

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 13-cv-00327-CMA-KLM

FRANKLYN A. JENKINS,

Plaintiff,

v.

DUFFY CRANE AND HAULING, INC., a Colorado corporation,
DUFFY HOLDINGS, LLC, a Colorado Limited Liability Company, and
DUFFY CRANE, INC., a Colorado corporation,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This matter is before the Court on Defendant Duffy Crane and Hauling, Inc., Duffy Holdings, LLC, and Duffy Crane, Inc.'s ("Duffy") Motion for Summary Judgment (Doc. # 58). On August 14, 2014, Plaintiff filed a Response (Doc. # 61), to which Duffy replied on August 28, 2014 (Doc. # 65). On February 17, 2015, Plaintiff filed a Supplement to Response to Duffy's Motion for Summary Judgment. (Doc. # 84.)

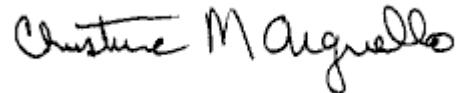
Upon review of the parties' briefing and the evidence referenced therein, the Court determines that regardless of the law that applies in this case, i.e., comparative fault or the rule enunciated in *U.S. v. Savage Truck Line, Inc.*, 209 F.2d 442 (4th Cir. 1953), disputed issues of material fact preclude the Court from granting summary judgment.

Accordingly the Court ORDERS that Defendants' Motion for Summary Judgment (Doc. # 58) is DENIED. It is

FURTHER ORDERED that by no later than April 28, 2015, the parties are to file additional briefing on the limited issue of whether the Colorado Supreme Court would adopt the *Savage* rule or apply comparative fault to the facts of this case.

DATED: March 24, 2015

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge