

1
2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION

5 THE BOARD OF TRUSTEES OF THE
6 LELAND STANFORD JUNIOR
7 UNIVERSITY,

8 Plaintiff,

9 vs.

10 ZHANG YUZHEN, et al.,

11 Defendants.

Case No: 19-cv-02904 SBA

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
JUDGMENT ON THE PLEADINGS**

12 AND RELATED COUNTERCLAIM.
13

14 The Board of Trustees of the Leland Stanford Junior University (“Stanford”) brings
15 the instant quiet title action against Zhang Yuzhen (“Ms. Zhang”). Ms. Zhang brings
16 various counterclaims against Stanford and Li Nanyang (“Ms. Li,” and together with
17 Stanford, “Counter-Defendants”). Pending is Counter-Defendants’ motion for judgment on
18 the pleadings under Federal Rule of Civil Procedure 12(c) as to Ms. Zhang’s second,
19 seventh, eighth, and ninth counterclaims. The matter is suitable for resolution without oral
20 argument. See Fed. R. Civ. P. 78(b); N.D. Cal. Civ. L.R. 7-1(b). For the reasons stated
21 below, the motion is granted in part and denied in part.

22 **I. BACKGROUND**

23 **A. FACTUAL ALLEGATIONS¹**

24 Li Rui was a prominent Chinese political figure and outspoken critic of the leaders
25 of the Communist Party of China until his death on February 16, 2019. First Am. Compl.
26 (“FAC”) ¶ 12, Dkt. 15; see also id. ¶¶ 13-15. Li Rui created personal diaries from at least

27
28 ¹ The parties are familiar with the underlying facts; only those matters pertinent to
resolution of the instant motion are recited herein.

1 1938 to 2019. Id. ¶ 16. He also maintained letters, photographs, and other materials,
2 including but not limited to, diaries created by his first wife, Fan Yuanzhen, a diary created
3 by both Li Rui and Fan Yuanzhen, and correspondence between Li Rui and Fan Yuanzhen
4 (the physical copies of these materials and Li Rui’s personal diaries, exclusive of the
5 intellectual property rights thereto, are referred to as the “Materials”). Id. ¶ 17.

6 In February 1989, Li Rui visited Stanford and its Hoover Institution (“Hoover”). Id.
7 ¶ 18.² During the visit, he was shown some of Hoover’s China Collection. Id. According
8 to Stanford, due to Hoover’s reputation for its holdings of twentieth century Chinese
9 historical materials, Li Rui gave the Materials to his daughter, Ms. Li, beginning around
10 early 2014, to transfer ownership of the same to Stanford. Id. ¶ 20.³ He instructed Ms. Li
11 to take the Materials from China to the United States to gift them permanently to Stanford.
12 Id. Ms. Li delivered the Materials to Stanford between March 3, 2014 and July 31, 2018,
13 and executed agreements transferring ownership of the same to Stanford between March 3,
14 2014 and February 13, 2019. Id. ¶¶ 21-22.

15 Li Rui was married to his second wife, Ms. Zhang, from 1979 through his death on
16 February 16, 2019. FAC ¶ 26; First Am. Answer & Countercl. (“Countercl.”) ¶ J, Dkt. 46.
17 The Materials constitute original copies of diaries, letters, work notes, and other
18 manuscripts prepared by Li Rui over the course of his life, including the 40-year period
19 during which he and Ms. Zhang were married. Id. ¶ M. Ms. Zhang contends that, in
20 addition to providing accounts of significant events in Chinese history, the Materials “also
21 reflect deeply personal and private affairs of [her and Li Rui’s] life together, described in,
22 among other things, diary entries, letters, and poetry.” Id. ¶ N. According to Ms. Zhang, Li
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25 ² Hoover is a public policy research center devoted to the study of politics,
26 economics, and political economy—both domestic and foreign—as well as international
27 affairs. FAC ¶ 5. The Library & Archives at Hoover is dedicated to documenting war,
28 revolution, and peace in the twentieth and twenty-first centuries. Id. ¶ 7. It includes the
China Collection, which is part of the larger East Asia Collection. Id. ¶¶ 8-9.

