§ 4102. Demand and waiver of trial by jury; specification of issues. (a) Demand. Any party may demand a trial by jury of any issue of fact triable of right by a jury, by serving upon all other parties and filing a note of issue containing a demand for trial by jury. Any party served with a note of issue not containing such a demand may demand a trial by jury by serving upon each party a demand for a trial by jury and filing such demand in the office where the note of issue was filed within fifteen days after service of the note of issue. A demand shall not be accepted for filing unless a note of issue is filed in the action. If no party shall demand a trial by jury as provided herein, the right to trial by jury shall be deemed waived by all parties. A party may not withdraw a demand for trial by jury without the consent of the other parties, regardless of whether another party previously filed a note of issue without a demand for trial by jury.

(b) Specification of issues. In his demand a party may specify the issues which he wishes tried by jury; otherwise he shall be deemed to have demanded trial by jury of all issues so triable. If he has demanded trial by jury of only some of the issues, any other party within ten days after service of the demand may serve and file a demand for trial by jury of any other issues in the action so triable.

(c) Waiver. A party who has demanded the trial of an issue of fact by a jury under this section waives his right by failing to appear at the trial, by filing a written waiver with the clerk or by oral waiver in open court. A waiver does not withdraw a demand for trial by jury without the consent of the other parties. A party shall not be deemed to have waived the right to trial by jury of the issues of fact arising upon a claim, by joining it with another claim with respect to which there is no right to trial by jury and which is based upon a separate transaction; or of the issues of fact arising upon a counterclaim, cross-claim or third party claim, by asserting it in an action in which there is no right to trial by jury.

(d) Local rules. The chief administrator of the courts may by rule provide that a party shall be deemed to have demanded trial by jury by filing a note of issue not containing an express waiver of trial by jury.

(e) Relief by court. The court may relieve a party from the effect of failing to comply with this section if no undue prejudice to the rights

of another party would result.