1553 to be held within
13 forty-five days after the signing of the order. An expedited jury trial shall be allowed
14 whether or not any party previously requested a trial by jury.

15 Comment - 2014

16 If all parties agree, an expedited jury trial shall be available to the parties
17 even if no party had requested a jury trial in any previous pleadings. Specifically,
18 the time periods for requesting a jury trial in Article 1733 do not apply to an
19 expedited jury trial.

20 Art. 1817. Agreement for an expedited jury trial

21 An agreement to try an action by expedited jury trial may not be made prior
22 to the institution of the action.

23 Art. 1818. Cash deposit; procedure

24 A. The court shall fix the cash deposit for the jury costs at an amount
25 sufficient for payment of all costs associated with the expedited jury trial, including
26 juror fees, and expenses and charges of the clerk of court.

27 B. If the deposit is not timely made, the other parties shall have an additional
28 ten days to make the required deposit.

29 Art. 1819. Motion for summary judgment

30 All motions for summary judgment in which an expedited jury trial has been
31 granted shall be filed at least sixty days prior to the trial date.

1 Art. 1828. Procedure in expedited jury trials

2 Each side shall be allowed three hours to present its case, including opening
3 statements, direct examination, cross-examination, rebuttal, and closing arguments.
4 Opening statements shall not exceed ten minutes for each side, and closing
5 arguments shall not exceed fifteen minutes for each side. Time spent on objections
6 and bench conferences are not included in the time limits.

7 Art. 1829. Exhibits

8 A. At least thirty days prior to the jury trial, the parties shall exchange copies
9 of all proposed exhibits they plan to offer at trial.

10 B. Objections to exhibits shall be made at least twenty days prior to the trial.
11 At least five days prior to trial, the court shall rule on the admissibility of any exhibit
12 to which an objection has been made. If no objection is made at least twenty days
13 prior to the trial, the exhibit shall be admitted.

14 C. All exhibits shall be marked and admitted into evidence at the beginning
15 of trial.

16 Art. 1830. Expert witnesses

17 A. Expert witnesses may testify in person, or their testimony may be
18 presented by reports, depositions, or video depositions. If an expert witness is called
19 to testify in person at trial, the party calling the expert shall be responsible for all of
20 his expert fees, which shall not be taxed as court costs.

21 B. All motions challenging the qualifications or methodologies of an expert
22 witness shall be filed and heard by the court in accordance with Article 1425(F).

23 C. An expert who is listed in the pretrial order shall be allowed to testify at
24 trial unless the court precludes his testimony by an order issued in response to a
25 pretrial motion.

26 D. All expert reports to be introduced at trial shall be exchanged prior to the
27 pretrial conference.

1 Art. 1831. Charge to jury2 A. At any time during the trial, the court may instruct the jury on the law
3 applicable to any issue in the case.4 B. After the trial of the case and the presentation of all the evidence and
5 arguments, the court shall give a charge to the jury on the applicable law. The court
6 shall provide to the parties a written copy of the charge prior to the trial.7 C. The jury may take with them or have sent to them a written copy of all
8 instructions and charges.9 Art. 1832. Juror notes10 Jurors shall be permitted to takes notes in accordance with Article 1794.11 Art. 1833. Taking evidence into the jury room12 The court shall allow the jury to take with them into the jury room any object,
13 writing, or exhibit, except depositions, that has been admitted into evidence.14 Art. 1834. Number required for verdict15 Five of the six jurors must concur to render a verdict unless the parties
16 stipulate otherwise. In the event that one juror becomes unable to serve, four out of
17 the five remaining jurors must concur to render a verdict. If there are fewer than five
18 jurors, a mistrial shall be granted, unless the parties agree otherwise on the record.19 Art. 1835. General verdict20 A. The court shall submit to the jury the general verdict form and written
21 interrogatories agreed upon by all parties.22 B. If the parties cannot agree on a verdict form and interrogatories, the court
23 shall inform the parties, prior to closing arguments, of the verdict form and
24 interrogatories it intends to submit to the jury. The parties shall be given a
25 reasonable opportunity to make any objections to the court's verdict form and
26 interrogatories.

