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 Construction, Inc., a California corporation.  
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9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA - FRESNO BRANCH

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12 DAVIS MORENO CONSTRUCTION, )  
 INC., a California corporation, )  
 13 )  
 14 Plaintiff, )  
 15 v. )  
 16 )  
 17 FRONTIER STEEL BUILDINGS )  
 CORP., a Colorado corporation; )  
 18 )  
 19 Defendant(s). )

**Case No. 1:08-CV-00854-OWW-SMS**  
**ORDER ON CROSS-MOTIONS FOR**  
**SUMMARY JUDGMENT**  
 1. **GRANTING PLAINTIFF DAVIS**  
**MORENO'S MOTION FOR SUMMARY**  
**JUDGMENT ON PLAINTIFF'S SECOND**  
**CAUSE OF ACTION;**  
 2. **GRANTING PLAINTIFF DAVIS**  
**MORENO'S MOTION FOR SUMMARY**  
**JUDGMENT ON DEFENDANT'S**  
**COUNTERCLAIM; AND**  
 3. **DENYING DEFENDANT FRONTIER**  
**STEEL BUILDINGS CORP.'s COUNTER**  
**MOTION FOR SUMMARY JUDGMENT**

[[E.D. Cal. Local Rules 137; Fed. R. Civ. P. 5]

Date: 8/30/2010  
 Time: 10:00 a.m.  
 Courtroom: Three (3) , Hon. O. W. Wanger

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 26 This matter came regularly for hearing on August 30, 2010 at 10:00 a.m. in  
 27 Courtroom Three (3) of this Court before the Honorable Oliver W. Wanger. Present was  
 28 Russell D. Cook, Esq. on behalf of Plaintiff, Davis Moreno Construction, Inc., and John

1 Meininger, Esq. appeared on behalf of defendant Frontier Steel Buildings Corp.

2 The Court, after carefully considering the briefs, argument of counsel, all matters  
3 presented to the Court, issued its Memorandum of Decision on November 2, 2010, as  
4 Document No. 118. Based upon that Memorandum of Decision, and for good cause  
5 appearing, the Court hereby ORDERS as follows:

6 **ORDER**

7 1) IT IS HEREBY ORDERED that Plaintiff Davis Moreno Construction, Inc's  
8 motion for summary judgment on Plaintiff's second cause of action pursuant to California  
9 Business and Professions Code §7031(b) is GRANTED;

10 2) IT IS HEREBY ORDERED that Plaintiff Davis Moreno Construction, Inc's  
11 motion for summary judgment on Defendant Frontier Steel Building Corp.'s counterclaim  
12 is GRANTED;

13 3) IT IS HEREBY ORDERED that Defendant Frontier Steel Building Corp.'s  
14 motion for summary judgment is DENIED.

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16 IT IS SO ORDERED

17 Date: 11/18/2010

/s/ OLIVER W. WANGER  
United States District Judge

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