

Deciphering Texas Rule of Civil Procedure 169: *Expedited Actions*

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Rules Impacted by the New Expedited Trial Process

- New TRCP 169
- Amendments to TRCP 47 and TRCP 190
- TX Rules of Evidence 902
- Applies to all cases filed on or after March 1, 2013



History of TRCP 169

HB 274 passed during the 82nd Legislative Session (2011), called upon the Supreme Court to promulgate rules:

1. Governing Permissive Appeals
2. Offers of Judgment
3. Dismissals
4. Expedited Actions



History of TRCP 169

- Task force appointed after the passage of HB 274 to propose rule changes for expedited actions
 - Supreme Court Advisory Committee (SCAC) reviewed the proposals from the Task Force and the State Bar of Texas Rules Committee
 - SCAC also studied expedited trial rules passed in other states



Goal of TRCP 169



To aid in the **prompt, efficient and cost effective** resolution of cases, while maintaining **fairness** to litigants.

Differentiated Case Management

- The process of developing and following, for each case, a schedule of events that achieves its earliest disposition consistent with fairness and due process.
- Not all cases are alike, as complexities differ, so criteria establishing and defining case categories should be used.



Civil Case Complexities

- TRCP Rule 190 provides for three levels of complexity:
 - **Rule 190.2 – Level 1**
 - Rule 190.3 – Level 2
 - Rule 190.4 – Level 3
- Level 1
 - Used to be cases under \$50k
 - Now is ALL EXPEDITED CASES



Expedited Action Qualifications

1. All claimants, other than counter-claimants, affirmatively plead that they seek only monetary relief aggregating \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.
2. The expedited actions process **does not apply** to a suit in which a party has filed a claim governed by the **Family Code, the Property Code, the Tax Code, or Chapter 74 of the Civil Practice & Remedies Code.**



CIVIL CASE INFORMATION SHEET (REV. 2/13)

CAUSE NUMBER (FOR CLERK USE ONLY): _____ COURT (FOR CLERK USE ONLY): _____

STYLED _____

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name: _____	Email: _____	Plaintiff(s)/Petitioner(s): _____		<input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____	
Address: _____	Telephone: _____	Defendant(s)/Respondent(s): _____			
City/State/Zip: _____	Fax: _____		Additional Parties in Child Support Case:		
Signature: _____	State Bar No: _____		Custodial Parent: _____		
				Non-Custodial Parent: _____	
				Presumed Father: _____	
[Attach additional page as necessary to list all parties]					
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)	
<i>Debt/Contract</i> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <th style="text-align: center; font-size: small;">Title IV-D</th> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocal (UIFSA) <input type="checkbox"/> Support Order	Title IV-D
		Related to Criminal			
		<input type="checkbox"/> License	<input type="checkbox"/> Sequestration		
		<input type="checkbox"/> Mandamus	<input type="checkbox"/> Temporary Restraining Order/Injunction		
		<input type="checkbox"/> Post-judgment	<input type="checkbox"/> Turnover		
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					



Cases Removed From the Expedited Action Process

- The rules for expedited actions are mandatory, however a case can be removed from the expedited proceeding on a motion and showing of **Good Cause**:
 - The damage sought by multiple claimants against the same defendant exceeds in the aggregate the relief allowed under TRCP 169(a)(1) (**100k**)
 - If defendant has filed a compulsory counterclaim in good faith that seeks relief other than that allowed under TRCP 169(a)(1) (**100k**);
 - Number of parties and witnesses;
 - Complexity of the legal and factual issues; and
 - If an interpreter is necessary



TRCP Rule 47 – Requirements in Pleading

- Rule 47 applies to petitions, counterclaims, crossclaims, or third-party petitions
- For all cases except Family Law, the rule now requires a statement of the amount in controversy
- Failure to do so prohibits them from conducting discovery



Rules for Expedited Actions

- Limited Discovery
- Restricts the Court's Ability to Require Alternative Dispute Resolution
- Mandates Quick Trial Settings
- Provides for Abbreviated Trials for Cases under 100k



