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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Raymond Kielsmeier,  
10 Plaintiff,

11 v.

12 Penske Truck Leasing Company Limited  
13 Partnership, et al.,  
14 Defendants.

No. CV-16-08176-PCT-JAT

**ORDER**

15 Pending before the Court is Defendants' unopposed Rule 42 Motion for Separate  
16 Trials on Liability and Damages. (Doc. 21). Defendants seek to bifurcate liability and  
17 damages into separate trials. (*Id.*) Defendants request oral argument on this issue. (*Id.*)  
18 Plaintiff failed to respond within fourteen days, which this Court treats as consent. *See*  
19 LRCiv 7.2(c), (i).

20 This Court may "order a separate trial of one or more separate issues" "for  
21 convenience, to avoid prejudice, or to expedite and economize." Fed. R. Civ. P. 42(b).  
22 This grant of power affords the Court with "broad discretion" in deciding whether to  
23 bifurcate a trial. *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1088 (9th Cir. 2002).

24 Defendants make four claims supporting their request for bifurcation. First,  
25 Defendants claim that bifurcation will protect them from prejudice, because Plaintiff's  
26 damages case will involve evidence of allegedly graphic injuries, which could  
27 inappropriately influence the jury on the issues of liability. (Doc. 21 at 4–5). Second,  
28 Defendants claim that bifurcation will serve to economize, because liability is a

1 dispositive issue that could obviate the need to delve into the relatively complex medical  
2 testimony that Plaintiff allegedly intends to put on at trial. (*Id.* at 5–7). Third,  
3 Defendants claim that bifurcation will not cause any delay or duplicative litigation,  
4 because the evidence on liability and damages is entirely distinct. (*Id.* at 7–8). Fourth,  
5 Defendants claim that separate trials will not prejudice Plaintiff, because Plaintiff will  
6 still be afforded a jury trial on both issues and bifurcation will not cause delay or  
7 duplicative litigation. (*Id.* at 8).

8 This Court agrees with Defendants. However, liability and damages will be  
9 bifurcated into separate trials, but to the same jury. If the jury returns a liability verdict  
10 for Plaintiff, the damages trial will immediately proceed.

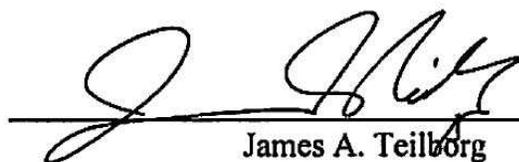
11 Finally, because Defendants’ motion is unopposed and no related issues are  
12 pending, Defendants’ request for oral argument is denied.

13 Based on the foregoing,

14 **IT IS ORDERED** that Defendants’ Rule 42 Motion for Separate Trials on  
15 Liability and Damages, (Doc. 21), is **GRANTED** in part. Accordingly, the Court orders  
16 separate trials to the same jury on the issues of liability and damages, with the damages  
17 trial to run immediately after the jury renders its verdict, if they find in Plaintiff’s favor.

18 **IT IS FURTHER ORDERED** that Defendants’ request for oral argument on  
19 bifurcation, (Doc. 21), is **DENIED**.

20 Dated this 28th day of September, 2017.

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25 James A. Teilborg  
26 Senior United States District Judge  
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