

FILED
YOLO SUPERIOR COURT

OCT 05 2018

BY


DEPUTY

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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF YOLO

11
12 YEE XIONG,

13 Plaintiff,

14 v.

15 LANG HER,

16 Defendant.

Case No. PO17-1493

UNLIMITED JURISDICTION

FIRST AMENDED COMPLAINT FOR
DAMAGES

JURY TRIAL DEMANDED

Date of Trial: October 9, 2018

Time: 10:30 a.m.

Department 4

Judge: Hon. Stephen L. Mock

Complaint Filed: September 8, 2017

First Amended Complaint Filed:

October 4, 2018

1 Plaintiff Yee Xiong, by her attorneys, Orrick, Herrington & Sutcliffe LLP, alleges as
2 follows:

3 **INTRODUCTION**

4 1. On or around July 9, 2012, Defendant Lang Her (“Her” or “Defendant”) sexually
5 assaulted Plaintiff Yee Xiong (“Ms. Xiong” or “Plaintiff”) causing her significant physical and
6 emotional harm. Based on Defendant’s actions and sexually offensive contact, Ms. Xiong brings
7 this lawsuit to seek vindication of her personal right of bodily integrity and to be compensated for
8 the serious harm caused by Defendant.

9 2. This is a Complaint for damages and other appropriate relief based upon
10 Defendant’s purposeful sexual assault and battery against Ms. Xiong. In this action, Ms. Xiong
11 alleges sexual battery under California Civil Code § 1708.5.

12 **PARTIES**

13 3. Plaintiff Yee Xiong is an individual who is a resident of Yolo County, California.

14 4. Defendant Lang Her is an individual who, upon information and belief, is a
15 resident of Yuba County, California.¹

16 **JURISDICTION AND VENUE**

17 5. This Court has jurisdiction to hear the subject matter of this complaint. This Court
18 has jurisdiction over Defendant because a substantial portion or all of the acts alleged in this
19 Complaint were performed by Defendant in Yolo County in the State of California. Upon
20 information and belief, this Court also has jurisdiction over Defendant because he resides in the
21 State of California.

22 6. Ms. Xiong seeks to recover damages in excess of \$25,000, exclusive of interest
23 and costs.

24
25 ¹ On April 16, 2017, Defendant filed a voluntary petition under chapter 7 of the United States
26 Bankruptcy Code in the U.S. Bankruptcy Court for the Eastern District of California, initiating
27 Case No. 17-22515 (the “Bankruptcy Case”). The Bankruptcy Case was assigned to United
28 States Bankruptcy Judge Michael S. McManus. In an order filed on August 29, 2017, the Clerk
of the Bankruptcy Court entered Judge McManus’s order granting Plaintiff relief from the
automatic stay and permitting the filing and prosecution of this case.

1 15. On January 23, 2013, Ms. Xiong placed another pretext telephone call to the
2 Defendant. This time, however, the Defendant stated that he inserted his penis into Ms. Xiong's
3 vagina, that he did not know why he did so, and that the act had been on his mind ever since.

4 16. While the Davis Police Department was investigating the case, the University of
5 California, Davis conducted its own investigation. On or about November 30, 2012, Ms. Xiong
6 received a letter from the University stating that an investigations coordinator had determined that
7 a preponderance of the evidence supported the finding that the Defendant had sex with Ms. Xiong
8 without her consent. The Defendant did not contest the charges or the finding of the investigation
9 that he sexually assaulted Ms. Xiong, and the Defendant was subsequently dismissed from the
10 University of California, Davis.

11 17. On October 16, 2013, the Yolo County District Attorney's Office filed a criminal
12 complaint against the Defendant with one count of rape of an intoxicated person.

13 18. On October 15, 2014, Yolo County Superior Court Judge Paul K. Richardson held
14 a preliminary hearing and found probable cause to believe that the Defendant had committed the
15 charged rape offense.

16 19. In an Information dated October 28, 2014, the Yolo County District Attorney's
17 office charged the Defendant with rape of an intoxicated person and rape of an unconscious
18 person.

19 20. Ms. Xiong testified at the Defendant's jury trial in May 2015, again consistently
20 describing how she awoke to the Defendant raping her on the night of July 9, 2012.

21 21. On May 20, 2015, Judge Richardson declared a mistrial because the jury was
22 unable to reach a verdict.

23 22. On June 18, 2015, the Yolo County District Attorney filed a First Amended
24 Information charging the Defendant with rape of an intoxicated person, rape of an unconscious
25 person, and sexual battery.

26 23. On February 29, 2016, a second jury trial concluded with another deadlocked jury,
27 with ten jurors favoring a guilty verdict.

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- C. interest, including pre judgment interest, in accordance with applicable law;
- D. for costs of suit herein incurred; and
- E. such other relief to which she is entitled or additional relief as is just and proper.

Dated: October 3, 2018

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: 
JUSTIN GIOVANNETONE
Attorneys for Plaintiff
Yee Xiong