

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

**TEMARA HONORE, MELLANE
MOTTLEY, BRENDA LAFORCE, SADE
SOUTHWELL, ALICIA SUPERSAUDE,
SHARON HENRY, SONIA STRAUN,
JANICE DANIEL, MARIAM SARGUSINGH,
KERMISHA SARGUSINGH, DOLORES
BESS, and CHAVORN CAMACHO,**

Plaintiffs,

v.

**VIRGIN ISLANDS HOUSING FINANCE
AUTHORITY, EARLE G. ROBINSON,
and SANTA CRUZ CONSTRUCTION,**

Defendants.

1:16-cv-00055-EAH

PARTIES: Martial A. Webster, Esq.
On behalf of Plaintiffs
Flavia E. Logie, Esq.
Nycole Thompson, Esq.
On behalf of VI Housing Finance Authority
Atiim Abraham, Esq.
On behalf of Defendants Robinson and Santa Cruz Construction

ORDER

THIS MATTER comes before the Court on Defendants Santa Cruz Construction Company, LLC's and Earl G. Robinson's ("Defendants") Motion for Summary Judgment Against Plaintiff Alicia Supersaude. Dkt. No. 185. The parties have consented to the jurisdiction of the undersigned to conduct all proceedings in this matter. Dkt. Nos. 167, 169. For the reasons that follow, the Court will deny Defendants' motion.¹

¹ This order is issued without the need for a response by Plaintiff Supersaude.

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In April 2020, Plaintiffs filed their operative Amended Complaint, asserting claims of material misrepresentation, breach of express and implied warranties, breach of contract, and fraud, all relating to Santa Cruz Construction's and its managing member Robinson's alleged poor construction of their homes.² Dkt. No. 52. Following years of litigation, in January 2024, Defendants filed a motion for summary judgment against the Plaintiffs on all claims in the Amended Complaint, arguing that the record did not contain any evidence to support a jury verdict in favor of Plaintiffs.³ Dkt. No. 155. The Court denied the motion, holding that Defendants, as the moving party, failed to meet their initial burden of production to show that there was no genuine dispute as to any material fact. Dkt. No. 170 at 9.

In June 2024, Defendants filed the instant motion for summary judgment against Plaintiff Supersaude. Dkt. No. 185. They included a "Statement of Facts" section, in which they repeated many of the allegations in the Amended Complaint and recounted the procedural history of the case. *Id.* at 2-4. With regard to each of Supersaude's claims, Defendants argued that they were entitled to summary judgment because she did not adduce

² Plaintiffs originally included the United States Department of Agriculture as a Defendant, but the District Judge dismissed it from this action in September 2022. Dkt. Nos. 112, 113. In October 2022, Plaintiffs filed an interlocutory appeal as to the order. Dkt. No. 114. In March 2023 the Third Circuit dismissed the appeal pursuant to Fed. R. App. P. 42(b), which allows for voluntary dismissal. Dkt. No. 116.

³ Defendants specifically argued with regard to the breach of implied warranty claim that Plaintiffs did not adduce any evidence to establish privity between the parties. Dkt. No. 155 at 6. Additionally, for the breach of contract claim, Defendants argued that Plaintiffs did not provide any evidence to establish the existence of a contract. *Id.* at 7.

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any evidence in the Amended Complaint or in her Initial Disclosures of a contract between herself and Defendants that would establish privity.⁴ *Id.* at 4-9.

Whether to allow a party to file successive motions for summary judgment “is a decision that lies within the discretion of the district court.” *Doe v. Luzerne Cnty.*, No. CIV. 3:08-1155, 2012 WL 1183716, at *1 (M.D. Pa. Apr. 9, 2012). However, a district court must be cognizant of the law of case doctrine, which “directs courts to ‘refrain from redeciding issues that were resolved earlier in the litigation.’” *Id.* at *2 (quoting *Pub. Interest Research Grp. of N.J. v. Magnesium Elektron, Inc.*, 123 F.3d 111, 116 (3d Cir.1997)). Courts have reasoned as follows:

A renewed or successive summary judgment motion is appropriate especiall[y] if one of the following exists: (1) an intervening change in controlling law; (2) the availability of new evidence or an expanded factual record; and (3) [the] need to correct a clear error or prevent manifest injustice.

Id. (internal quotation marks omitted). Additionally, a successive summary judgment motion is inappropriate if it merely asserts arguments that the movant could have raised in a prior summary judgment motion. *See id.* at *3 (the defendants’ proposed supplemental motion sought to argue only that individual defendants were entitled to qualified immunity, “an argument that Defendants could have readily raised in their first motion for summary judgment”).

⁴ Defendants also provided an affidavit in support of their motion referring to Santa Cruz’s corporate status and included a number of other exhibits. Dkt. Nos. 185-1, 185-2.

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Here, Defendants did not seek permission to file a successive motion for summary judgment by arguing that there was an intervening change in controlling law, new evidence was available, the factual record had been expanded, or there was a need to correct a clear error or prevent manifest injustice. *Id.* at *2. It is also not apparent to the Court that any of these factors are present regarding Defendants' instant motion.⁵ Furthermore, in their first motion for summary judgment against all Plaintiffs, Defendants already raised their lack of privity argument and their nonexistence of a contract argument in support of summary judgment on the breach of implied warranty and breach of contract claims respectively. Dkt. No. 155 at 6-7. While Defendants in their instant motion raised these arguments in support of summary judgment for all of Supersaude's claims in the Amended Complaint, the Court is not aware of any reason why they could not have applied these arguments to all of her claims in their initial motion, given that Defendants asserted in that motion that there was no evidence of a contract or privity with any of the Plaintiffs. *Id.* Thus, because Defendants have failed to assert any reason why the Court should allow them to file a successive motion for summary judgment under the factors set forth in *Doe*, and because Defendants could have raised their new arguments in their prior motion, the Court will deny the Motion for Summary Judgment Against Plaintiff Alicia Supersaude.

⁵ While Defendants included a number of exhibits in the instant motion for summary judgment that were not in their prior motion, they did not assert—and the Court has no reason to believe—that these exhibits were new evidence. Dkt. No. 185-2.

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Accordingly, it is now hereby **ORDERED** that Defendants' Motion for Summary Judgment Against Plaintiff Alicia Supersaude, Dkt. No. 185, is **DENIED**.

ENTER:

Dated: June 26, 2024

/s/ Emile A. Henderson III
EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE