

I think, is dispositive of Senator DeCamp's question. I will go on and use the time because I support the amendment, but I also have my own light on. Let me tell you that I think what this body was doing when it stopped at the point of consideration of prejudgment interest last year has been largely accomplished by this language. You will recall that we asked for a two-edged sword to deal with unjust court delays and that discussion broke down because no one could agree what would be two-sided, what would be fair, where the burdens were equal. But I will suggest to you now that the California rule, which initially, by the way, was not acceptable to the trial attorneys because it was not good enough, if you will, represents, in essence, an evenhanded approach. This is when you get prejudgment interest. When the plaintiff goes to the defendant and says, listen, let's not go to court, I will settle for X amount. And the defendant then says, no, I won't. It goes to trial and the jury says, the award if for X plus something else, in other words, more than the plaintiff offered to settle for. It requires both sides to show good faith. First, it requires the plaintiff to offer reasonable offers if they are ever going to get prejudgment interest. There is an incentive for a plaintiff to be reasonable prior to trial and that is to get a fair settlement. It brings down the level of demands from the plaintiff. Secondly, the defendant also has an obligation here. They must reject a reasonable offer before they are on the hook for prejudgment interest and reasonable here being defined as what a jury would award. The defendant has to take the affirmative step of rejecting the offer given to them by the plaintiff and that that ultimate settlement offer is less than what the jury awards against the defendant. That is when the defendant pays prejudgment interest. It carries, I think, affirmative burdens and advantages for both parties. The burden for the defense...for the defendant is that in the event they are unreasonable, that they won't settle, that they take the time and trouble to go to trial, they will have to pay prejudgment interest. For plaintiffs the downside is they don't get any prejudgment interest if they make outlandish demands prior to trial. Now, what is the advantage? The advantage for the defendant is that the plaintiff has to be talking a reasonable amount of money in their settlement before there is any prejudgment interest, an amount, in fact, equal to or lower than what the jury ultimately awards and that is a big benefit for defendants. They do not have to initiate the offer. The plaintiff has to initiate the