

CAUSE NO. 2022-70912

SAILAWAY INVESTMENTS, LLC,	§	IN THE DISTRICT COURT
DAWEI LIANG and FAN ZHOU	§	
Plaintiffs/Counter-defendants,	§	
v.	§	55TH JUDICIAL DISTRICT
	§	
JOHNNY SHI, WENJIE WANG, and	§	
HANXIAO CHEN,	§	
Defendants/Counter-Plaintiffs	§	
	§	HARRIS COUNTY, TEXAS
	§	

DEFENDANTS' ORIGINAL ANSWER AND COUNTERCLAIMS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME JOHNNY SHI, WENJIE WANG, and HANXIAO CHEN (hereinafter "Defendants" or "Counter-plaintiffs" or both), Defendants herein, filing this original answer and would show the Court the following:

I. GENERAL DENIAL

1. Defendants generally deny any and all allegations in *Plaintiff's First Amended Original Petition* and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

II. SPECIFIC DENIAL

2. Defendants deny that Sailaway Investments LLC is the owner of the property at 4053 Woodfox Street, Houston, TX 77025. It is only a construction contract owner instead of the property owner.

III. AFFIRMATIVE DEFENSES

3. Defendants are not liable to Plaintiffs because Plaintiffs had agreed to manage the

project, but they failed to perform their job duties to the end; and they also acted negligently in performing the job. Their failure and negligence in performance had caused the serious delay of the project and forfeited the profit that Defendants had expected to earn. Defendants are entitled to an offset of Plaintiffs' claims.

IV. DEFENDANTS' COUNTERCLAIMS

A. DISCOVERY LEVEL

5. Defendants/Counter-Plaintiffs intends that discovery in this case should be conducted under Level 2 as set forth in the Texas Rules of Civil Procedure.

B. PARTIES

6. Plaintiff/Counter-Defendant Sailaway Investments, LLC is a Texas limited liability company doing business in Harris County.

7. Plaintiffs/Counter-Defendants Dawei Liang and Fan Zhou are a couple residing in Harris County, Texas.

C. JURISDICTION AND VENUE

8. This Court has the subject matter jurisdiction over the controversy in this case.

9. The Court has jurisdiction over Plaintiffs/Counter-Defendants because Counter-Defendants are doing business in Texas.

10. Furthermore, Defendants/Counter-plaintiffs seek damages which are within the jurisdictional limits of the Court.

11. Venue of this suit is proper in Harris County, Texas pursuant to Texas Civil Practice and Remedies Code §15.002 (a)(1), since all or part of the events giving rise to Counter-Defendants' cause of action, based on the following allegations occurring in Harris County, Texas.

D. FACTS

12. Defendants/Counter-plaintiffs Johnny Shi (Shi) and Hanxiao Chen (Chen) are the owners of the property located at 4053 Woodfox Street, Houston, TX 77025. Shi and Chen purchased the property for the price of \$135,000 plus the closing cost.

13. Shi and Chen wanted to build a new house thereon and therefore began the construction on the property. Shi was the one who oversaw the construction progress of the new house.

14. Plaintiff Fan Zhou (“Zhou”) was working for Wenjie Wang (“Wenjie”) in her real estate agency firm. She mentioned that her husband Dawei Liang (“Liang”) had nothing to do at home and would like for Wenjie to introduce him to Shi so that he could learn how to do real estate business from Shi.

15. Shi agreed for Liang to join him to oversee construction of the house at 4053 Woodfox Street, Houston, TX 77025 (“4053 Project”). The estimated cost of construction is \$600,000.00.

16. Shi and Liang agreed to invest jointly into the 4053 Project with Liang overseeing the project construction on a day-to-day basis, and both sharing the costs and profits together with a ratio of 70:30, i.e., Chen & Shi 70% and Liang 30%,

17. On November 5, 2020, Shi and Chen, together with Liang through his company Sailaway Investments LLC (“Sailaway”) signed the “Residential Construction Contract” (“Construction Contract”) with the contractor Edwin Ramirez and his company TXG Total Remodeling and Roofing, LLC. (“TXG”) who acknowledged that Shi already paid \$119,962.62. The new construction price was \$200,000.00, and the completion date was March 5, 2021, 120 days from the date of the Construction Contract.

18. Liang was the one to manage the 4053 Project and make sure the TXG complete the construction with satisfactory quality and pay TXG. Unbeknown to Shi and Chen, Liang was not managing the project as he should do. He did not show up at the site as he had agreed to. When he

had issues with the contractor, he was not able to find a resolution but to show up in TXG's office with a gun revealing in his pocket causing fear and panic to TXG personnel.

