

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

TERRANCE RABON and
KATHLEEN RABON

PLAINTIFFS

v.

Case No. 4:16-cv-4007

JOHN K. KIMANI;
TOLYN EXPRESS, LLC; and
JOHN DOES 1-6

DEFENDANTS

SENRTY SELECT INSURANCE
CO.

INTERVENOR

ORDER

Before the Court is Intervenor Sentry Select Insurance Company's Motion to Bifurcate Trial. (ECF No. 54). Plaintiffs Terrance Rabon and Kathleen Rabon filed a response. (ECF No. 58). Defendants John K. Kimani and Tolyn Express, LLC filed a response. (ECF No. 59). The Court finds the matter ripe for consideration.

This case arises from an automobile accident that occurred on October 26, 2013, at the Flying J Truck Stop in Texarkana, Arkansas. Plaintiff Terrance Rabon ("Mr. Rabon") alleges that he suffers from ongoing pain because of the accident, for which he underwent and is undergoing various forms of medical treatment, including an anterior cervical decompression and fusion surgery in April 2014. Intervenor Sentry Select Insurance Company claims to have paid roughly \$250,000.00 in personal-injury protection benefits to Mr. Rabon and intervened in this action seeking reimbursement and/or subrogation under Section 500.3116 of Michigan's Insurance Code of 1956.

In the instant motion, Intervenor states that its subrogation claim involves issues of law that do not need to be addressed by the jury at the trial of this matter. Intervenor moves the Court for bifurcation of the questions of fact pertaining to Plaintiffs' negligence claim against Defendants

from the questions of law pertaining to Intervenor's subrogation claim. Intervenor proposes that the Court preside over the jury trial involving Plaintiffs' legal claims against Defendants, and then determine the issues of law involving Intervenor's subrogation claim at a later date. Plaintiffs and Defendants have filed responses to the motion, indicating that they do not oppose this proposal.

Upon consideration, the Court finds that good cause has been shown for the motion. Accordingly, Intervenor's motion (ECF No. 54) is hereby **GRANTED**. The Court will preside over the jury trial regarding Plaintiffs' legal claims against Defendants, and the issue of subrogation will not be presented to the jury.¹ The Court will take up and address Intervenor's subrogation claim at a later date, if necessary

IT IS SO ORDERED, this 11th day of September, 2017.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge

¹ In light of this fact, there is no need for Intervenor or Intervenor's counsel to appear at the September 18, 2017 trial of this matter, and the Court hereby excuses their attendance at trial.