

## TENTATIVE RULING(S) FOR JANUARY 2, 2025

### Department S37 – Judge Corey G. Lee

Tentative Rulings for Department S37, if posted, are on court's website (<https://www.sb-court.org/divisions/civil/civil-tentative-rulings>) by 3:00 p.m. and 7:00 p.m. on the court day before the hearing (in some cases, on a non-court day before the hearing). If no tentative ruling is posted by 3:00 p.m., please check again after 7:00 p.m.

Unless you wish to submit on the tentative ruling, you must appear for the hearing either in person, CourtCall (888-882-6878 or [www.courtcall.com](http://www.courtcall.com)), or by ZOOM. Failure to appear is deemed a waiver of oral argument. If you wish to submit to the tentative, please call the Judicial Assistant at (909) 708-8707 in advance of the hearing. If all parties submit on a tentative ruling, the tentative ruling will become final. The tentative ruling may seek input on particular issues and direct appearance. If so directed, attendance at the hearing is mandatory. The party prevailing on a motion or other hearing shall serve written notice of the court's ruling unless all parties waive notice of the ruling.

ATTENTION: Since January 9, 2023, the court no longer provides an official Court Reporter to transcribe proceedings. Parties who wish to have a transcript must retain their own private reporter and must submit a "Stipulation and Order to Use Certified Shorthand Reporter." Please contact the Department if you need this form. Prior to the hearing, you can email the completed Stipulation to Department S37 at [AGear@sb-court.org](mailto:AGear@sb-court.org). Parties who do not retain their own reporter have waived the right to one.

**UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

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**CIVDS1803726: *Medina, et al. v. Western Concrete Pumping, Inc., et al.*  
and consolidated and cross-actions**

Motion: Motion to Sever or in the Alternative Bifurcate the Consolidated Cases Demurrer  
Movants: Defendants Western Concrete Pumping, Inc. ("Western"), Chuck and Judith Reed, LLC ("Reed, LLC"), and Michael Ray Coley ("Coley") (collectively, "Defendants")  
Respondents: Plaintiffs Joyce Sanders, Shyene Denise Hamilton, Gloria Lenard, Donald White, Heliodoro Garcia, Miguel Julian Medina, Maria Diaz Medina, Michael Andrew Medina-Jimenez, Brandon Crowell, Brian Crowell, Jasen Thomsen, Jeremy Thomsen, and Kerry Lynn Gomez (collectively, "Plaintiffs")

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### **DISCUSSION**

The only issue before the Court is whether the now consolidated cases should be severed and tried separately or whether liability should be tried before the trial on damages.

#### **Severance**

There are common questions of law and facts that should be tried together as they impact the trial for all cases.

First, it appears Plaintiffs are currently in the process of serving missing defendants and could amend the pleadings to add Defendant Reed, LLC and/or Western. Thus, lack of unity of parties at this point does not support severance.

Second, Defendant Reed, LLC contends it is subject to immunity through the Graves Amendment (49 USC § 30106(a)). In the alternative, if the Graves Amendment does not apply, it is subject to limited liability under VC §§ 17150 and 17151. Plaintiffs argue, however, that because Defendant Reed, LLC is the alter ego of Defendant Western, there would be direct liability. Resolution of these issues would essentially remove or limit Defendant Reed, LLC's involvement in the trial for all cases.

Because the ultimate outcome of these outstanding issues would affect all of the cases, severance would not be economic, efficient, and convenient. (Code Civ. Proc., §§ 598, 1048, subd. (b).) "When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." (Code Civ. Proc., § 1048, subd. (a).)

Moreover, the reasons for consolidating the nine lawsuits originally are still valid. The personal injuries stemming from the accident are similar and the surrounding facts arise from the same incident of the alleged vehicular accident that occurred on February 16, 2018. Hence, the claims of liability are essentially identical, including negligence, negligent entrustment, negligent hiring, and wrongful death, and the witnesses are likely therefore primarily the same. The actions are closely related and the relief sought is tightly interwoven, and thus, judicial resources and costs are wasted in having separate court hearings, trial, and proceedings on these virtually identical actions. Furthermore, separate actions risk inconsistent ruling on key issues of fact and law. Defendants' motion to sever is therefore *denied*.

### **Bifurcation**

While Defendants stipulated to liability and that Defendant Coley was acting within the scope of Western's employment, as discussed above, there are remaining liability issues that should be resolved. Namely, issues regarding whether Defendant Reed, LLC is the alter ego of Defendant Western and the applicability of the Graves Amendment or VC §§ 17150 and 17151 remain. Resolution as to these liability issues will impact which Defendants can challenge Plaintiffs' damages at trial and/or to what extent, ultimately reducing juror confusion as to damages and promoting judicial economy. Defendants' motion to bifurcate is therefore *granted*. Questions remain as to whether the liability trial should be a court or jury trial, and if a jury trial, whether the same or a different jury should proceed to the trial on damages.

### **RULING**

Based on the foregoing, the Court's ruling is as follows:

- Motion to Sever the Consolidated Action is *denied*.
- Motion to Bifurcate liability and damages is *granted*.