19. Because Liang did not perform his duties, the construction of 4053 Project was seriously delayed and with problems. Shi had to find a new contractor to replace TXG and continue the job where TXG had left.

20. During all these times, Shi was not aware how much money Sailaway or Liang had paid to TXG or the new contractor.

21. Only in October 2021 when Shi received a lawsuit notice from TXG did he realize that TXG was still owed the construction fund for \$50,000.00. A lis pendens was also filed by TXG on the 4053 property.

22. Shi and Wenjie, the real estate agent and Shi's spouse, in good faith attempted to discuss with Liang about the litigation brought by TXG. They met Liang and his wife Fan Zhou at Liang's house on November 1, 2021.

23. At the time of meeting, Shi brought up the claim that TXG alleged that for the contract price of \$200,000, \$50,000 balance was still owed to it. Shi was questioning the money Liang allegedly paid to TXG, and also commented on Liang's negligence in performing the supervision job causing delay of the construction as well as the lawsuit. Liang was not happy and acted very aggressively. He had his gun in his pocket in a way that both Shi and Wenjie could see. When parties could not resolve the issues, Wenjie stood up and wanted to leave. Liang yelled at her and ordered her to sit down with one hand pointing in her face and the other laying on his gun. Liang threatened that "This is my house. I can shoot you and say that you are trespassing."

24. Wenjie was stunned and frightened. She sat down. Shi calmed down Liang. When Shi and Wenjie finally left the house, Wenjie had a breakdown. She was scared and frightened and for

several weeks had a panic attack whenever Liang's name was mentioned.

25. Wenjie had listed the 4053 house on the market and subsequently had to take it off the market because of the *lis pendens* and the lawsuit filed by TXG,

26. Shi settled the lawsuit with TXG. On May 18, 2022, TXG non-suited the case. During the discussion with TXG, Shi became to know that Liang also carried a gun to show up at TXG's office.

27. The new contractor did not finish the project because the house required a lot of work but Liang no longer showed up at the site. Shi had to invest more money and time in order to finish the project.

28. The 4053 project remained unfinished but the cost of maintaining the unfinished house became very high. Shi and Chen wanted to mitigate their losses. They asked Wenjie to find a buyer as quick as possible and to sell the house in an AS-IS condition. Due to the unfinished condition of the house, the buyer had negotiated the price because Buyer would have to spend quite an amount of money to have the project finished. The house was finally sold on May 31, 2022 to the buyer at the price of \$600,000.00, which couldn't even cover the cost of building the house.

29. Since the bad experience that Shi had when confronting with Liang, Shi was attempting to find an attorney or third person to talk to Liang regarding the allocation of sales proceeds. But he received a demand letter from Sailaway on June 13, 2022 whereas Sailaway not only asked for the return of its investment it allegedly had put in the project but also the 30% profit on the project plus attorney fees. Shi denied Sailaway's demand.

E. CAUSES OF ACTION

Count 1 – Declaratory Judgment

Defendants/counter-plaintiffs reallege and incorporate by reference the allegations set forth

in previous paragraphs, and further allege:

30. Defendants/counter-plaintiffs request that declaratory judgment be entered as follows:

(1) There is a general partnership between Counter-plaintiffs and Counter-defendants;

(2) The partners will share costs, liabilities and profits by the agreed 70% (Defendants/counter-plaintiffs) and 30% (Plaintiffs/Counter-defendants).

Count II – Breach of Contract

Defendants/counter-plaintiffs reallege and incorporate by reference the allegations set forth in previous paragraphs, and further allege:

31. Parties had an oral partnership agreement whereas Plaintiffs/counter-defendants were supposed to manage the day-to-day construction site, invest 30% of the total costs of the 4053 project, assume 30% liabilities and share 30% of profits if any.

32. Counter-defendants breached the contract by not showing up at the construction sites as frequently as agreed, causing and proximately causing serious delay and poor quality of the construction work.

33. Plaintiffs/counter-defendants did not make timely payments, as they had agreed, to the contractor TXG which sued Defendants/Counter-plaintiffs for money owed.

34. Because of Plaintiffs' breach of the partnership agreement, Defendants/Counter-plaintiffs suffered monetary damages.

Count III – Negligence

Defendants/counter-plaintiffs reallege and incorporate by reference the allegations set forth in previous paragraphs, and further allege:

35. Plaintiffs/Counter-Defendants owed Defendants/counter-plaintiffs fiduciary duty

and duty of competence in dealing with Defendants. However, Plaintiffs/Counter-defendants failed to supervise the construction progress or monitor the quality of work at the construction site. Their oversight and breach of duty proximately caused not only the severe delay of the construction, but also the problems with the quality of the construction, which resulted in Defendants/counter-plaintiffs' economic injuries, the exact amount of which to be determined, including but not limited to Defendants/Counter-plaintiffs' out-of-pocket losses, lost profits, cost of mitigation or substitute performance.

