

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 01/29/2016

TIME: 04:00:00 PM

DEPT: 43

JUDICIAL OFFICER PRESIDING: Kevin DeNoce

CLERK: Tiffany Froedge

REPORTER/ERM:

CASE NO: **56-2014-00453806-CU-PA-VTA**

CASE TITLE: **Lindsay vs. Christian**

CASE CATEGORY: Civil - Unlimited

CASE TYPE: PI/PD/WD - Auto

EVENT TYPE: Ruling on Submitted Matter

APPEARANCES

The Court, having previously taken the Motion for Summary Adjudication under submission, now rules as follows:

The court hereby denies the motion by Drew Christian and Drew Christian Construction, Inc., for summary adjudication of issues.

Defendants motion for summary adjudication of issues is directed at the third cause of action for negligence per se (Vehicle Code section 20002(a)) and to Plaintiff's request for exemplary damages. Defendants' argument was previously denied on 6-15-15 when the court denied a previous motion for summary adjudication of issues. The court incorporates that previous ruling herein as if set forth in this order. The separate statement in the pending motion is essentially the same as previously before the court.

The pending motion before the court is in the nature of a motion for reconsideration. *Code of Civil Procedure* sections 1008 and 437c(f)(2) prohibit a party from making a renewed summary judgment motion or summary adjudication motion that is not based on new facts or new law. (*Le Francois v. Goel* (2005) 35 Cal.4th 1094, 1096, 1104, 1107; *Schachter v. Citigroup, Inc.* (2005) 126 Cal.App.4th 726, 739; *Bagley v. TRW, Inc.* (1999) 73 Cal.App.4th 1092, 1096-1097 [section 437c(f)(2) bars a second summary judgment motion that "reformat[s], condense[s], and cosmetically repackage[s]" a prior summary judgment motion when the motions are otherwise identical].) When, however, a trial court believes that its interim order denying summary judgment might be erroneous it may reconsider that order, on its own motion, even though there are no new facts or law that would justify a second summary judgment motion as long as it gives the parties notice that it may reconsider the order and an opportunity to litigate the issue. (*Le Francois v. Goel, supra*, 35 Cal.4th at pp. 1096-1097, 1107.)

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In *Goel, supra*, the Supreme Court held that subdivision (f)(2) and *Code of Civil Procedure* section 1008, "say essentially the same thing: A repeated motion or motion for reconsideration must be based on new facts or law." (*Goel*, at p. 1099.) The court rejects the argument that a motion for summary adjudication made after the denial of a previous motion for summary adjudication need not comply with sections 1008 or 437c(f)(2) and be supported by new facts or law. Defendants have failed to present new facts or law to justify reconsidering the court's prior ruling which is essentially what the pending motion for summary adjudication asks the court to do. Regardless, if the court were to consider the motion for summary adjudication on the merits, it would be denied.

Notice to be given by clerk.