

FILED

OCT 21 2024

Clerk of the Court
Superior Court of CA County of Santa Clara
BY J. Long DEPUTY
J. LONG

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

BLACK SAILS TECHNOLOGY, INC., a
California corporation; ZHOU WANG, an
individual,

Plaintiffs/Cross-
Defendants,

vs.

RUOXI ZHAO, an individual; DOES 1 - 10,

Defendant/Cross-
Complainant.

Case No. 19-CV-348400

**ORDER AND PROPOSED JUDGMENT
ON CROSS-COMPLAINT¹**

Judge: Hon. Daniel T. Nishigaya
Dept: 13

On September 23, 2024, this matter was assigned to Department 13 for trial on Defendant/Cross-Complainant Zhao's Cross-Complaint. Zhao moved to dismiss her first and second causes of action without prejudice, leaving only her third and fourth causes of action to be tried. Plaintiffs/Cross-Defendants Black Sails Technology, INC. and Zhou Wang then brought a Motion for Judgment on Pleadings as to the third and fourth causes of action in accordance with California Code of Civil Procedure § 438(c)(1)(B)(ii).

¹ Absent further action by the Court, this Proposed Judgment shall become the Judgment of the Court after the timeline set forth in Cal. Rule Court 3.1590(j) has passed.

1 Good cause appearing, the Court grants the motion for judgment on the pleadings, makes
2 the following findings, and because this ruling is dispositive of the entire action on the Cross-
3 Complaint, enters judgment as follows:

4 Pursuant to California Code of Civil Procedure § 430.10(e) and California Civil Code §
5 47(b), the Court finds substantial shortcomings in the third and fourth cause of action, which are
6 the only remaining causes of action.
7

8 Regarding the third cause of action (Malicious Prosecution), Zhao alleges Cross-
9 Defendants “filed a meritless restraining order” that was “eventually dismissed.” Simply alleging
10 the dismissal of a restraining order petition does not plead sufficient facts for a claim of malicious
11 prosecution. A mere dismissal of a legal proceeding does not establish that a civil action has ended
12 in favor of a party. Therefore, simply stating that a proceeding was dismissed does not state
13 grounds for the claim. Moreover, Zhao tried to narrow her argument by asserting that her claim of
14 malicious prosecution is based upon the denial of a temporary restraining order in the context of a
15 petition for a permanent restraining order that Cross-Defendants ultimately abandoned. To the
16 extent the true fact that this claim revolves around a denial of TRO is even suggested in the Cross-
17 Complaint, the Court finds as a matter of law that this denial would not support the elements of a
18 malicious prosecution claim. Accordingly, leave to amend is denied.
19


20 As for the fourth cause of action (Intentional Infliction of Emotional Distress), Zhao does
21 not meet the pleading requirements for that cause of action on two grounds. First, intentional
22 infliction of emotional distress requires conduct that can be described as *outrageous* and shown to
23 have a causal connection to Cross-Complainant’s *severe* emotional distress. Zhao’s pleading fails
24 to provide sufficient facts to establish conduct by Cross-Defendants that goes beyond all possible
25 bounds of decency and is intolerable in a civilized community. Second, Zhao does not allege
26 sufficient facts to show that Cross-Defendants’ calls to police or government authorities were
27
28

1 made with knowing falsity or had the intent or reckless disregard to cause the harms alleged.
2 Zhao asserts only that Cross-Defendants acted “in retaliation.” This is a far cry from the pleading
3 sufficiency needed to support a claim. Lastly, the basis for this cause of action, calling the police
4 or contacting immigration authorities, is conduct that falls within the scope of litigation privilege.
5 There is no reasonable likelihood Zhao can overcome these deficiencies and leave to amend is
6 therefore denied.
7

8 Wherefore, the Court enters the following judgement:

- 9 1. Defendant/Cross-Complainant Zhao shall take nothing on the Cross-Complaint;
- 10 2. Judgment is for Plaintiffs/Cross-Defendants Black Sails Technology, INC. and Zhou
11 Wang;
- 12 3. Plaintiffs/Cross-Defendants Black Sails Technology, INC. and Zhou Wang are the
13 prevailing party in this action on the Cross-Complaint.
14

15
16
17 Dated: October 21, 2024

18 
19 Honorable Daniel T. Nishigaya
20 Judge of the Superior Cour





SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
DOWNTOWN COURTHOUSE
191 NORTH FIRST STREET
SAN JOSÉ, CALIFORNIA 95113
CIVIL DIVISION

COURT FILE

RE: **Black Sails Technology, Inc. et al vs Ruoxi Zhao**
Case Number: **19CV348400**

PROOF OF SERVICE

ORDER AND PROPOSED JUDGMENT ON CROSS-COMPLAINT 1 was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

DECLARATION OF SERVICE BY MAIL: I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on 10/21/2024. CLERK OF THE COURT, by J. Long, Deputy.

cc: Monica L Hartsock Law Office of Monica Hartsock, PC 13089 Peyton Dr #C440 CHINO HILLS, CA 91709

Andrew George Watters 555 Twin Dolphin Drive, Suite 135, Redwood City CA 94065



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