³ Ms. Li is one of three children Li Rui had with Fan Yuanzhen; the others are Fan
Mao and Fan Miao. FAC ¶¶ 25, 41.

1 Rui intended that she would take ownership of the Materials after his death, and that any
2 publication or public display of their contents would be made at her sole discretion. Id. ¶ P.
3 Despite Li Rui’s intentions, Ms. Li, “secreted” the Materials out of China “at a time when
4 she stood in a fiduciary position to [him].” Id. ¶ Q. It is alleged that Ms. Li was an
5 employee or agent of Stanford when she took the Materials. Id. ¶ R.

6 Li Rui died, intestate, in China. FAC ¶ 27; Countercl. ¶ K. Shortly after his death,
7 on March 20, 2019, Ms. Zhang sent a letter to Stanford, through her counsel, asserting her
8 rightful claim to ownership of the Materials. Id. ¶ W. On April 2, 2019, Ms. Zhang filed
9 an inheritance action against Ms. Li in the Xicheng District People’s Court of Beijing of the
10 People’s Republic of China, Zhang Yuzhen et al. v. Li Nanyang, (2019) J010MC No.
11 17194 (the “Chinese Proceeding”). Id. ¶ X & Intro. Ms. Zhang notified Stanford of the
12 Chinese Proceeding by letter dated April 5, 2019. Id. ¶ Z; FAC ¶ 28. Stanford thereafter
13 filed the instant action. Countercl. ¶¶ AE-AF; FAC ¶ 30.

14 On November 20, 2019, a civil judgment issued in the Chinese Proceeding,
15 awarding Ms. Zhang ownership of the Materials and ordering Stanford and Hoover to
16 transfer possession of the same to her within 30 days. Countercl. ¶ AJ. According to
17 Ms. Zhang, Stanford and Hoover were named as third parties and eligible to appear in the
18 Chinese Proceeding but elected not to do so. Id. ¶¶ Y, AJ. Stanford denies that it elected
19 not to participate in the Chinese Proceeding, alleging, among other things, that it was added
20 as a third party in the judgment without any notice or opportunity to participate. Answer
21 ¶¶ Y, AE, AJ, Dkt. 54. Stanford retains possession of the Materials. Countercl. ¶ AK.

22 On April 23, 2019, Stanford held a panel discussion regarding Li Rui. Id. ¶ AB. At
23 its conclusion, the Materials were displayed for attendees to view. Id. During the
24 discussion, Ms. Li stated that Stanford had reproduced, photocopied, transcribed, or
25 otherwise copied the Materials for “ease of access.” Id. Thereafter, on July 12, 2019,
26 Stanford announced that the Materials were being made available to researchers. Id. ¶ AG.
27 On February 3, 2020, Hoover reopened its Library & Archives reading room, which had
28 been closed for construction. Id. ¶ AL. As a result, archived documents, including the

1 Materials, were made “more widely available.” *Id.* According to Ms. Zhang, this already
2 led to “multiple individuals” accessing the Materials in the short time between the
3 reopening of the reading room and the filing of her Counterclaim. *Id.* Continued
4 publication of the Materials has caused and continues to cause Ms. Zhang personal
5 embarrassment and emotional distress. *Id.* ¶ AN.

