

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1551

CA 17-01144

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND WINSLOW, JJ.

---

JABR A. ALMUGANAHI, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

CANDIDO GONZALEZ, DEFENDANT-RESPONDENT.

---

CELLINO & BARNES, P.C., BUFFALO (GREGORY V. PAJAK OF COUNSEL), FOR PLAINTIFF-APPELLANT.

BOUVIER LAW, LLP, BUFFALO (NORMAN E.S. GREENE OF COUNSEL), FOR DEFENDANT-RESPONDENT.

---

Appeal from an order of the Supreme Court, Erie County (Mark J. Grisanti, A.J.), entered May 30, 2017. The order granted defendant's motion to bifurcate the trial in this action.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Plaintiff commenced this negligence action seeking damages for injuries that he allegedly sustained when he was riding his bicycle and was involved in an accident with a vehicle operated by defendant. Supreme Court did not abuse its discretion in granting defendant's motion to bifurcate the trial. "As a general rule, issues of liability and damages in a negligence action are distinct and severable issues which should be tried separately" (*Turnmire v Concrete Applied Tech. Corp.*, 56 AD3d 1125, 1128 [4th Dept 2008] [internal quotation marks omitted]). Contrary to plaintiff's contention, he failed to establish that bifurcation would not "assist in a clarification or simplification of issues and a fair and more expeditious resolution of the action" (22 NYCRR 202.42 [a]; see *Piccione v Tri-main Dev.*, 5 AD3d 1086, 1087 [4th Dept 2004]; cf. *Mazur v Mazur*, 288 AD2d 945, 945-946 [4th Dept 2001]).

Entered: December 22, 2017

Mark W. Bennett  
Clerk of the Court