

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

CORINA MENDOZA

PLAINTIFF

V.

4:14CV00426 JM

**WIS INTERNATIONAL, INC. and
ANTHONY ADAMS
WASHINGTON INVENTORY SERVICES, INC.**

DEFENDANTS

CERTIFICATION ORDER

Pursuant to Rule 6-8 of the Rules of the Supreme Court of the State of Arkansas, this Court certifies to the Supreme Court of Arkansas a question of law that may be determinative of this case and as to which it appears there is an unresolved issue in Arkansas.

I.

QUESTION OF LAW TO BE ANSWERED

Whether the joint enterprise doctrine is still viable under Arkansas law, including whether it is available as a defense against another member of the enterprise.

II.

FACTS RELEVANT TO THE QUESTION

This case arises out of a car accident that occurred on August 1, 2011 on Interstate 630 in Little Rock. Plaintiff was a passenger in the backseat of a vehicle operated by Defendant Anthony Adams when Adams fell asleep at the wheel and ran into the back of a parked excavator. She has filed a complaint seeking damages for significant and permanent personal injury. Plaintiff further alleges that Adams was in the course and scope of his employment with

Defendants WIS International, Inc. and Washington Inventory Services, Inc. (collectively “WIS”) at the time of the accident. Defendants have answered. Defendants WIS plead the affirmative defense of joint enterprise, asserting that Plaintiff is barred from recovering against Defendant Adams because they were engaged in a joint enterprise and, therefore, any negligence on Adams’ part would be imputed to the Plaintiff.

Plaintiff has filed a motion for summary judgment regarding this affirmative defense. WIS responded, and Plaintiff filed a reply. In the Order dated November 23, 2015, the Court announced its decision to certify this question to the Arkansas Supreme Court. A jury trial is currently scheduled to begin on April 4, 2016.

This issue is likely to arise in federal diversity cases as well as in Arkansas circuit court cases. It appears to the Court that this is an unresolved issue of law in Arkansas.

III. REFORMULATION OF THE QUESTION

The United States District Court hereby acknowledges that the Arkansas Supreme Court, acting as the receiving court, may reformulate the question presented.

IV. COUNSEL OF RECORD AND PARTIES

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V.

The Clerk of this Court is hereby directed to forward this Order to the Supreme Court of
Arkansas under his official seal.

It is so ordered this 23rd day of November, 2015.



HONORABLE JAMES M. MOODY JR.
United States District Judge