Discovery – Expedited Trial Process

- Governed by TRCP Rule 190.2 – applies to family law under \$50k with no children too
- Discovery period is limited to 180 days after first request for discovery is served on any party
 - Used to be no limit, except 30 days before trial
- No more than 15 interrogatories
 - Used to be 25
- No more than 25 requests for production
 - Used to be unlimited
- No more than 15 requests for admission
 - Used to be unlimited
- Requests for disclosure are now blanket requests



ADR – Expedited Trial Process

- Alternative Dispute Resolution
 - Mediation, arbitration, summary trial, etc
- Parties can agree not to engage in ADR
- Otherwise, Court may refer to ADR ONCE:
 - Can't exceed 1/2 day
 - Can't exceed twice the filing fee in cost
 - Has to be completed at least 60 days before the first trial setting
- Parties can agree to ADR outside of this



Expert Challenges – Expedited Actions

- Can only challenge expert as part of summary judgment motion or during trial on the merits
- Doesn't apply to late designations



Trial Settings – Expedited Trial Process

- Setting
 - Upon request of any party, must be set within 90 days of the conclusion of discovery period
- Continuances
 - Court can continue cause twice
 - Continuances can't exceed a total of 60 days



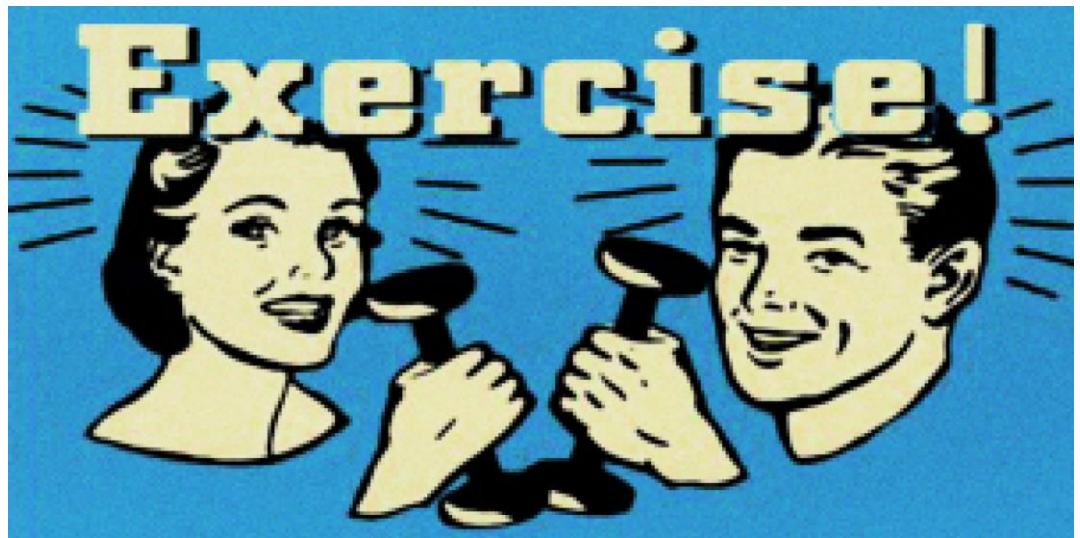
Conducting Trial – Expedited Actions

- Each side allowed no more than 8 hours in trial
 - Includes jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing statements.
 - Doesn't include objections, bench conferences, bills of exception, and challenges to jurors
 - Can be extended to 12 hours per side with good cause



Exercise at Your Table

- Flowchart the Expedited Process for Your Court(s)
- Discuss it with your table mates
- A few of you share it with the room



Expedited Actions Study

- Evaluating the use and effectiveness of the rule
- Sampling cases from 5 county courts at law
 - Lubbock, El Paso, Travis, Cameron, Harris
- Comparing the process prior to the rule and post-rule
- Part of the Conference of Chief Justices Civil Justice Initiative
- NCSC analyzing the data
- Report expected in Fall 2015



Questions?