6 **B. PROCEDURAL HISTORY**

7 Stanford brings a single claim for Quiet Title under California Code of Civil
8 Procedure §§ 760.010 et seq.⁴ Ms. Zhang brings counterclaims for: (1) Copyright
9 Infringement, against Counter-Defendants; (2) Public Disclosure of Private Facts, against
10 Counter-Defendants; (3) Intentional Infliction of Emotional Distress, against Counter-
11 Defendants; (4) Conversion, against Ms. Li; (5) Aiding and Abetting Conversion, against
12 Stanford; (6) Civil Conspiracy to Commit Conversion, against Stanford; (7) Breach of
13 Fiduciary Duty, against Ms. Li; (8) Aiding and Abetting Breach of Fiduciary Duty, against
14 Stanford; (9) Conspiracy to Commit Breach of Fiduciary Duty, against Stanford;
15 (10) Unjust Enrichment, against Counter-Defendants; and (11) Enforcement of Chinese
16 Judgment. Counter-Defendants move for judgment on the pleadings under Rule 12(c) with
17 respect to Ms. Zhang’s second, seventh, eighth, and ninth counterclaims. Dkt. 64.

18 **II. LEGAL STANDARD**

19 “After the pleadings are closed—but early enough not to delay trial—a party may
20 move for judgment on the pleadings.” Fed. R. Civ. P. 12(c). Because a motion under Rule
21 12(c) is “functionally identical” to a motion to dismiss under Rule 12(b), the same
22 standards apply. *Dworkin v. Hustler Mag., Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). A
23 court must accept all factual allegations in the challenged pleading as true and construe
24 them in the light most favorable to the non-moving party. *Fleming v. Pickard*, 581 F.3d
25 922, 925 (9th Cir. 2009); *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542,
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27 _____
28 ⁴ In addition to Ms. Zhang, Stanford names Fan Miao and Fan Mao as defendants. They have not appeared, and the Clerk has entered their defaults. Dkt. 43, 63.

1 1550 (9th Cir. 1989) (“For purposes of the motion, the allegations of the non-moving party
2 must be accepted as true, while the allegations of the moving party which have been denied
3 are assumed to be false.”). “Judgment on the pleadings is properly granted when there is no
4 issue of material fact in dispute, and the moving party is entitled to judgment as a matter of
5 law.” Fleming, 581 F.3d at 925.

6 **III. DISCUSSION**

7 Counter-Defendants move for judgment on the pleadings with respect to
8 Ms. Zhang’s second counterclaim for public disclosure of private facts and her seventh
9 through ninth counterclaims for breach of fiduciary duty, aiding and abetting breach of
10 fiduciary duty, and conspiracy to commit breach of fiduciary duty.

11 **A. PUBLIC DISCLOSURE OF PRIVATE FACTS**

12 Under California law, the elements of a claim for public disclosure of private facts
13 are: “(1) public disclosure, (2) of a private fact, (3) which would be offensive and
14 objectionable to the reasonable person, and (4) which is not of legitimate public concern.”
15 Taus v. Loftus, 40 Cal. 4th 683, 717 (2007) (quoting Shulman v. Grp. W Prods., Inc., 18
16 Cal. 4th 200, 214 (1998)).⁵ At issue here is the first element—public disclosure. Counter-
17 Defendants argue that Ms. Zhang has not alleged the type of publication necessary to
18 support a claim. Specifically, they argue that “making documents available to researchers
19 at an archive” does not constitute such a publication. Mot. at 8.

20 The elements of a cause of action for publication of private facts follow the
21 Restatement. Shulman, 18 Cal. 4th at 214; see also Hill v. Nat’l Collegiate Athletic Ass’n,

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25 ⁵ Counter-Defendants argue California law applies because that is where the alleged
26 disclosure took place. Ms. Zhang opposes the motion largely based on the application of
27 California law. However, she also makes a cursory argument that Chinese law governs
28 because her place of residence has the greatest interest in the matter. Without identifying
any other law that may apply, she also asserts that the disclosure did not take place solely in
California because the Materials may have been viewed by persons residing elsewhere.
Even applying California law, Counter-Defendants do not prevail on their motion as to this
counterclaim. For that reason, the choice-of-law dispute need not be resolved at this time.

