

**Sayra Celis v. Susan James 17CVP0155**

**Re: Motion to Strike Punitive Damages**

**Date: October 3, 2017**

Sayra Celis (Plaintiff) was a passenger in a vehicle that suffered a roll-over accident on Highway 101 allegedly caused by an unsafe lane change by a vehicle being driven by Susan James (Defendant). Plaintiff's complaint includes a claim for punitive damages based on the allegation that Defendant failed to stop after the accident and left the scene. Defendant was eventually detained by the CHP after a witness followed Defendant and provided the information to the CHP. Defendant now moves to strike the prayer for punitive damages. Plaintiff opposes the motions.

Pursuant to Civil Code §3294, when the defendant is guilty of oppression, fraud or malice, the plaintiff may recover punitive damages. Section 3294 defines "malice" as "conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others."

Defendant contends there are no facts alleged to establish that her alleged negligent actions in causing the accident were oppressive, fraudulent or malicious or that her alleged failure to stop following the accident caused any appreciable harm to Plaintiff.

The complaint alleges Defendant made an unsafe lane change, cutting off the vehicle Plaintiff was riding in. That allegation is not sufficient to establish any claim for punitive damages related to the cause of the accident.

While allegations that Defendant left the scene of the accident may be considered reprehensible the complaint fails to demonstrate how that conduct actually harmed Plaintiff. The purposes of punitive damages are to punish a wrongdoer for the conduct that harmed the plaintiff and to discourage similar conduct in the future. (Judicial Council of California Civil Jury Instruction 3940)

In assessing the degree of reprehensibility, the jury considers, among other things, whether the defendant's tortious conduct 'evinced an indifference to or a reckless disregard of the health or safety of others' and whether the harm the plaintiff suffered 'was the result of intentional malice, trickery, or deceit, or mere accident.' [*Holdgrafer v. Unocal Corp.* (2008) 160 Cal.App.4th 907, 930 (Underline added.)]

Plaintiff alleges that Defendant consciously left the scene of the accident without rendering aid and to avoid liability. Plaintiff contends Defendant's decision to flee the scene caused additional non-economic damages including additional anger, frustration,

emotional distress and anxiety beyond damages suffered as a result of the collision. However, as emphasized by Defendant, emergency personnel did respond to the scene and other drivers rendered assistance. Also, there are no facts to establish that Plaintiff was aware Defendant left the scene or that she caused any anxiety beyond that suffered immediately after a traumatic accident.

Plaintiff also high lights that Defendant was guilty of violating Vehicle Code §20001, regarding her obligation to stop at the scene if involved in the accident. The relatively recent case of *Corenbaum v. Lampkin* (2013) 215 Cal.App.4th 1308 confirms that a violation of Vehicle Code §20001 is distinct from causation of the accident itself. “Accordingly, the damages recoverable in a civil action for violation of the statute is limited to those caused by fleeing rather than damages caused by the accident itself. (*Corenbaum v. Lampkin* (2013) 215 Cal.App.4th 1308, 1340) Again, there are insufficient post-accident facts to establish a claim for punitive damages.

Accordingly the motion to strike is granted without prejudice. If Plaintiff discovers additional facts to support a claim for punitive damages she may seek leave to amend the complaint.