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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Manisha Palla,  
  
Plaintiff,  
  
v.  
  
L M Sports, Inc. et al.,  
  
Defendants.

No. 2:16-cv-02865-JAM-EFB

**ORDER GRANTING DEFENDANTS'  
REQUEST FOR BIFURCATION AND  
COURT TRIAL ON LIMITATION ACTION**

In December 2016, Manisha Palla brought a negligence suit against Paul Garcia and L M Sports, et al. ("L M Sports"), asserting both diversity and admiralty jurisdiction. Compl. ¶ 4, ECF No. 1. L M Sports responded by filing a Complaint for Exoneration or Limitation of Liability ("Limitation Action"). See In the Matter of the Complaint of LT Leasing Inc et al., No. 2:17-cv-00041-JAM-EFB (E.D. Cal. filed Jan. 9, 2017), ECF No. 1. Pursuant to the Limitation of Liability Act ("LOLA"), the Court stayed Palla's action. See Order Restraining All Suits, No. 2:17-cv-00041, ECF No. 9. The Court eventually lifted the stay, finding that Palla fell within the savings-to-suiters exception. Minute Order, No. 2:17-cv-00041, ECF No. 23. The Court consolidated the two actions. Id.

1 In the recently-filed Joint Pre-Trial Statement, the parties  
2 disagreed about bifurcating the trial, and which issues in the  
3 case, if any, should be heard by a jury. Joint Pre-Trial  
4 Statement at 1-3, ECF No. 168. The parties jointly filed  
5 supplemental briefs, discussing whether the Limitation Action  
6 should be bifurcated from the issue of damages, and whether  
7 Plaintiff is entitled to a jury trial on any portion of those  
8 proceedings. See Pl.'s Mem. in Support of a Jury Trial, Case No.  
9 2:16-cv-02865, ECF No. 177; Defs.' Mem. re Separation of Trial on  
10 Liability an Damages, ECF No. 178; Opposition by Pl. Manisha  
11 Palla to [DKT 178] Brief, ECF No. 184; Opposition by Defs. to  
12 [DKT 177] Brief, ECF No. 185.

13 Having read and considered the pleadings, the Court grants  
14 Defendants' request to bifurcate the issues of liability and  
15 damages. The Court, sitting without a jury, will hear  
16 Defendant's entire Limitation Action. If the Court finds that  
17 that L M Sports was negligent and the act of negligence was  
18 within the vessel owner's privity or knowledge then Palla will be  
19 allowed to try the issue of damages to a jury. If the Court finds  
20 that LM Sports was not negligent, Palla will not be allowed to  
21 re-try the question of L M Sports' liability to a jury.

#### 22 I. OPINION<sup>1</sup>

23 Rule 42 allows a court to order separate trials "[f]or

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24  
25 <sup>1</sup> This order reflects the Court's assumption that Paul Garcia  
26 does not intend to appear or participate in the trial. Garcia is  
27 not a party to the Limitation Action, so the Court will not have  
28 cause to address the question of his liability during that  
proceeding. If Garcia makes an appearance to contest liability,  
the Court will have to reevaluate whether the current course of  
action is still the most efficient and effective one.

1 convenience, to avoid prejudice, or to expedite and economize.”  
2 Fed. R. Civ. Proc. 42(b).

3 The Court has carefully considered the arguments made and  
4 the cases cited by each of the parties. Although the Ninth  
5 Circuit cases cited by Palla are instructive, this Court  
6 disagrees that they squarely address the scenario at hand, or  
7 dictate the result Palla advocates. Ghotra by Ghotra v. Bandila  
8 Shipping (“Ghotra”), 113 F.3d 1050 (9th Cir. 1997) is Palla’s  
9 most persuasive case, but is easily distinguishable. In Ghotra,  
10 the plaintiffs brought three claims under the Court’s diversity  
11 jurisdiction, and one claim under the Court’s admiralty  
12 jurisdiction. Id. at 1053. The Ninth Circuit found that the  
13 lower court erred in finding that the Ghotras “expressly sought  
14 remedies under general federal maritime law in all four causes  
15 of action” where plaintiffs had specifically pled that three of  
16 their claims arose under the Court’s diversity jurisdiction.  
17 Id. at 1054-55.

18 Here, Palla brought negligence claims against Garcia and  
19 L M Sports. First Amended Complaint (“FAC”), ECF No. 96. In  
20 her statement of jurisdiction, she plead, “The Court has  
21 admiralty jurisdiction pursuant to 28 U.S.C. 1333. The Court  
22 also has diversity jurisdiction pursuant to 28 U.S.C. 1332.”  
23 FAC ¶ 4. The Court does not find that L M Sports’ argument that  
24 the first-pled ground of jurisdiction wins the day. See  
25 Opposition by Def’s. to Plaintiff’s Brief [DKT. 177] (“Defs’  
26 Opp.”) at 3-5, ECF No. 185. However, the Court does agree that  
27 Palla cannot broadly claim both bases of jurisdiction, so she  
28 may switch between them when it is procedurally advantageous.

1 Indeed, Ghotra recognized that choosing a jurisdictional basis  
2 has consequences:

3 Therefore, a plaintiff with in personam maritime  
4 claims has three choices: He may file suit in federal  
5 court under the federal court's admiralty  
6 jurisdiction, in federal court under diversity  
7 jurisdiction . . . or in state court. The difference  
8 between these choices is mostly procedural; of  
9 greatest significance is that there is no right to a  
10 jury trial if general admiralty jurisdiction is  
11 invoked, while it is preserved for claims based in  
12 diversity or brought in state court.

13 Id. at 1054. Here, Palla did not make a clearly delineated  
14 basis for jurisdiction. The Court declines to muddy the waters  
15 of the Limitation Action to avail Palla of a right she never  
16 clearly invoked.

17 The Ninth Circuit has stated that "whether the limitation  
18 question must await the trial of the liability issue is largely  
19 a matter for the district court's discretion under the  
20 circumstances of each case." Newton v. Shipman, 718 F.2d 959,  
21 963 (9th Cir. 1983). The Court finds that, under the  
22 circumstances of this case, an initial bench trial on the  
23 Limitation Action issues and a separate jury trial on damages,  
24 if necessary, would be more convenient, expeditious, economical  
25 and efficient. Accordingly, LM Sports suggested manner of  
26 presentation of the issues in this case is adopted by the Court.

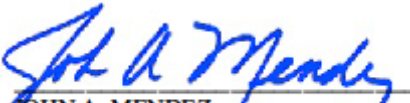
## 27 II. ORDER

28 For the reasons set forth above, the Court grants LM Sports'  
request to bifurcate the Limitation Action issues from the issue  
of damages. The Court also grants LM Sports' request to conduct  
trial on the Limitation Action first. The Limitation Action trial  
will be a bench trial. If a trial on the issue of damages is

1 necessary, that trial will be to a jury but will not immediately  
2 follow the Court trial on the Limitation Action. Rather, the date  
3 and time for this jury trial will be set by the Court after  
4 consulting the parties. The bench trial on the Limitation Action  
5 will commence on February 25, 2019 at 9:00 a.m.

6 IT IS SO ORDERED.

7 Dated: February 1, 2019

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9 **JOHN A. MENDEZ,**  
10 **UNITED STATES DISTRICT JUDGE**

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