1 7 Cal. 4th 1, 24 (1994) (noting California common law on privacy torts generally follows
2 the Restatement). As is pertinent here, the Restatement provides:

3 The form of invasion of the right of privacy covered in this Section depends
4 upon publicity given to the private life of the individual. “Publicity,” as it is
5 used in this Section, differs from “publication,” as that term is used in § 577
6 in connection with liability for defamation. “Publication,” in that sense, is a
7 word of art, which includes any communication by the defendant to a third
8 person. “Publicity,” on the other hand, means that the matter is made public,
9 by communicating it to the public at large, or to so many persons that the
10 matter must be regarded as substantially certain to become one of public
11 knowledge. The difference is not one of the means of communication, which
12 may be oral, written or by any other means. It is one of a communication that
13 reaches, or is sure to reach, the public.

14 Thus it is not an invasion of the right of privacy, within the rule stated in this
15 Section, to communicate a fact concerning the plaintiff’s private life to a
16 single person or even to a small group of persons. On the other hand, any
17 publication in a newspaper or a magazine, even of small circulation, or in a
18 handbill distributed to a large number of persons, or any broadcast over the
19 radio, or statement made in an address to a large audience, is sufficient to
20 give publicity within the meaning of the term as it is used in this Section. The
21 distinction, in other words, is one between private and public
22 communication.

23 Rest. (2d) of Torts § 652D, comment a (1977).

24 In arguing that the alleged disclosure is not actionable, Counter-Defendants
25 emphasize the proposition that disclosure must be to the public at large and not a single
26 person or even a handful of people. However, in asserting that viewing of the Materials by
27 researchers at Hoover is insufficient to satisfy this requirement, they fail to contend fully
28 with either the relevant law or Ms. Zhang’s allegations. As stated above, the critical
distinction “is one between private and public communication.” Rest. (2d) of Torts
§ 652D, comment a. Thus, while the number of persons a disclosure reaches is relevant,
the focus is not on a numerical threshold, but rather, on the probability of it becoming a
matter of public knowledge. See Doe v. John F. Kennedy Univ., No. C-13-01137 DMR,
2013 WL 4565061, at *11 (N.D. Cal. Aug. 27, 2013) (noting no California case has defined
the number of people necessary to justify a finding of publicity). Counter-Defendants do
not show that the facts alleged by Ms. Zhang are insufficient to make such a showing.

 Ms. Zhang alleges that, in addition to displaying the Materials for attendees at a
panel, Hoover has copied the Materials for “ease of access” and made them available for

1 viewing at its recently reopened reading room. Ms. Zhang further alleges that, as a result,
2 “multiple people” viewed the Materials in a short period (i.e., approximately six weeks).
3 For purposes of the instant motion, this constitutes a public disclosure. Cf. Opperman v.
4 Path, Inc., 87 F. Supp. 3d 1018, 1062 (N.D. Cal. 2014) (dismissing claim where it was
5 alleged that the defendant had transmitted address books in an unencrypted manner that
6 allowed them to be intercepted by third parties, but where there was no allegation that an
7 interception occurred). Questions regarding the number of persons who have viewed the
8 Materials and the likelihood of matters contained therein becoming public knowledge are
9 “inappropriate for resolution at the pleading stage.” John F. Kennedy Univ., 2013 WL
10 4565061, T *11 (declining to dismiss claim where it was alleged that the plaintiff’s
11 instructor forced her to reveal details regarding her disability to the class).

