

**CITATION:** Wei v. Ye-Hang Canada (EH-C) Technology & Services Inc., 2025 ONSC 546  
**COURT FILE NO.:** CV-24-00715236  
**DATE:** 20250127

**SUPERIOR COURT OF JUSTICE – ONTARIO**

**RE:** CARRIE WEI

Plaintiff

**AND:**

YE-HANG CANADA (EH-C) TECHNOLOGY & SERVICES INC.,  
AERO FUTURE CANADA (AF-C) INC., RUN ZE XIE (A.K.A. BAI XIE),  
AND ZHI QIANG WANG

Defendants

**BEFORE:** Koehnen J.

**COUNSEL:** *Calvin Zhang* for the plaintiff

*Erin Gideon* for the defendants

**HEARD:** January 21, 2025

**ENDORSEMENT**

[1] The plaintiff moves for summary judgment in the amount of \$700,000 plus interest at 30% against all of the defendants except Zhi Qiang Wang. In addition, the plaintiff moves for an order dismissing the counterclaim. For the reasons set out below, I grant the plaintiff the relief she requests.

## Background Facts

- [2] In October 2022, the plaintiff, Carrie Wei (“Wei”) met the defendant Run Ze Xie (“Xie”). Xie presented Wei with an investment opportunity in Xie’s company, the defendant Ye-Hang Canada (EH-C) Technology & Services Inc. Xie claimed that her company was the exclusive agent in Canada for EHang Holdings Ltd, a well-known manufacturer of drone technology that is publicly traded on the NASDAQ stock exchange.
- [3] Wei and Xie entered into a Letter of Intent which stated that Wei would provide initial funds of up to \$1,200,000 for the acquisition of drones. The LOI also provided that the business would be operated by an affiliate of Ye-Hang Canada, the defendant Aero Future Canada and that Wei would receive 5% of the shares of Aero Future. In reliance on Xie’s representations, Wei mortgaged her home for \$750,000 at an interest rate of 12%.
- [4] Xie acknowledges in her affidavit that Wei advanced \$710,539 to various individuals and entities.
- [5] Xie also admits signing a document entitled “Loan Receipt” in which Xie acknowledged receipt of \$700,000 and an obligation to repay that sum within 6 months, plus 30% interest. That loan has not been repaid.
- [6] After the loan agreement was signed, Wei discovered that contrary to Xie’s representation that she was the exclusive agent in Canada for EHang Holdings, the latter corporation in fact had no agent in Canada at all. This was confirmed in writing by EHang Holdings. Xie does not explain this discrepancy in her responding affidavit.

## Defence and Analysis

- [7] The test for summary judgment is not in dispute. The Rules provide that the court *shall* grant summary judgment if “the court is satisfied that there is no genuine issue” that *requires* a trial.<sup>1</sup> Put another way, the court must grant summary judgment unless a trial is required.
- [8] In determining whether a trial is required, Rule 20.04(2.1) allows the court to weigh evidence, evaluate credibility and draw any reasonable inference from the evidence, unless it is “in the interest of justice for such power to be exercised only at a trial”. If these expanded fact-finding powers do not enable me to decide the matter, I may direct that a mini-trial be conducted if doing so will allow me to resolve the matter.<sup>2</sup>
- [9] On a motion for summary judgment: (a) each party must put its best foot forward; (b) the responding party “must lead trump or risk losing”; and (c) the motion judge is entitled to assume that all evidence that might be adduced by the respondent at trial has been adduced on the motion.<sup>3</sup>
- [10] The responding party on summary judgment motion must set out, in affidavit material or other evidence, specific facts showing that there is a genuine issue requiring a trial. Self-

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<sup>1</sup> *Rules of Civil Procedure*, R.R.O., Reg. 194, Rule 20.

<sup>2</sup> *Hryniak*, at paras. 44-45.

