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Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

<p>Pilliod Plaintiff/Petitioner(s)</p> <p style="text-align: center;">VS.</p> <p>Monsanto Company Defendant/Respondent(s) (Abbreviated Title)</p>	<p style="text-align: center;">No. <u>RG17862702</u></p> <p style="text-align: center;">Order</p> <p style="text-align: center;">Motion to Bifurcate/Sever Complaint Denied</p>
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The Motion to Bifurcate/Sever Complaint filed for Monsanto Company was set for hearing on 02/06/2019 at 09:00 AM in Department 21 before the Honorable Winifred Y. Smith.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The Motion of Monsanto Defendants to bifurcate trial in Pilliod v. Monsanto, RG17-862702, is **DENIED**.

The court is permitted to bifurcate a trial under three separate sections. CCP 598 states, "The court may, when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby ... make an order ... that the trial of any issue or any part thereof shall precede the trial of any other issue or any part thereof in the case." CCP 1048(b) states "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 separate issue or of any number of causes of action or issues, preserving the right of trial by jury required by the Constitution or a statute of this state or of the United States." (See also Evid. Code 320 ["Except as otherwise provided by law, the court in its discretion shall regulate the order of proof"].)

A motion to bifurcate a case for trial is a discretionary trial management decision. (Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co. (1987) 189 Cal.App.3d 1072, 1086.)

Monsanto proposes to have the trial in two phases: (1) general and specific causation and then (2) all other issues related to liability and compensatory damages.

Monsanto argues that the causation issue is the central issue in the case and that (1) it would conserve time if the jury addressed causation first because it is case dispositive and (2) it would avoid potential prejudice to Monsanto because the jury can dispassionately consider causation without being presented with evidence of Monsanto's alleged regulatory interference and the suffering of the plaintiffs.

Plaintiff proposes a traditional one phase trial combining evidence of causation, liability, and damages.

Plaintiff asserts that the issues in Monsanto's proposed to two parts are related. (Cohn v. Bugas (1974) 42 Cal.App.3d 381, 385-386 [court cannot order bifurcation where the issues are "intertwined".]) The issues are related but not intertwined. Plaintiff also asserts that a two phase trial will require

repeat appearance by witnesses, will take longer, and will prejudice the Pillions, who were granted a CCP 36 preference trial.


The court will DENY the motion to bifurcate. The court is not persuaded that there are factors in this case that materially differentiate it from other product liability cases. Although issues of general causation could be presented in a stage one trial, issues of specific causation regarding the Pilliods cannot readily be separated from the other issues in the case. The court is concerned that trying to separate issues of specific causation from the other issues in the case would result in a stage one trial where counsel would be continuously distracted by the effort to draw the line between stage one and stage two. In most product liability trials the jury hears all the evidence and then determines issues of causation and injury. The court is confident that the jury will be able to do so here as well.

CASE MANGEMENT

In JCCP 4953, the court will hear the motion of defendants for summary judgment on the issue of general causation on Wednesday 3/7/19 at 10:00 am.

In Pilliod v. Monsanto, RG17-862702, the court will hear the motion of defendants for summary judgment on the issue of specific causation on Wednesday 3/7/19 at 10:00 am.

Dated: 02/19/2019

Facsimile


Judge Winifred Y. Smith

SHORT TITLE:

Pilliod VS Monsanto Company

CASE NUMBER:

RG17862702

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