12 The authorities relied upon by Counter-Defendants—Bearden v. Alameda County,
13 No. 19-CV-04264-SI, 2020 WL 3791645 (N.D. Cal. July 7, 2020), and Hassan v.
14 Facebook, Inc., No. 19-CV-01003-JST, 2019 WL 3302721 (N.D. Cal. July 23, 2019)—do
15 not counsel in favor of a different result. In Bearden, the court dismissed a claim for lack
16 of a “sufficiently public” disclosure (among other grounds), where it was alleged that, in
17 the presence of a few colleagues, the defendant had yelled that the plaintiff should be fired
18 and investigated by internal affairs. 2020 WL 3791645, at *3. While a disclosure to a few
19 persons within a workplace may not be sufficiently public, the disclosure at issue here is
20 not contained within Stanford; rather, the Materials are made available to persons outside
21 the institution. Additionally, while the disclosure in Bearden was an isolated event, the
22 disclosure here is ongoing. Hassan is also distinguishable. In that case, the court dismissed
23 a claim where it was alleged that Facebook had sold “known and unknown companies”
24 access to the plaintiffs’ private data. 2019 WL 3302721, at *3. As noted by Ms. Zhang,
25 the disclosure in Hassan arguably was not “public,” as that term is used in § 652D of the
26 Restatement, given that the value of the data depended on it remaining private among
27 Facebook’s paying customers. The nature of the disclosure at issue here is quite different.
28 Accordingly, Counter-Defendants’ motion is denied as to the second counterclaim.

1 **B. BREACH OF FIDUCIARY DUTY**

2 Counter-Defendants move to dismiss Ms. Zhang’s fiduciary duty claims on the
3 ground that, as a matter of Chinese law, the claims were personal to Li Rui and did not
4 survive his death. In support of this argument, Counter-Defendants present the declaration
5 of Xiaolin Zhou, an expert on Chinese law. Dkt. 64-1 (“Zhou Declaration”).⁶

6 The Zhou Declaration provides that, prior to January 1, 2021, the Law of Succession
7 of the People’s Republic of China (the “Law of Succession”) governed inheritance. Zhou
8 Decl. ¶ 15. Thereafter, the Civil Code of the People’s Republic of China (the “Civil Code”)
9 replaced the Law of Succession. Id. Both Li Rui’s death and Ms. Li’s alleged breach of
10 fiduciary duty occurred prior to the effective date of the Civil Code; survival of the
11 fiduciary claims therefore is governed by the Law of Succession. Id. ¶ 17. Even so,
12 adjudicative reasoning can be made according to provisions of the Civil Code. Id.⁷

13 Under Article 3 of the Law of Succession, “[e]state denotes the lawful property of a
14 citizen owned by him personally at the time of his death, which consists of: (1) his income;
15 (2) his houses, savings and articles of everyday use; (3) his forest trees, livestock and
16 poultry; (4) his cultural objects, books and reference materials; (5) means of production
17 lawfully owned by him; (6) his property rights pertaining to copyright and patent rights;
18 and (7) his other lawful property.” Id. ¶ 18, Ex. C-2.

19 “Law of Marriage, Family and Succession,” published by the University Press of
20 China University of Political Science and Law in 2012, expounds on the meaning of estate
21 for purposes of Article 3. Id. ¶ 27, Ex. H-2. It explains that “[e]state denotes solely the
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23 ⁶ The parties agree that Ms. Zhang’s counterclaims for breach of fiduciary duty,
24 aiding and abetting breach of fiduciary duty, and conspiracy to commit breach of fiduciary
duty are governed by the law of the People’s Republic of China.

25 ⁷ Article 4 of the Several Provisions of the Supreme People’s Court on the
26 Retroactivity in the Application of the Civil Code of the People’s Republic of China
27 provides: “For cases of civil disputes arising from the legal facts occurring before the Civil
28 Code comes into force, where the laws or judicial interpretations in force at that time only
set forth fundamental provisions while the Civil Code set forth specific provisions, the laws
or interpretations in force at that time shall apply, but adjudicative reasoning can be made
according to the specific provisions of the Civil Code. Zhou Decl., ¶ 16, Ex. B-2.

1 personal lawful property left by the decedent and is a kind of property in nature.” Id. It
2 further explains: “Estate is certain lawful property that can be transferred to others legally,
3 and is restrictive in nature. The decedent’s property that can be transferred to another
4 person as an estate is limited to civil property, such as ownership, creditor’s rights, and
5 debts, etc. The rights and obligations of the decedent arising from the personality right and
6 personal relationships during his/her lifetime shall not be regarded as estate.” Id.