Proposed law (C.C.P. Art. 1818) provides the amount that the court shall fix for the cash deposit for an expedited jury trial and the time period during which the deposit must be made.

Proposed law (C.C.P. Art. 1819) provides that parties to an expedited jury trial shall file all motions for summary judgment sixty days prior to the trial date.

Proposed law (C.C.P. Art. 1820) provides that six jurors shall be chosen by lot to try all issues present in an expedited jury trial.

Proposed law (C.C.P. Art. 1821) provides that all jurors of an expedited jury trial shall be served by regular mail.

Proposed law (C.C.P. Art. 1822) provides that before examination, every prospective juror shall be sworn and affirm to answer truthfully questions propounded to him.

Proposed law (C.C.P. Art. 1823) provides that the court shall examine prospective jurors, and the parties may conduct an examination of all such jurors but no more than twenty minutes in total.

Proposed law (C.C.P. Art. 1824) provides that a juror can be challenged for cause in accordance with Code of Civil Procedure Articles 1765 through 1767.

Proposed law (C.C.P. Art. 1825) provides that each side is allowed two peremptory challenges, but if there is more than one party on either side, the court can allow additional challenges.

Proposed law (C.C.P. Art. 1826) provides that jurors shall be sworn and a foreperson selected in accordance with Code of Civil Procedure Article 1768.

Proposed law (C.C.P. Art. 1827) provides that no alternate jurors shall be called or selected in an expedited jury trial.

Proposed law (C.C.P. Art. 1828) provides that the entire expedited jury trial shall not exceed six hours, the opening statements shall not exceed ten minutes per side, closing arguments shall not exceed fifteen minutes per side, and that time spent on objections and bench conference does not count against the six-hour time limit.

Proposed law (C.C.P. Art. 1829) provides that no later than thirty days prior to trial the parties shall exchange all exhibits they plan to offer at trial, the time limits during which a party can object to exhibits, when the court must rule on the admissibility of the exhibits, and when exhibits shall be marked and admitted into evidence.

Proposed law (C.C.P. Art. 1830) provides for expert witnesses to testify in person, by reports, depositions, or video depositions and that each side shall pay for his expert fees, that all motions challenging an expert shall be filed and heard in accordance with Code of Civil Procedure Article 1425(F), and that all expert reports to be used at trial shall be exchanged prior to the pre-trial conference.

Proposed law (C.C.P. Art. 1831) provides that the court may instruct the jury as to any applicable law, that the court shall provide the parties a written copy of the charge prior to the trial, and that the jury can take with it or have sent to it a written copy of all instructions and charges.

Proposed law (C.C.P. Art. 1832) provides that, in accordance with Code of Civil Procedure Article 1794, jurors can take notes.

Proposed law (C.C.P. Art. 1833) provides that jurors can take any object, writing, or exhibit that has been admitted into evidence, with the exception of depositions, into the jury room.

Proposed law (C.C.P. Art. 1834) provides for the number of jurors that must concur for a verdict to be rendered, and that if fewer than five agree, a mistrial must be granted unless the parties agree otherwise on the record.

Proposed law (C.C.P. Art. 1835) provides that the court shall submit the general verdict form and interrogatories agreed upon by the parties; otherwise, the court shall give the parties a reasonable time to object to the court's supplied verdict form and interrogatories.

Proposed law (C.C.P. Art. 1836) provides that unless the parties have waived a motion by stipulation in open court or in the pretrial order, any party may file a motion in accordance with the Code of Civil Procedure Articles 1811, 1814, and 1971 through 1979.

Proposed law (C.C.P. Art. 1837) provides that unless the parties have waived the right to appeal by stipulation in open court or in the pretrial order, a party may appeal in accordance with the procedure for appeals in Book III of the Code of Civil Procedure.

Proposed law (C.C.P. Art. 1838) provides that except as provided for in proposed law, the general rules applicable to jury trials apply.

Effective on Jan. 1, 2014.

(Adds C.C.P. Arts. 1553 and 1815-1838)