Count IV – False Imprisonment

Defendants/counter-plaintiffs reallege and incorporate by reference the allegations set forth in previous paragraphs, and further allege:

36. When Plaintiffs/Counter-defendants ordered Defendants/Counter-plaintiffs to sit down and not to leave Plaintiffs' house with a gun revealing to Defendants and threatening to shoot, the conducts constitute the false imprisonment whereas Plaintiffs willfully detain Defendants, without defendants' consent and without authority of law.

37. Defendants/Counter-plaintiffs are entitled to damages which is to be proven at trial.

Count V – Intentional Infliction of Emotional Distress

Defendants/counter-plaintiffs reallege and incorporate by reference the allegations set forth in previous paragraphs, and further allege:

38. When Plaintiffs/Counter-defendants ordered Defendants/Counter-plaintiffs to sit down and not to leave Plaintiffs' house with a gun revealing to Defendants and threatening to shoot, they acted intentionally or recklessly; their conduct was extreme and outrageous; the conduct caused Defendants emotional distress and the emotional distress was severe.

39. Defendants/Counter-plaintiffs are entitled to damages which is to be proven at trial.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants/Counter-plaintiffs pray that Plaintiffs/Counter-defendants take nothing and Defendants/Counter-plaintiffs be awarded costs and reasonable and necessary attorney's fees, and for such other and further relief that may be awarded at law or in equity. Further, if the Court finds judgment for the Defendants and against Plaintiffs, the Defendants requests judgment of the Court that Plaintiffs be adjudicated liable to Defendants for the amount of the judgment, together with all costs, including attorney fees and court costs, and for such and other and further relief to which Defendants may be justly entitled.

Respectively submitted
LAW OFFICES OF YANG & ASSOCIATES, PLLC



Yanpin Yang
TX Bar No. 24009430
6689 W. Sam Houston Pkwy South, Suite 302
Houston, TX 77072
Tel: (713) 271-9264
Fax: (713) 271-9265
Email: info@yanglawus.com
Attorney for Defendants/Counter-plaintiffs
Johnny Shi, Hanxiao Chen, and Wenjie Wang

Certificate of Service

On December 12, 2022, I served the aforementioned *Defendant's Original Answer and Counterclaims* to Plaintiffs' counsel of record via following method:

Henna Ghafoor
Mosaic Paradigm Law Group PC
10370 Richmond Avenue, Suite 850
Houston, TX 77042
hghafoor@mp-lg.com



Yanpin Yang

CAUSE NO. 2022-70912

SAILAWAY INVESTMENTS, LLC, DAWEI LIANG and FAN ZHOU Plaintiffs/Counter-defendants,	§ § §	IN THE DISTRICT COURT
v.	§ § §	55TH JUDICIAL DISTRICT
JOHNNY SHI, WENJIE WANG, and HANXIAO CHEN, Defendants/Counter-Plaintiffs	§ § § § § §	HARRIS COUNTY, TEXAS

Johnny Shi's Sworn Statement

Now comes Johnny Shi and makes the following statements:

1. "Ms. Hanxiao Chen (hereinafter Chen) and I are the owners of the property located at 4053 Woodfox Street, Houston, TX 77025. We purchased the property at the price of \$135,000 plus the closing cost.
2. "Chen and I wanted to build a new house thereon. We therefore began the construction on the property. I was the one who oversaw the construction progress of the new house.
3. "Ms. Fan Zhou ('Zhou') was working for my wife Wenjie Wang ('Wenjie') in her real estate agency firm. Zhou mentioned that her husband Dawei Liang ('Liang') had nothing to do at home and would like for Wenjie to introduce him to me so that he could learn how to do real estate business from me.
4. "I did not need any money from Zhou or Liang since we had sufficient fund, but I did need someone who could go to the work site daily and help me manage the construction site. I thought if Liang joined me as a partner in this project, he might be more motivated to supervise the construction work in terms of time and quality.
5. "I therefore agreed for Liang to join me to oversee construction of the house at 4053 Woodfox Street, Houston, TX 77025 ('4053 Project'). I already paid \$119,962.62 to the contractor. The estimated cost of construction is \$600,000.00.
6. "Liang and I agreed to invest jointly into the 4053 Project with Liang overseeing the project construction on a day-to-day basis, and we both sharing the costs and profits together with a ratio of 70:30, Chen and I 70% and Liang 30%.
7. "On November 5, 2020, Chen and I, together with Liang through his company Sailaway Investments LLC ('Sailaway') signed the 'Residential Construction Contract' ('Construction Contract') with the contractor Edwin Ramirez and his company TXG Total Remodeling and Roofing, LLC. ('TXG'). The construction price was \$200,000.00, and the completion date was March 5, 2021, 120 days from the date of the Construction Contract.
8. "Liang was the one to manage the 4053 Project and make sure the TXG complete the project in time and get paid. Unbeknown to me and Chen, Liang was not managing the project as he should do. He did not show up at the site as he was supposed to. When he had issues with the contractor, instead of working with the contract to find a solution, he showed up in TXG's office with a gun revealing in his pocket causing fear and panic to TXG personnel.
9. "The construction work was not completed by TXG on March 5, 2021. Because of the

