

Alabama Rules for Expedited Civil Actions

Rule B.

Assignment to or Removal of the Action from the Expedited Track and Objections Thereto.

(1) ASSIGNMENT OF THE ACTION TO THE EXPEDITED TRACK MAY BE SOUGHT IN THE ORIGINAL COMPLAINT. A plaintiff seeking to proceed under these Rules shall conspicuously state on the face of the complaint a declaration that the plaintiff elects assignment of the action to the expedited track pursuant to these Rules and limits the recovery of any damages claimed to an aggregate of \$50,000, inclusive of interest, costs, and attorney fees, whether provided by contract or statute. Any defendant objecting to assignment of the action to the expedited track shall indicate such objection in the answer, in which circumstance the action will not be placed on the expedited track.

(2) ASSIGNMENT OF THE ACTION TO THE EXPEDITED TRACK MAY BE SOUGHT BY AMENDMENT. If the original complaint did not indicate that the plaintiff was seeking assignment of the action to the expedited track, the plaintiff may subsequently, by amendment of the complaint, seek assignment of the action to the expedited track. Such amendment shall be subject to Rule 15, Ala. R. Civ. P., and a showing of good cause. Any party may object to such amendment or to the assignment of the action to the expedited track, in which circumstance the action will not be placed on the expedited track.

(3) REMOVAL OF THE ACTION FROM THE EXPEDITED TRACK MAY BE SOUGHT BY AMENDMENT. A plaintiff whose action has been assigned to the expedited track may seek leave to amend the complaint to have the action removed from the expedited track. Such amendment shall be subject to Rule 15, Ala. R. Civ. P., and a showing that the claims asserted are reasonably worth more than \$50,000 and the evidence supporting the value of the claims could not have been reasonably anticipated when the plaintiff sought assignment of the action to the expedited track. A defendant may object to such amendment or removal of the action from the expedited track.

[Effective 1-1-2017.]

Comments

(1) *Plaintiff Seeks Assignment to Expedited Track in Original Complaint.* A plaintiff seeking to proceed on the expedited track must declare on the face of the complaint that recovery of damages shall be limited to \$50,000. Moreover, to trigger the application of these Rules, the ad damnum clause of the complaint must limit damages to \$50,000 or less. The staff of the circuit court clerk's office must be able to easily determine that the plaintiff seeks to proceed on the expedited track. The plaintiff shall include some conspicuous statement in the caption or style of the complaint, such as: "NOTE: The plaintiff limits the demand and recovery of damages to \$50,000 or less and seeks application of the Alabama Rules for Expedited Civil Actions." A defendant may

object to the assignment of the action to the expedited track by indicating such in the answer, in which circumstance the action will not be assigned to the track or, if it has already been assigned, it will be removed.

(2) *Plaintiff Seeks Assignment to the Expedited Track by Amendment.* If the plaintiff does not initially elect to proceed on the expedited track, the plaintiff may later seek to amend the complaint by adding a declaration limiting the claims to \$50,000. The requirement of giving special notice to the parties and the clerk's office by a conspicuous statement in the caption or style, as set forth in the Comment to Rule B(1), is equally applicable to an amendment to the complaint. Any party, by motion, may object to placing the action on the expedited track. The option to seek assignment of the action to the expedited track by amendment was thought to be necessary to accommodate those claims asserted as to which the claimant initially proceeded on the traditional discovery/trial track and, for good cause, subsequently seeks to have the action proceed on the expedited track. However, it is also recognized that there will come a point in the life of any action when it serves little purpose to remove it from the traditional track and place it on the expedited track.

(3) *Plaintiff Seeks Removal of the Action from the Expedited Track.* The plaintiff, having chosen to proceed on the expedited track, may not have the action removed from that track without a showing that (i) the claim asserted is reasonably worth more than \$50,000 and (ii) the evidence supporting the value of the claim could not reasonably have been anticipated when the plaintiff opted in. This provision is to discourage a wholesale change in the discovery and trial schedule after an action has been pending on the expedited track. This reflects a policy that is intended to discourage opt-outs after the parties have agreed to the expedited track.

Note from the reporter of decisions: The order adopting the Alabama Rules for Expedited Civil Actions effective January 1, 2017, including Justice Murdock's and Justice Shaw's special writings dissenting to that order, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.