

1 Cadmium Q. Eaglefeather (SBN 502981)
2 Eaglefeather Law Offices
3 1920 Hillhurst Ave.
4 Los Angeles, CA 90027
5 (323) 555-1435
6 (866) 555-1147 fax
7 cadmium@cqelaw.com
8 Attorney for Plaintiff

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 **TRIXIE ARGON**, individually and on
12 behalf of a class of similarly situated
13 persons,

14 Plaintiff;

15 vs.

16 **MEGACORP INC.**, a California
17 corporation, and **DOES** 1 through
18 100, inclusive,

19 Defendants.
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23
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25
26

Case No. BC5551212

**Plaintiff's Notice of Motion and
Motion to Compel Defendant Mega-
Corp to Produce Financial Records
at Trial; Points & Authorities**

Complaint filed: June 9, 2022
Trial date: August 20, 2024

Assigned to Judge Jerry Blank,
Dept. 1010, Central Civil Division

1 **NOTICE OF MOTION**

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3 To all parties and their attorneys of record:

4 You are hereby notified that at a date and time to be determined, in
5 Dept. 1010 of the above-entitled court, plaintiff Trixie Argon will move the
6 Court for a motion to compel defendant MegaCorp to produce financial records
7 she previously requested.

8 This motion is made on the ground that Ms. Argon served MegaCorp with a
9 valid notice to produce financial records at trial. Cal. Civ. Proc. Code § 1987(c),
10 Cal. Civ. Code § 3295(c). MegaCorp served objections and refused to comply.

11 Ms. Argon’s notice to produce seeks information directly relevant to her
12 trial for punitive damages against MegaCorp. Therefore, the documents are
13 material to Ms. Argon’s case and there is good cause to order them to be pro-
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19 November 19, 2023

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21 Cadmium Q. Eaglefeather

22 Attorney for Plaintiff

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For these reasons, Ms. Argon asks that the Court order MegaCorp to produce the requested financial records.

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February 15, 2024

George Falkenburg
Falkenburg, Fester, and Funk LLP
1252 W. 83rd Street
Bakersfield, CA 90909

Re: Nicholson v. MegaCorp, Case No. B718590125-2

Dear Mr. Falkenburg:

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I apologize for the delay, but I was recently hospitalized for a concussion sustained while rollerblading. Rest assured that I am on the mend. If you have any questions about this DVD, please let me know.

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Sincerely,

CADMIUM Q. EAGLEFEATHER

CQE / bqe
Enclosure

To: Cadmium Q. Eaglefeather

From: Trixie Argon

Date: 10 September 2024

Re: Cause of action for malicious prosecution

Malicious prosecution has three elements that must be pleaded and proved:

- 1) the defendant commenced a judicial proceeding against the plaintiff;
- 2) the original proceeding was “initiated with malice” and “without probable cause”; and
- 3) the proceeding was “pursued to a legal termination in [the plaintiff’s] favor.”

Bertero v. National General Corp., 13 Cal. 3d 43, 50 (1974).

1. Commencement of judicial proceeding

Any civil proceeding where the plaintiff seeks affirmative relief may be the basis of a malicious-prosecution claim. The original plaintiff does not need to personally sign the complaint. If the plaintiff is “actively instrumental” or the “proximate and efficient cause” of the action, the plaintiff may be liable. *Jacques Interiors v. Petrak*, 188 Cal. App. 3d 1363, 1372 (1987).

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3. Favorable termination

Malicious prosecution requires that the underlying complaint to have been terminated in favor of the malicious-prosecution plaintiff. This means that a defendant cannot make a malicious-prosecution counterclaim as a “defense” to a complaint that appears to be malicious. Until the underlying complaint has been resolved, a malicious-prosecution claim cannot lie. *Babb v. Superior Court*, 3 Cal. 3d 841, 846-847 (1971). Thus, procedurally, the only option is to complete the underlying action, and then file a claim for malicious prosecution in a follow-on action.

“Termination” usually means the entry of judgment in favor of the malicious-prosecution plaintiff on a given claim. But any termination—for instance, deleting a claim from an amended complaint—is adequate basis for malicious prosecution. Whether the underlying claim may be revived (e.g., on appeal) is not relevant for malicious prosecution. As long as it’s been judicially terminated once, it’s fair game.

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Boxer Bedley & Ball Capital Advisors 2018-21

Equity analyst

- Performed independent research on numerous American industries
- Steelmaking, croquet, and butterscotch manufacturing
- Led company in equities analyzed in two quarters

OTHER WORK EXPERIENCE

Proximate Cause 2017-18

Assistant to the director

- Helped devise fundraising campaigns for this innovative nonprofit
- Handled lunch orders and general errands

Hot Topic 2014-16

Retail-sales associate

- Top in-store sales associate in seven out of eight quarters
- Inventory management
- Training and recruiting