serious delay of the construction, I had to find a new contractor to replace TXG and to continue the job where TXG had left.

10. "During all these times, I was under the impression that Sailaway or Liang had paid to TXG or the new contractor.
11. "Only in October 2021 when I received a lawsuit notice from TXG did I know that TXG was still owed the construction fund for \$50,000.00, and a *lis pendens* was also filed by TXG on the 4053 property.
12. "Wenjie and I wanted to resolve the TXG issue in good faith with Liang and attempted to discuss with Liang about the litigation brought by TXG. We met Liang and his wife Fan Zhou at Liang's house on November 1, 2021.
13. "At the time of meeting, I brought up the claim that TXG alleged that for the contract price of \$200,000, \$50,000 balance was still owed to it. I questioned the money Liang allegedly paid to TXG, and also commented on Liang's lack of care in performing the supervision job on the site causing delay of the construction as well as the lawsuit.
14. "Liang was not happy and acted very aggressively. He carried a gun in his pocket at his own home and in a way that both Wenjie and I could see clearly that he had a gun. When we could not reach an agreement on how to handle the problems, Wenjie stood up and wanted to leave. Liang yelled at her. He pointed at her with one hand and the other laying on his gun. He ordered Wenjie to sit down and threatened that "This is my house. I can shoot you and say that you are trespassing."
15. "Wenjie was scared and could not respond. I was scared that Liang might shoot. I had to talk to Liang to calm down. When Wenjie and I finally left the house, Wenjie had a breakdown. She was scared and frightened and for several weeks had a panic attack whenever Liang's name was mentioned.
16. "Wenjie had listed the 4053 house on the market and subsequently had to take it off the market because of the *lis pendens* and the lawsuit filed by TXG.
17. "I hired lawyers to represent me in the TXG case and we finally reached a settlement agreement with TXG. Liang did not come to help in the defense of the case. On May 18, 2022, TXG non-suited the case. I became to know that Liang also carried a gun and appeared at TXG's office when I discussed the claims with TXG.
18. "The new contractor did not finish the project either because it required a lot more work in the house but Liang no longer came to the project site ever since we met at his house. I had to put more money and time in the project. Plus, the cost of maintaining the house was also very high. After considering our economic gain and loss, Chen and I decided to sell the house in an AS-IS condition to mitigate our losses.
19. "We asked Wenjie to find a buyer as quick as possible and sell the house in an AS-IS condition.
20. "Wenjie contacted several of her customers or inquirers and finally received one offer. Due to the unfinished condition of the house, the buyer had negotiated the price because Buyer would have to spend quite an amount of money to have the project finished. The house was finally sold to the buyer at the price of \$600,000.00, which could not cover our cost of building the house.
21. "I believe we formed a general partnership between Chen, Liang (or his company Sailaway), and myself to finish the construction. We intended to share, with Chen and I 70% and Liang 30%, costs, liabilities and profits.
22. "We would like to sit down with Liang to calculate our losses, but due to Liang's aggression in our confrontation previously, I did not feel safe to meet him. I later

agreed to mediate with Liang through a mediator. Unfortunately, we failed to reach an agreement.

23. "Liang's failure to perform his duties and his negligence in performing his duties were part of the reasons that our construction project was seriously delayed and failed to make any profit.

I hereby attest under the penalty of laws of perjury that the above statements are true and correct to my best knowledge and ability.



Johnny Shi

12/11/2022

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Yanpin Yang
Bar No. 24009430
yyang@yanglawus.com
Envelope ID: 70898878
Status as of 12/12/2022 8:44 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Henna Ghafoor		hghafoor@mp-lg.com	12/12/2022 12:53:05 AM	SENT
Melissa Samples		msamples@mp-lg.com	12/12/2022 12:53:05 AM	SENT
Melissa Samples		service@mp-lg.com	12/12/2022 12:53:05 AM	SENT