

1 BETH FRUECHTENICHT ANEY (SBN 208847)

2 APPLE AMERICAN GROUP, LLC

3 225 Bush Street, Suite 1800

4 San Francisco, California 94104

5 Telephone: (415) 912-1152

6 Facsimile: (415) 835-9702

7 Attorneys for Defendant,

8 Apple American Group, LLC

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

02/03/2015
Clerk of the Court

BY: WILLIAM TRUPEK

Deputy Clerk

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

JERAE RUSSELL,

Plaintiff,

vs.

APPLE AMERICAN GROUP, LLC,
and DOES 1-20,

Defendants.

) Case No.: CGC-15-543480

)
) **DEFENDANT APPLE AMERICAN**
) **GROUP, LLC'S REQUEST FOR**
) **JUDICIAL NOTICE IN SUPPORT OF**
) **DEMURRER TO COMPLAINT**

) Date: June 29, 2015

) Time: 9:30 a.m.

) Dept.: 302

) **Reservation Number: 012215-06**

) Action Filed: 1/2/15

Defendant APPLE AMERICAN GROUP, LLC ("Defendant") respectfully requests that, pursuant to California Evidence Code §452, the Court take judicial notice of the following pleadings and documents filed in the instant action entitled *Russell v. Apple American Group, LLC*, San Francisco County Superior Court Case No. CGC-15-543480, true and correct copies of which are attached hereto:

Exhibit A: Plaintiff's Complaint

Dated: February 3, 2015

APPLE AMERICAN GROUP, LLC

By: 

BETH FRUECHTENICHT ANEY

Attorneys for Defendant

APPLE AMERICAN GROUP, LLC

EXHIBIT "A"

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
Stephen R. Jaffe (SBN: 49539) Bailey K. Bifoss (SBN: 278392) THE JAFFE LAW FIRM 150 California Street, 21st Floor, San Francisco, 94111 TELEPHONE NO: (415) 618-0100 FAX NO. (Optional): (415) 618-0080 E-MAIL ADDRESS (Optional): bailey.k.bifoss@jaffetrialaw.com ATTORNEY FOR (Name): Jerac Russell		<div>ENDORSED FILED Superior Court of California County of San Francisco JAN 02 2015 CLERK OF THE COURT ROSSALY DELAVEGA-NAVARRO Deputy Clerk</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, 94102 BRANCH NAME:		
PLAINTIFF: Jerac Russell DEFENDANT: Apple American Group, LLC ("AAG")		
<input checked="" type="checkbox"/> DOES 1 TO 20 COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: CGC-15-543480

1. Plaintiff (name or names): Jerac Russell
alleges causes of action against defendant (name or names):
American Apple Group, LLC ("AAG")
2. This pleading, including attachments and exhibits, consists of the following number of pages: 4
3. Each plaintiff named above is a competent adult
- a. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
- (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- (b) ☐ other (specify):
- (5) ☐ other (specify):
- b. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
- (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

4. ☐ Plaintiff (name):

Is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): Apple American Group c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☒ other (specify):

Limited Liability Company

(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 11-20 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ Injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE:	CASE NUMBER:
--------------	--------------

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☐ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☐ loss of earning capacity
- g. ☒ other damage (specify): *emotional damages*

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: *12/15*
~~December 8, 2014~~

Bailey K. Bifoss

(TYPE OR PRINT NAME)

Bailey K. Bifoss
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Russell v. AAG	CASE NUMBER:
--------------------------------	--------------

1 (number) **CAUSE OF ACTION—General Negligence** Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Jerae Russell

alleges that defendant (name): Apple American Group

☒ Does 1 to 20

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): April 9, 2014

at (place): Applebee's Fisherman Wharf, 2770 Taylor Street, San Francisco 94133

(description of reasons for liability):

Russell, a 28 week pregnant waitress at Applebee's, drank a smoothie prepared by a co-worker while at work. After she drank half the smoothie, Russell discovered the smoothie contained shards of glass. Russell suffered damage to her throat, severe anxiety and stress due to possible complications of ingesting glass and the effect on her pregnancy.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 225 Bush Street, Suite 1800, San Francisco, CA 94104.

On February 3, 2015, I caused the following documents:

• **DEFENDANT'S REQUEST FOR JUDICIAL NOTICE**

to be served on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

**Stephen Jaffe, Esq.
Bailey Bifoss, Esq.
The Jaffe Law Firm
150 California Street, 21st Floor
San Francisco, CA 94111
Tel (415) 618-0100
Attorneys for Plaintiff**

[X] (BY MAIL) I caused such envelope(s) fully prepaid to be placed in the United States Mail at San Francisco, California. I am "readily familiar" with the firm's practice of collection and processing correspondence or mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 3, 2015, at San Francisco, California.


BETH FRUECHTENICHT ANEY