<sup>3</sup> *Northern Industrial Services Group Inc. v. Duguay*, 2016 ONCA 539, at paras. 16-17; *Queen Street Holdings Inc. v. Z-Teca Inc.*, 2017 ONSC 5890, at paras. 8-10; *Tim Ludwig Professional Corp. v. BDO Canada LLP*, 2017 ONCA 292, at para. 54; *Chernet v. Galaites*, 2017 ONCA 337, at para. 12; *Auciello v. 3877337 Canada Inc. (c.o.b. HLC Home Loans Canada)*, 2017 ONSC 2360, at paras. 33 and 39, aff’d 2018 ONCA 377.

serving affidavits that merely assert defences without providing some detail or supporting evidence are insufficient to create a genuine issue for trial.<sup>4</sup>

[11] Xie raises numerous defences in response to the motion. First she denies personal liability on the loan because she did not receive any of the funds. While that may be the case, Wei states explicitly in her affidavit that she disbursed the funds according to Xie's directions. Xie does not deny or qualify that statement in her responding affidavit.

[12] Next Xie argues that the loan agreement between the parties does not fully reflect the arrangement between them. Xie submits that the loan agreement omits a critical term, namely that the loan would only be repayable once the drones had been sold and income was received from them. In support of this argument, Xie points to a number of passages in Wei's cross-examination where Wei agrees that Xie told her that the loan would be repaid out of proceeds of sale that would arise within three months. Xie does not explain what, in her view, the business arrangement was if there were no proceeds of sale. Xie's statement that it was her intention to repay the loan out of proceeds of sale within approximately three months is not inconsistent with the loan agreement. The loan agreement calls for the loan to be paid within six months. The loan agreement does not make repayment conditional on sales of product. It would be commercially quite unusual for a lender to agree that payment was conditional on a certain event but have no provision for what would happen if the event did not occur. The loan agreement is not inconsistent

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<sup>4</sup> *Rogers Cable TV Ltd. v. 373041 Ontario Ltd.*, 1994 CanLII 7367 (Ont. Gen. Div.) *Rozin v. Ilitchev*, 2003 CanLII 21313 (Ont. C.A.).

with a desire or intention to repay the loan out of the proceeds of sale. Xie says she intended to repay the loan within three months out of the proceeds of sale. The loan agreement gives her six months to do so. That gives her a margin of error to account for delays in the receipt of proceeds. It does not mean that repayment is conditional on receipt of sales proceeds.

- [13] Xie relies on the decision of the Supreme Court of Canada in *Sattva Capital Corp. v. Creston Moly Corp.*,<sup>5</sup> to the effect that it is appropriate to consider the surrounding circumstances in contract interpretation. At the same time, however, the court stated in *Sattva* that:

The parol evidence rule does not apply to preclude evidence of the surrounding circumstances. **Such evidence is consistent with the objectives of finality and certainty because it is used as an interpretive aid for determining the meaning of the written words chosen by the parties, not to change or overrule the meaning of those words.** The surrounding circumstances are facts known or facts that reasonably ought to have been known to both parties at or before the date of contracting; therefore, the concern of unreliability does not arise.<sup>6</sup> (emphasis added)

- [14] Xie’s evidence of what she characterizes as the “surrounding circumstances” is evidence that is being used to change and overrule the meaning of the words in the contract. The contract calls for repayment in six months period. There are no qualifications or conditions associated with that term. An effort to impose qualifications or conditions on it would be directly contrary to the guidance the Supreme Court of Canada provided in the passage quoted above. In effect though, what Xie seeks to introduce is not evidence of surrounding

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<sup>5</sup> *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 (CanLII), [2014] 2 SCR 633.

<sup>6</sup> *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 (CanLII), [2014] 2 SCR 633 at para. 60.

circumstances but evidence of her subjective intention. Evidence of subjective intention is inadmissible for purposes of contract interpretation.<sup>7</sup>

[15] Xie also relies on the defence of *non est factum*. She says the agreement is different than the one she intended to sign. That defence is not available to her. For *non est factum* to apply, the mistake about the nature of the document must be induced by a misrepresentation.<sup>8</sup> Xie has not pointed to any misrepresentation.

[16] Xie admits that she negotiated the loan document with Wei. It was negotiated and drafted in Xie’s native language. Xie reviewed the document before signing. She now says that she “did not pay attention” and was “in a hurry” when signing. Carelessness in signing the document does not provide a defence.<sup>9</sup>

[17] Moreover, Xie’s entire position is additionally suspect because although Wei asked her on numerous occasions to explain what was done with the money, provide evidence that drones were ordered and explain why drones had not been delivered, Xie provided no such explanation. Even in her affidavit on this motion, Xie says no more than that the drones were not able to be delivered as originally expected. As noted earlier, a responding party on a motion for summary judgment must put its best foot forward. The court is entitled to assume that all evidence that might be adduced at trial has been adduced on the motion.<sup>10</sup>

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<sup>7</sup> *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 (CanLII), [2014] 2 SCR 633 at para. 59.