7 Based on the foregoing, as well as a discussion of relevant provisions of the Civil
8 Code, id. ¶¶ 19-25, Counter-Defendants’ expert opines that private property subject to
9 inheritance does not include an unasserted claim for breach of fiduciary duty. Id. ¶¶ 18,
10 20.⁸ He thus concludes that the fiduciary duty claims brought by Ms. Zhang were personal
11 to Li Rui and did not survive his death. Id. ¶¶ 13, 28-31.

12 Ms. Zhang does not challenge directly Counter-Defendants’ argument that the cited
13 provisions of Chinese law do not provide standing to bring claims for breach of fiduciary
14 duty on behalf of Li Rui. Instead, she challenges Counter-Defendants’ motion on three
15 ancillary grounds: (1) the reliability of the Zhou Declaration; (2) the applicability of the
16 Civil Code; and (3) the potential for standing under other provisions of Chinese law. In
17 support of these arguments, Ms. Zhang presents the declaration of her expert, Professor
18 Jacques DeLisle. Dkt. 73-1 (“DeLisle Declaration”). Her arguments are addressed in turn.

19 First, Ms. Zhang argues the Zhou Declaration is not a reliable source of Chinese
20 substantive law because Xiaolin Zhou has not been disclosed or qualified as an expert in
21 Chinese law under Rule 26(a)(2). As rightly noted by Counter-Defendants, however, “the
22 court may consider any relevant material or source, including testimony, whether or not
23 submitted by a party or admissible under the Federal Rules of Evidence” in making
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25 _____
26 ⁸ Because resolution of the instant motion does not depend on any application of the
27 Civil Code, a detailed discussion of its provisions and interpretation is omitted. In short,
28 the Zhou Declaration opines that Article 124 of the Civil Code maintains the same
definition of “lawful personal property” as Article 3 of the Law of Succession, while
Article 1122 provides further explanation and illustration as to that which is not inheritable
by nature. Zhou Decl. ¶¶ 22, 25.

1 determinations of foreign law. Fed. R. Civ. P. 44.1; see also Universal Trading & Inv. Co.
2 v. Kiritchenko, NO. C-99-03072 MMC (EDL), 2007 WL 2141296, at *4 (N.D. Cal. July
3 25, 2007) (finding Rule 44.1 does not require compliance with Rule 26(a)(2) where a
4 declaration or testimony is provided “only to assist the court in making determinations of
5 foreign law”). This challenge to the Zhou Declaration therefore is without merit.⁹

6 Second, Ms. Zhang argues the Civil Code cannot be applied retroactively for
7 adjudicative reasoning in this case. As stated above, provisions of the Civil Code may be
8 applied retroactively for adjudicative reasoning if they are more specific than the provisions
9 of the law in effect at the time the claim accrued. See Zhou Decl. ¶ 16; DeLisle Decl.
10 ¶¶ 35-36. According to Ms. Zhang’s expert, the relevant provisions of the Civil Code are
11 not more specific than the Law of Succession, and thus, do not qualify for retroactive
12 consideration. DeLisle Decl. ¶¶ 37-38. Even assuming that the Civil Code cannot be relied
13 upon for adjudicative reasoning, however, Ms. Zhang offers no rebuttal to Counter-
14 Defendants’ argument regarding Article 3 of the Law of Succession, which indisputably
15 governs. As rightly noted by Counter-Defendants, the only authority cited by either party
16 provides that the rights of the decedent arising from personal relationships during his/her
17 lifetime shall not be regarded as estate under Article 3. Thus, Counter-Defendants have
18 shown that, under the Law of Succession, the fiduciary duty claims were not inheritable.

