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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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10 AGA Shareholders, LLC, an Illinois)
11 limited liability company,)
12)
13 Plaintiff,)
14 vs.)
15 CSK Auto, Inc., an Arizona corporation,)
16 Defendant.)
_____)

No. CV-07-62-PHX-DGC

ORDER

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On November 21, 2008, the Court issued an order granting summary judgment in favor of Defendants Maynard Jenkins, Donald Watson, and Martin Fraser (“Individual Defendants”). Dkt. #232. The Individual Defendants have filed motions for the entry of final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. Dkt. ##234, 237, 238. The motions have been fully briefed. Dkt. ##239-42. The Court will deny the motions.

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Rule 54(b) provides that when more than one claim for relief is presented in an action, or when multiple parties are involved, the district court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties “only if the court expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). “A similarity of legal or factual issues will weigh heavily against entry of judgment under

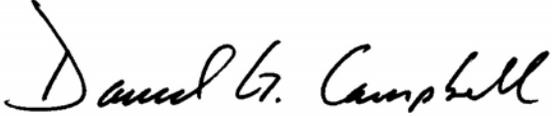
1 the rule, and in such cases a Rule 54(b) order will be proper only where necessary to avoid
2 a harsh and unjust result[.]” *Frank Briscoe Co. v. Morrison-Knudsen Co.*, 776 F.2d 1414,
3 1416 (9th Cir. 1985) (citation omitted). “Judgments under Rule 54(b) must be reserved for
4 the unusual case in which the costs and risks of multiplying the number of proceedings and
5 of overcrowding the appellate docket are outbalanced by the pressing needs of the litigants
6 for an early and separate judgment as to some claims or parties.” *Id.*; see *Gausvik v. Perez*,
7 392 F.3d 1006, 1009 n.2 (9th Cir. 2004) (“[I]n the interest of judicial economy Rule 54(b)
8 should be used sparingly.”).

9 Having considered the parties’ arguments, the Court concludes that this is not an
10 unusual case in which the entry of a separate final judgment is necessary. The underlying
11 facts and law of the remaining claims and those asserted against the Individual Defendants
12 are not unrelated. The tortious interference with contract claims asserted against the
13 Individual Defendants require a breach of contract and resulting damages. AGA has asserted
14 a breach of contract claim against CSK – involving the same contract with which the
15 Individual Defendants allegedly interfered – and a trial on the issue of damages will begin
16 in less than three months. Any hardship to the Individual Defendants caused by the entry of
17 a single final judgment following trial is outweighed by the burden of piecemeal appeals and
18 motions for attorneys’ fees. The Court will exercise its discretion and deny the motions for
19 entry of judgment under Rule 54(b). See *Blair v. Shanahan*, 38 F.3d 1514, 1522 (9th Cir.
20 1994) (district court did not err in denying Rule 54(b) request where a short trial was to begin
21 in only four months and the entire case could be reviewed after trial); *In re Lindsay*, 59 F.3d
22 942, 951 (9th Cir. 1995) (holding that the bankruptcy court erred in entering partial final
23 judgment under Rule 54(b) and warning about the “dangers of profligate Rule 54(b)
24 determinations”); *Sanchez v. Maricopa County*, No. CV 07-1244-PHX-JAT, 2008 WL
25 2774528, at *1 (D. Ariz. July 14, 2008) (“The Court finds that this is not the rare case that
26 justifies sending up piecemeal appeals to the Circuit Court. Plaintiff has not shown the sort
27 of pressing needs contemplated by a grant of a 54(b) motion, and denial of his motion will
28 not lead to a harsh or unjust result.”).

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IT IS ORDERED that the motions for entry of final judgment (Dkt. ##234, 237, 238) are **denied**.

DATED this 6th day of February, 2009.



David G. Campbell
United States District Judge