

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JESUS CORTEZ,)	Case No. 09-4138 SC
)	
Plaintiff,)	ORDER DENYING
)	<u>MOTION TO BIFURCATE</u>
v.)	
)	
GLOBAL GROUND SUPPORT, LLC, AIR T,)	
INC., and DOES 1-10, inclusive,)	
)	
Defendants.)	

The trial in this personal injury action is scheduled to commence on January 10, 2011. ECF No. 29 (Apr. 30, 2010 Status Conf. Order). Defendants Global Ground Support, LLC and Air T, Inc. (collectively, "Defendants") have brought a motion to bifurcate the liability and damage portions of the trial. ECF No. 55 ("Mot.") Plaintiff Jesus Cortez ("Plaintiff") filed an Opposition, ECF No. 61 ("Opp'n"), and Defendants filed a Reply, ECF No. 64 ("Reply").

Plaintiff claims he was injured in an accident that occurred on June 13, 2008 at San Francisco International Airport. ECF No. 1 ("Notice of Removal") Ex. A ("Compl.") ¶ 13. Plaintiff claims that he was an employee of a company that provided catering services to commercial airlines at the airport, and his occupation required him to transport foods using a "scissor lift" -- a service vehicle used to load personnel, equipment, and supplies onto commercial

1 aircraft. Id. ¶¶ 11-13. Plaintiff alleges that his foot and lower
2 leg was crushed when the platform of a scissor lift designed,
3 marketed, and sold by Defendants malfunctioned. Id. ¶ 13.
4 Plaintiff alleges that Defendants' scissor lift suffers from
5 several design defects and that Defendants failed to provide
6 appropriate instructions for the use of the lift. Id. ¶¶ 14-20.

7 Under Rule 42(b) of the Federal Rules of Civil Procedure, a
8 court may bifurcate a trial "[f]or convenience, to avoid prejudice,
9 or to expedite and economize." Fed. R. Civ. P. 42(b). The
10 decision as to whether to bifurcate a trial rests with the sound
11 discretion of the trial court. United States v. 1,071.08 Acres of
12 Land, Yuma and Mohave Cntys., 564 F.2d 1350, 1352 (9th Cir. 1977).

13 Defendants' sole argument in favor of bifurcation is that
14 there is a "substantial probability" they will prevail on the issue
15 of liability. Mot. at 4. In fact, eight pages of Defendants' ten-
16 page Motion are dedicated to the merits of the case. But whether a
17 trial should be bifurcated "is primarily a question concerning the
18 court's trial procedure and convenience, not a question concerning
19 the merits of the case." Richmond v. Weiner, 353 F.2d 41, 45 (9th
20 Cir. 1965). Because Defendants have failed to show that
21 bifurcation would serve judicial economy or avoid prejudice, the
22 Court DENIES Defendants' Motion to Bifurcate.

23

24 IT IS SO ORDERED.

25

26 Dated: December 8, 2010

27


UNITED STATES DISTRICT JUDGE

28