

# FREQUENTLY ASKED QUESTIONS

## For Attorneys and Parties

### Deposit of Advance Jury Fees

(Sen. Bill 1021 (2011-2012 Reg. Sess.)

Effective June 27, 2012

<b>I. Changes to the Deposit of Advance Jury Fees</b>	
1.1	<p><b>Q:</b> What are the primary changes related to the deposit of the advance jury fees resulting from the recent amendment to Code of Civil Procedure section 631?</p> <p><b>A:</b> The five primary changes relating to the deposit of the advance jury fees are:</p> <ol style="list-style-type: none"><li>1. The fee is fixed at \$150, rather than limited to \$150;</li><li>2. The fees must be deposited earlier than previously required;</li><li>3. Fees deposited after June 27, 2012 will be non-refundable;</li><li>4. The fees will no longer be credited to the actual jury fees and costs paid by the party on the second day of trial; and</li><li>5. The fees will be transmitted to the Trial Court Trust Fund before trial begins.</li></ol>
<b>II. New Deadlines for Deposit of Advance Jury Fees</b>	
2.1	<p><b>Q:</b> What are the new deadlines for depositing the advance jury fees?</p> <p><b>A:</b> Beginning June 28, 2012<sup>1</sup>, the advance jury fees must be deposited:</p> <ul style="list-style-type: none"><li>• On or before the date scheduled for the initial case management conference in the action; or</li><li>• If no case management conference is scheduled, no later than 365 calendar days after the filing of the initial complaint; or</li><li>• If the party has not appeared before the initial case management conference or has appeared more than 365 calendar days after the filing of the initial complaint, at least 25 calendar days before the date initially set for trial; or</li><li>• If the action is for unlawful detainer action, at least five days before the date set for trial.</li></ul>
2.2	<p><b>Q:</b> Do the new deadlines apply to cases that were filed before the effective date of the amendments to Code of Civil Procedure section 631?</p> <p><b>A:</b> Yes.</p>

<sup>1</sup> Although SB 1021 became effective on June 27, 2012, it was not signed by the Governor until after 9:00 p.m. A statute that takes immediate effect does not become operative until the moment it is signed. Accordingly, the first date on which the advance jury fee could have been deposited was June 28, 2012.

2.3	<p><b>Q:</b> What if the deadline in a case filed prior to the effective date of the amendments to Code of Civil Procedure section 631 already passed.</p>	<p><b>A:</b> If the deadline in a case filed prior to the effective date of the amendments to Code of Civil Procedure section 631 has already passed, then the later deadline becomes applicable.</p> <p>For example, if the initial case management conference occurred prior to June 28, 2012, then the fee is due on or before the 365th day following the filing of the complaint. If the 365th day following the filing of the complaint has passed, then the fee is due at least 25 days prior to trial. With the exception of unlawful detainer actions, in which the fee is due at least 5 days prior to trial, the fee will never be due fewer than 25 days prior to trial, as required under the previous version of Code of Civil Procedure section 631.</p>
2.4	<p><b>Q:</b> What if the party misses the deadline?</p>	<p><b>A:</b> The party has waived the right to a trial by jury in that action. (Code Civ. Proc., § 631(f)(5).)</p> <p>Note: The court may, in its discretion upon just terms, allow a trial by jury despite the waiver. (Code Civ. Proc., § 631(g).)</p>
<b>III. Advance Jury Fees are Non-Refundable</b>		
3.1	<p><b>Q:</b> What jury fees have become non-refundable?</p>	<p><b>A:</b> Any \$150 advance jury fee deposited <i>on or after</i> June 28, 2012 is non-refundable.</p> <p>Any \$150 advance jury fee deposited <i>before</i> June 28, 2012 may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3. Similarly, any jury fees other than the \$150 advance jury fees that are deposited, but not used, may be refunded upon request of a party as provided under Code of Civil Procedure section 631.3.</p>
<b>IV. Other Issues Related to the Deposit of Advance Jury Fees</b>		
4.1	<p><b>Q:</b> Is the fee required if the party does not want to retain the right to a jury in the action?</p>	<p><b>A:</b> No. Only parties that want to retain the right to a jury must deposit advance jury fees.</p>
4.2	<p><b>Q:</b> Must each party that wants to retain the right to a jury deposit the advance jury fee?</p>	<p><b>A:</b> Yes. Each party that wants to retain the right to a jury must deposit the advance jury fee by the relevant deadline. (Code Civ. Proc., § 631(b). [<b>“Each party</b> demanding a jury trial shall deposit advance jury fees. . . .”] <b>Bold added.</b>)</p>
4.3	<p><b>Q:</b> If there are multiple plaintiffs, or multiple defendants, must each deposit a separate \$150 advance jury fee if the party wants to retain the right to a jury?</p>	<p><b>A:</b> Yes. Each party that wants to retain the right to a jury must deposit the \$150 advance jury fee. Thus, if there are four plaintiffs, and all four want to retain the right to a jury, each must deposit the \$150 advance jury fee, for a total of \$600. The same analysis applies even if the parties are represented by the same attorney or law firm.</p>

4.4	<b>Q:</b> May the advance jury fees be waived because of a party's financial condition?	<b>A:</b> Yes. A court may (but is not required to) waive jury fees and expenses, and other fees or expenses itemized in an application for a fee waiver under rule 3.56(1) and (6) of the California Rules of Court.
4.5	<b>Q:</b> What effect does the amendment to Code of Civil Procedure section 631 have on a local rule providing a process for obtaining refunds of advance jury fees.	<b>A:</b> The local rule would still be in effect with respect to advance jury fees deposited prior to June 28, 2012, but would be ineffective as to advance jury fees deposited on or after that date. Local rules are valid only to the extent that they do not conflict with statute. (Gov. Code, § 68070.)