

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Quan-En Yang, et al.

Plaintiff

V.

Civil Action No. 403885-V

Track VI

G&C Gulf, Inc. d/b/a G&C Towing

Judge Ronald B. Rubin

And

Specially Assigned

Glenn W. Cade, Jr.

Defendants

CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL

Comes Now Defendant Glenn W. Cade, Jr., by and through his attorney Fredric J. Einhorn, Esquire, with the consent of Plaintiff Quan-En Yang, and pursuant to Maryland Rule 2-503 jointly move this Court to enter a severance order:

1. severing Defendant Glenn W. Cade, Jr. Hereinafter "Defendant Cade"), from being a defendant in the class action brought by Plaintiff Quan-En Yang, et al., on his own behalf and on behalf of all others similarly situated, and

2. ordering that the claim(s) of Plaintiff Quan-En Yang against Defendant Glenn W. Cade, Jr., regarding his personal liability vel non to Plaintiff Quan-En Yang proceed as a separately and be tried separately.

In support of this motion, Defendant Cade states that the relief sought by this CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL will operate to further convenience of the parties and the Court and will avoid prejudice to Defendant Cade.

1. Complaint.

A. On April 16, 2015, Plaintiff Quan-En Yang, et

al., on his own behalf and on behalf of all others similarly situated (herein "Yang") initiated this action by filing a Class Action Complaint And Demand For Jury Trial (herein "Complaint") only against G&C Gulf, Inc. d/b/a G&C Towing (herein "G&C Gulf, Inc.") alleging G&C Gulf, Inc.:

(i) violated sections of the Maryland Towing Act, Sections 21-10A-01 et seq., Transportation Article, Annotated Code Of Maryland,

(ii) violated sections of Chapter 30C of the Montgomery County Code,

(iii) is liable for money had and received,

(iv) committed conversion - civil theft, and

(v) violated sections of the Maryland Consumer Protection Act, Section 13-101 et seq., Commercial Law Article, Annotated Code Of Maryland.

## 2. First Amended Complaint.

A. On July 27, 2015, Yang filed a First Amended Class Action Complaint And Demand For Jury Trial (herein "FAC") which added Defendant Cade as a defendant and alleging the following allegations against Defendant Cade, all of which Defendant Cade has denied:

(i) that he personally established, authorized, and enacted the policies of G&C Gulf, Inc. described in the FAC,

(ii) that he inspired, participated in, and cooperated in the violations of the law alleged in the FAC,

(iii) that he disregarded the corporate form of G&C Gulf, Inc., and

(iii) that he disregarded the corporate form of G&C Gulf, Inc., and

(iv) that he failed to observe the corporate entity, operating the business and dealing with the corporation's property as if it were his own. [See FAC, Para. 6]

B. Based on the foregoing allegations against Defendant Cade, Yang claims that Defendant Cade aided and abetted the alleged unlawful and tortious acts of G&C Gulf, Inc., and/or is liable personally because G&C Gulf, Inc., is Defendant Cade's alter ego.

3. A Separate Trial Under Maryland Rule 2-503(b).

(b) Separate Trials. In furtherance of convenience or to avoid prejudice, the court, on motion or on its own initiative, may order a separate trial of any claim, counterclaim, cross-claim, or third-party claim, or of any separate issue, or of any number of claims, counterclaims, cross-claims, third-party claims, or issues.

For the following reasons, Defendant Cade contends that holding a separate trial for Yang's individual claim(s) against Defendant Cade will operate to further convenience and avoid prejudice.

A. Yang's Claim(s) Against Defendant Cade Are Dependent On Class Plaintiffs' First Prevailing On Their Class Claims(s) Against G&C Gulf, Inc..

(i) Yang's claim(s) against Defendant Cade and the issue(s) concerning Defendant Cade's personal liability vel

non would arise only in the event Yang were to first prevail on their claim(s) against G&C Gulf, Inc. Therefore, this case presents a circumstance in which a court may exercise its discretion to enter a severance order and direct that the different phases of a single action proceed as "separate actions" for purposes of convenience or to avoid prejudice.

