

**07/02/2025**

**1. CU0000681 Bruce Kapsack vs. Mark Wyman**

Plaintiff's Motion to Sever Cross-Complaint is granted in part. The court hereby severs the claims for wages and hours and statutory penalties. However, the court declines to sever the claims for misclassification, declaratory relief, and indemnity.

Code of Civil Procedure Section 1048(b) provides, "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 cause of action, including a cause of action asserted in a cross-complaint, or 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."

The claims for misclassification, declaratory relief, and indemnity are equitable claims. "Where plaintiff & #39;s claims consist of a 'mixed bag' of equitable and legal claims, the equitable claims are properly tried first by the court." *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1238 (citing, e.g., *Walton v. Walton* (1995) 31 Cal.App.4th 277, 293). Here, both the Court and the Jury will hear all evidence as to all claims. However, prior to submission of the case to the jury, the Court will make a determination as to the issue of employee vs. independent contractor. Then, the remaining issues shall be submitted to the Jury.