

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **DARIUS AND DARA MILLER,**

4 **Plaintiffs,**

5 **vs.**

6 **SECURITY LIFE OF DENVER INSURANCE**
7 **COMPANY *et al.*,**

8 **Defendant(s).**

Case No.: 11-CV-01175 YGR

**ORDER DENYING MOTION OF AVIVA LIFE
AND ANNUITY COMPANY TO SEVER OR FOR
SEPARATE TRIAL**

9 **AND RELATED ACTIONS.**
10

11 Third-Party Defendant Aviva Life and Annuity Company (“Aviva”) has filed a Motion to
12 Sever or for a Separate Trial under Fed. R. Civ. P. 21¹ & 42(b)² arguing that due what it believes is
13 a contingency of ING America Equities Inc.’s reinsurance-based damages claims against Aviva,
14 judicial economy, and concerns of fairness and undue prejudice require severance or separate trials.

15 Having carefully considered the papers submitted and the pleadings in this action, the Court
16 hereby **DENIES** the Motion to Sever, or for Separate Trial.³ There is nothing unfair or potentially
17 prejudicial to Aviva to try all issues in one proceeding. Separate proceedings would duplicate
18 effort and could only waste the Court’s and parties’ resources.

19 This Order Terminates Dkt. No. 142.

20 **IT IS SO ORDERED.**

21 **Date: December 7, 2012**



22 **YVONNE GONZALEZ ROGERS**
23 **UNITED STATES DISTRICT COURT JUDGE**

24 ¹ Rule 21, captioned “Misjoinder and Nonjoinder of Parties,” provides, in full: “Misjoinder of parties is not
25 a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or
drop a party. The court may also sever any claim against a party.” Fed. R. Civ. P. 21.

26 ² Rule 42(b) provides in pertinent part: “For convenience, to avoid prejudice, or to expedite and economize,
27 the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims or
third-party claims.” Fed. R. Civ. P. 42(b).

28 ³ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds this motion
appropriate for decision without oral argument.