

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUAN and JUANA DOMINGUEZ,

Plaintiff,

No. 09-3611 EDL

v.  
EXCEL MANUFACTURING, INC.,

**ORDER DENYING MOTION TO  
BIFURCATE WITHOUT PREJUDICE**

Defendant.

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This is a personal injury action against a machine manufacturer relating to injuries sustained by Plaintiff during his use of a “horizontal baler” machine” in the course of his employment. Defendant has filed a motion to bifurcate trial of liability from trial of damages pursuant t Rule 42(b), on grounds that separate trials would promote convenience and judicial economy while not resulting in prejudice to any party.

The question of whether to bifurcate a trial is a matter committed to this Court’s discretion. See, e.g., Danjaq LLC v. Sony Corp., 263 F.3d 942, 961 (9th Cir. 2001). Federal Rule of Civil Procedure 42(b) provides: “The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States.” When deciding whether to bifurcate, courts consider: (1) whether separate trials would be in furtherance of convenience; (2) whether separate trials would avoid prejudice; (3) whether separate trials would serve judicial economy; (4) whether separate trials would reduce the

1 risk of jury confusion; and (5) whether the issues are clearly separable. See William W. Schwarzer,  
2 Civil Procedure Before Trial, § 16:160.4 (The Rutter Group 2005).

3 Having considered these factors, as well as the considerations discussed in Hamm v. Am.  
4 Home Products, 888 F. Supp. 1037 (E.D. Cal. 1995) and Tuey v. Mammoth Mountain Ski Area,  
5 2009 WL 928328 (E.D. Cal. 2009), the Court hereby DENIES the motion to bifurcate without  
6 prejudice. The Court generally disfavors bifurcation, but Defendant is not prohibited from raising  
7 the issue in a motion *in limine* if it believes in good faith that it can make a stronger showing.

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9 **IT IS SO ORDERED.**

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11 Dated: October 4, 2010

  
ELIZABETH D. LAPORTE  
United States Magistrate Judge

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