<sup>8</sup> *Bulut v. Carter*, 2014 ONCA 424 at paras. 18.

<sup>9</sup> *Bulut v. Carter*, 2014 ONCA 424 at para. 20.

<sup>10</sup> *Northern Industrial Services Group Inc. v. Duguay*, 2016 ONCA 539, at paras. 16-17; *Queen Street Holdings Inc. v. Z-Teca Inc.*, 2017 ONSC 5890, at paras. 8-10; *Tim Ludwig Professional Corp. v. BDO Canada LLP*, 2017 ONCA 292, at para. 54; *Chernet v. Galaites*, 2017 ONCA 337, at para. 12; *Auciello v. 3877337 Canada Inc. (c.o.b. HLC Home Loans Canada)*, 2017 ONSC 2360, at paras. 33 and 39, aff’d 2018 ONCA 377.

The absence of any explanation about what was done with the money Wei advanced, evidence about the order of drones or evidence about the reason for the delay in drone shipments leads me to draw the reasonable inference that Xie's entire story is nothing but a fraud perpetrated to obtain money from Wei without giving her anything in return.

[18] Xie next argues that the entire arrangement was intended to be an investment in exchange for shares in a corporation as reflected in the Letter of Intent. That may well be the case but is also not inconsistent with the loan agreement. Indeed, most parties who invest in a private corporation pay only a nominal amount for their shares and inject capital by way of loan in order to ensure that their capital injection obtains the priority of a creditor and not that of a shareholder.

[19] Xie next argues that the corporate defendants should not have judgment granted against them because they are not parties to the loan agreement. While it is correct that the corporate defendants are not parties to the loan agreement, that is not the end of the analysis. In her statement of claim, Wei asks that the court to pierce the corporate veil if needed.

[20] Courts are prepared to pierce the corporate veil if the corporation is under the dominant control of the defendant and is being used for fraud or some other improper purpose.<sup>11</sup> I am satisfied that Xie has used both corporate defendants for fraudulent purposes. Xie used the corporations to induce Wei to extend a loan. They were part of a façade of

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<sup>11</sup> *FNF Enterprises Inc. v. Wag and Train Inc.*, 2023 ONCA 92 (CanLII) at paras. 18, 21.

respectability which does not in fact exist. Xie specifically represented that Ye-Hang was the sole Canadian authorized agent of EHang. That was not true. Xie then claimed that the operating company would be Aero Future because EHang had expressed concern that the name Ye-Hang was too similar to its own. If EHang ever expressed that concern, it does not appear to have been in relation to any type of agency agreement involving Xie or her companies. That the corporations are being used for fraudulent purposes is reinforced by the fact that Xie has refused to provide any evidence that either corporation actually ordered drones nor has she provided any explanation for why the drones have not been shipped to Canada. In those circumstances I conclude that the corporations have been used for a fraudulent purpose which warrants piercing the corporate veil.

[21] Xie further submits that summary judgment should not be granted because the Rules and case law make it clear that summary judgment should only be entertained once pleadings have closed. The defendants note that the defendant Zhi Qiang Wang has not even been served. It appears that Wang is a resident of the People's Republic of China. Service upon him is likely to be slow and cumbersome. Wang was not a party to the loan agreement. The fact that he received funds from Wei at the direction of Xie, should not prevent Wei from pursuing Xie for the loan that Xie agreed to. I note as well that Xie has not asserted any cross-claim against Wang. His involvement would therefore not appear to be material to the issues before me.

[22] In a similar vein, Xie submits that the plaintiff is really seeking partial summary judgment which the Court of Appeal has cautioned against. The only respect in which the plaintiff could be said to be seeking partial summary judgment is that she is not seeking judgment

against the defendant Wang. Given that: the plaintiff had no contact with Wang other than to transfer funds; Wang is not a party to the loan agreement; and that Wang resides in China and has not been served; I do not see any material risk of either of a duplication of judicial resources or a risk of inconsistent findings should the plaintiff decide to try to serve Wang and pursue him in Ontario.<sup>12</sup> In my view it would be a serious injustice to prevent the plaintiff from obtaining judgment on what appears in the record before me to be a clear case of fraud because one of the secondary participants in that fraud resides in a jurisdiction in which it is cumbersome to effect service.

