

Employees Could Proceed with Malicious Prosecution Action Against Former Employer's Counsel

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[Parrish v. Latham & Watkins LLP](#), 2014 WL 4220542 (Cal. Ct. App. 2014)

In a prior litigation, FLIR Systems, Inc., and Indigo Systems Corp. (collectively, "FLIR") brought suit against their former employees, William Parrish and E. Timothy Fitzgibbons (the "Former Employees"), for, among other things, misappropriation of trade secrets. The Former Employees defeated the claims and then obtained a ruling that the misappropriation of trade secrets claim had been brought against them in bad faith, which resulted in an order that FLIR pay the Former Employees their attorney's fees and costs in an amount exceeding \$1.6 million. Thereafter, the Former Employees brought this malicious prosecution claim against FLIR's attorneys (Latham & Watkins LLP), which Latham moved to strike under the anti-SLAPP statute (Cal. Civ. Proc. Code § 425.16). The trial court granted Latham's motion, but the Court of Appeal reversed, holding that the Former Employees had established a probability of prevailing on the merits because the action was not barred by the statute of limitations and because there was evidence of a lack of probable cause for prosecuting the underlying action. See also [Gotterba v. Travolta](#), 228 Cal. App. 4th 35 (2014) (anti-SLAPP motion filed in response to declaratory relief action that was filed following receipt of attorney's letters threatening litigation over a contract dispute was properly denied).

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National Law Review, Volume IV, Number 251

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