19 On the issue of retroactivity, one further matter warrants discussion. Ms. Zhang
20 asserts that Counter-Defendants’ “ignore” the judgment in the Chinese Proceeding, and
21 “[do] not even attempt to suggest why this Court is better positioned to interpret Chinese
22 law than the court in China that already adjudicated Hoover’s claim and found for [her].”
23 Opp’n at 12. She further argues there can be no retroactivity under Chinese law where, as
24 here, a final judgment (i.e., the Chinese judgment) was entered before the Civil Code took
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26 ⁹ Insofar as the challenge to the Zhou Declaration also raises questions as to Xiaolin
27 Zhou’s qualifications to render an opinion on matters of Chinese law, it is likewise without
28 merit. Xiaolin Zhou appears well qualified to opine on the issues presented. See Zhou
Decl. ¶¶ 2-12 & Ex. A. Although Ms. Zhang finds fault in the Zhou Declaration, which she
attributes to a “lack of expertise,” Opp’n at 11, Dkt. 73, this assertion is baseless.

1 effect. Id. The DeLisle Declaration, in turn, devotes considerable attention to the Chinese
2 Proceeding, concluding that the Zhou Declaration “is curiously silent about the Chinese
3 Court judgment..., which looms large over this dispute.” DeLisle Decl. ¶ 57. This
4 discussion of the Chinese Proceeding is misguided. The Chinese Proceeding concerned
5 Ms. Zhang’s claim to ownership of the Li Materials. See Opp’n at 12; DeLisle Decl. ¶ 17.
6 It did not address the fiduciary duty claims at issue here, and there is no final judgment as
7 to these claims. Consequently, the Chinese Proceeding has no bearing on the questions
8 presented in this motion. It is not the Zhou Declaration’s silence on this matter, then,
9 which is curious, but rather, the emphasis placed on it by Ms. Zhang and her expert.

10 Lastly, Ms. Zhang argues that the Zhou Declaration ignores other provisions of
11 Chinese law that “could support” standing. Opp’n at 13. This argument is lacking,
12 however, as she only vaguely refers to laws that might support standing to bring other types
13 of claims.¹⁰ Specifically, Ms. Zhang notes that: (1) Chinese tort law permits close relatives
14 to bring something akin to a wrongful death claim on behalf of a deceased victim; (2) under
15 Article 4 of the Law of Succession, the rights, personal benefits, and income deriving from
16 an individual or personal contract can be inherited; and (3) under Article 994 of the Civil
17 Code, a close relative can bring suit where the “personality rights” (i.e., rights to privacy,
18 name, image, reputation, and honor) of the decedent are infringed, even though such rights
19 are not themselves inheritable. Because Ms. Zhang does not bring claims for wrongful
20 death, breach of contract, or infringement of Li Rui’s personality rights, however, these
21 provisions are of no aid to her. Accordingly, Counter-Defendants’ motion is granted with
22 respect to the seventh through ninth counterclaims.

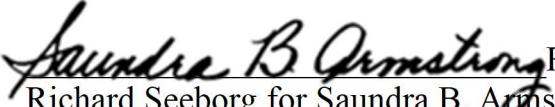
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25 ¹⁰ Ms. Zhang’s inability to pinpoint a specific provision of law conferring standing
26 to bring her fiduciary duty claims may be attributable, in part, to her expert’s assertion that
27 the claims may not have a firm basis in Chinese law. See DeLisle Decl. ¶ 56 (identifying
28 one or more provisions that “might provide a basis for a cognizable claim under Chinese
law that is, in essence, a claim for a breach of fiduciary duty” based on the facts alleged).
Of course, to the extent Chinese law does not recognize the sort of claims alleged by
Ms. Zhang, that would provide another ground for granting Counter-Defendants’ motion.

1 **IV. CONCLUSION**

2 For the reasons stated above, IT IS HEREBY ORDERED THAT Counter-
3 Defendants' motion for judgment on the pleadings is denied as to the second counterclaim
4 and granted as to the seventh through ninth counterclaims.

5 IT IS SO ORDERED.

6 Dated: 9/28/2022

 RS
Richard Seeborg for Sandra B. Armstrong
United States District Judge

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