[23] The plaintiff also asks that the counterclaim against her be dismissed. The counterclaim alleges in paragraph 34 that the plaintiff has been:

... slandering and defaming the Defendants/Plaintiffs by Counterclaim to prominent members of the Chinese community either verbally or by social media including contacting the principal of GTA Strategies, Mr. James Karygiannis and requesting that GTA Strategies no longer continue working on behalf of the Defendants/Plaintiffs by Counterclaim making defamatory allegations against the Defendants/Plaintiffs by Counterclaim.

[24] Wei addressed the counterclaim in her affidavit on this motion by denying that she has ever made defamatory statements about the defendants either orally, in writing or otherwise. That statement required Xie to provide specific evidence in her affidavit of any such defamatory statements. Instead, Xie merely repeated the same allegation in paragraph 20 of her affidavit. There are no further particulars of any such alleged defamatory statements.

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<sup>12</sup> *Butera v. Chown, Cairns LLP*, 2017 ONCA 783 at paras. 26, 29, 30, 32.

As is well established, a respondent on a motion for summary judgment must put its best foot forward. The court is entitled to assume that the evidence that the responding party will adduce at trial is in the record on the summary judgment motion. It would be impossible for the defendants to succeed at trial if the totality of the evidence of defamation were the bald allegation, devoid of any particulars, that Xie makes in her affidavit.

[25] The defendants resist dismissal of their counterclaim by taking the position that the notice of motion for summary judgment described the relief in respect of the counterclaim as “an order dismissing the counterclaim under section 137.1 of the *Courts of Justice Act*. That is the provision governing proceedings that limit freedom of expression on matters of public interest. Tying the counterclaim to section 137.1 of the *Courts of Justice Act* may create needless complication but that is of no moment. It is clear from Wei’s affidavit that she was basing her request to dismiss the counterclaim on the fact that she made no defamatory statements. The affidavit clearly set out the case that Xie had to respond to. For purposes of the response that was required of Xie, it does not matter whether the legal basis for the dismissal is s. 137.1 or the simple absence of evidence. In either case, Xie was required to produce evidence of defamation. She has failed to do so. In those circumstances, I am satisfied that the counterclaim should be dismissed.

[26] I am further supported in my view that the counterclaim should be dismissed by the position the defendants took about the counterclaim on Xie’s cross-examination. At question 74 of her cross-examination Xie denies having even asserted a counterclaim. When she was asked at question 78 for any evidence to support the allegations of defamation, she responded:

Right now, I cannot answer your question. I will have to go back to think about it and also to check about this information.

When plaintiff's counsel persisted and asked whether Xie had any evidence of defamation at that particular moment, Xie's counsel refused to allow her to answer. Xie did not subsequently provide any additional information in relation to the counterclaim. On that record there is no conclusion open to me other than that there was no defamation.

### **Conclusion and Costs**

[27] For the reasons set out above I grant the plaintiff summary judgment against the defendants Ye-Hang Canada (Eh-C) Technology & Services Inc., Aero Future Canada (Af-C) Inc., and Run Ze Xie (A.K.A. Bai Xie) in the amount of \$700,000 in principal plus prejudgment interest at 30% of per annum from the date of each advance to the date of judgment. If the parties cannot agree on the proper calculation of prejudgment interest, they can make written submissions to me in that regard. The plaintiff seeks post-judgment interest pursuant to the Courts of Justice Act which I award.

[28] The plaintiff seeks costs on a partial indemnity scale of \$14,635.78. I find those costs to be reasonable. The defendants' cost outline sought costs on a partial indemnity scale of \$16,663.50. Given that a moving party's costs are usually higher than those of a responding party because of the need to meet the burden of proof, I am satisfied that the plaintiff's

costs are reasonable. I therefore fix costs on a partial indemnity scale in the amount of \$14,635.78.

**Date: January 27, 2025**

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Koehnen J.