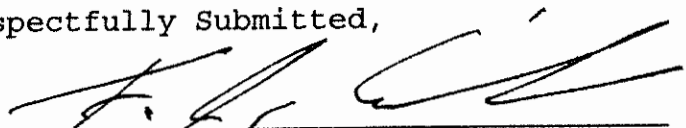
(ii) Avoidance Of Prejudice. A bifurcation of Yang's claim(s) against Defendant Cade is appropriate to avoid unfair prejudice to Defendant Cade. Evidence related to the claims of Yang and all others similarly situated in the FAC against G&C Gulf, Inc., for violations of statutes and common law - those being whether G&C Gulf, Inc., engaged in any conduct violative of the Maryland Towing Act, the Montgomery County Code and/or the Maryland Consumer Protection Act, or whether G&C Gulf, Inc., is liable for money had and received or whether G&C Gulf, Inc., is liable for conversion/civil theft- is unrelated to Yang's claim(s) against Defendant Cade for allegedly aiding and abetting the alleged unlawful and tortious acts of G&C Gulf, Inc., and/or is liable personally because G&C Gulf, Inc., is Mr. Cade's alter ego. Therefore, the evidence related to the class claim(s) against G&C Gulf, Inc., - those being alleged violations of statutes and common law - would be highly prejudicial to Defendant Cade. See: St. Joseph Medical Ctr. v. Turnbull, 68 A.3d 823 (2013); Newell v. Richards, 83 Md.App 371, 574 A2d 370. 378-379 (1990); and, Myers v. Celotex, 88 Md.App. 442, 594 A.2d 1248, 1251-1252 (1991).

(iii) Convenience. The bifurcation of Yang's individual claim(s) against Defendant Cade is appropriate in furtherance of convenience. A finding in favor of G&C Gulf, Inc., on the claims of Yang and all others similarly situated in the FAC against G&C Gulf, Inc., would eliminate the need to present evidence regarding Yang's claims against Defendant Cade for allegedly aiding and abetting the alleged unlawful and tortious acts of G&C Gulf, Inc., and/or allegedly being liable personally because G&C Gulf, Inc., is Defendant Cade's alter ego. See: St. Joseph Medical Ctr. v. Turnbull, supra; Newell v. Richards, supra; Myers v. Celotex, supra.

B. Plaintiff Yang Consents To Severance. Yang through his counsel been provided a copy of this CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL and Yang has had an opportunity to consider the implications of the Court entering an order granting the said motion. After weighing the pros and cons, Plaintiffs' counsel have authorized the undersigned to advise the Court that Plaintiffs agree that severance of the Yang's claims against Defendant Cade is appropriate and will serve the best interests of the parties and the Court.

WHEREFORE, for the reasons stated above, Defendant Glenn W. Cade, Jr., by and through his attorney Fredric J. Einhorn, Esquire, prays that the Court grant this CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL.

Respectfully Submitted,

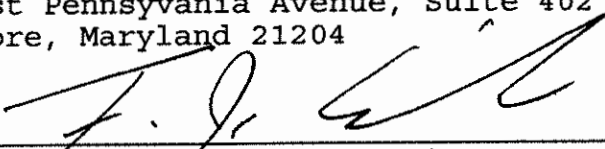
  
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Fredric J. Einhorn, Esquire  
27 West Jefferson Street, Suite 204  
Rockville, Maryland 20850  
(301) 762-5400  
Attorney For Defendant Glenn W. Cade, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4<sup>th</sup> day of JAN., 2016,  
a true copy of the foregoing was send by electronic mail and  
first-class mail (postage prepaid) to:

Ronald S. Canter, Esquire  
200A Monroe Street, Suite 104  
Rockville, Maryland 20850

Richard S. Gordon, Esquire  
Gordon, Wolf & Carney, Chtd.  
102 West Pennsylvania Avenue, Suite 402  
Baltimore, Maryland 21204

  
\_\_\_\_\_  
Fredric J. Einhorn, Esquire

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Plaintiff

V.

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And  
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Civil Action No. 403885-V  
Track VI  
Judge Ronald B. Rubin  
Specially Assigned

Defendants

ORDER GRANTING  
CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL

In consideration of the CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL filed by Defendant Glenn W. Cade, Jr., the consent of the Plaintiffs thereto, and it appearing to the Court that good cause has been demonstrated for the requested relief, it is this \_\_\_\_\_ day of January, 2016, by THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND,

ORDERED, that the said CONSENT MOTION TO SEVER AND FOR SEPARATE TRIAL be and the same is hereby GRANTED.

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JUDGE RONALD B. RUBIN