

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 TANZA KOHN,)
)
 Plaintiff,)
)
 v.)
)
 DAVID CHRISOPHER KIRBY)
 & CHRISTINA INMAN BANKS,)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT
 CASE NO.:2014-CP-40-0907

ORDER GRANTING SEVERANCE

2015 APR 20 PM 3:28
 JENNIFER B. BROWN
 CLERK OF COURT

This matter came before the court on Defendant Christina Inman Banks' "Motion to Bifurcate," in which she argues that the Plaintiff must sue the Defendants separately pursuant to Rule 20(a), SCRPC. The Plaintiff argues that Rule 20(a) permits the joinder of the parties based on the similar injuries sustained by the Plaintiff and that trying the Defendants together serves the interests of judicial economy. After careful consideration of the parties' arguments and relevant law, the court grants the motion to sever for the reasons set forth below.

In the underlying action, Plaintiff alleges that she was involved in two motor vehicle accidents: one with Defendant Banks on June 4, 2014, in Richland County and a second one four months later on October 9, 2014, with Defendant David Christopher Kirby in Lexington County. The two accidents are unrelated except that in the first accident, the Plaintiff alleges an injury to her back, and in the second accident, the Plaintiff alleges additional injury to her back. Plaintiff seeks to have the cases tried together so that one jury can determine the degree of fault for which each Defendant is liable as it relates to the injuries the Plaintiff has sustained.

Rule 20(a), SCRPC provides that "[a]ll persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the *same* transaction, occurrence, or series of transactions or

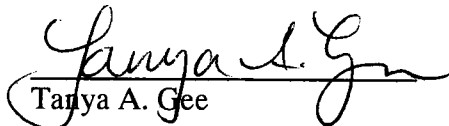
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occurrences and if any question of law or fact common to all defendants will arise in the action." (emphasis added). While the Plaintiff focusses on the common questions of law or fact that will arise because of the similarity in injuries she sustained, she ignores that the "transaction, occurrence, or series of transactions or occurrences" must also be the "same." In other words, two car accidents must have some connection or logical relationship. Here, the Defendants were involved in different accidents, on different dates, and in different counties.¹ Thus, even if there may be questions of law or fact common to the Plaintiff's damages, the "series of occurrences" (the two accidents) were not the same and therefore are not permitted to be joined together.

IT IS SO ORDERED.

April 20, 2015


Tanya A. Gee

¹ The court is not unsympathetic to the concern raised by counsel for the Plaintiff regarding the difficulty he will face in proving damages for a common injury in two separate trials. However, even the case law he provided to the court from the Supreme Court of Missouri in support of his argument states that joinder of two separate accidents occurring on different dates is appropriate *only when venue is proper as to both defendants*. See *State ex rel. Nixon v. Dally*, 248 S.W.3d 615 (Mo. 2008). Furthermore, the problem posed in this case is not unlike the difficulty that arises quite often when a jury is asked to distinguish between current and preexisting injuries.

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