

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

FOR COURT USE ONLY

L.M. Parmenter (SBN 176196)
PARMENTER LAW OFFICES
501 B Street, Ste. 200
San Rafael CA 94901

TELEPHONE NO: (415) 738-7901

FAX NO. (Optional): (415) 738-7901

E-MAIL ADDRESS (Optional): lmparmenter@lawpar.com

ATTORNEY FOR (Name): Plaintiff- May Wong

FILED
SAN MATEO COUNTY

MAY 17 2017

Clerk of the Superior Cou.

REGISTRY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

STREET ADDRESS: 400 County Center Street

MAILING ADDRESS: same

CITY AND ZIP CODE: Redwood City, Ca 94063

BRANCH NAME: San Mateo Superior Court

PLAINTIFF: MAY WONG

DEFENDANT: ELEPHANT BAR RESTAURANT

DOES 1 TO 20

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

AMENDED (Number):

Type (check all that apply):

MOTOR VEHICLE OTHER (specify): Warranty Merch. of Food

Property Damage Wrongful Death

Personal Injury Other Damages (specify):

Jurisdiction (check all that apply):

ACTION IS A LIMITED CIVIL CASE

Amount demanded does not exceed \$10,000

exceeds \$10,000, but does not exceed \$25,000

ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)

ACTION IS RECLASSIFIED by this amended complaint

from limited to unlimited

from unlimited to limited

CASE NUMBER:

17CIV02168

1. Plaintiff (name or names): May Wong

alleges causes of action against defendant (name or names):

Elephant Bar Restaurant, Does 1-20

2. This pleading, including attachments and exhibits, consists of the following number of pages: 6

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.

17 - CIV - 02168

CMP

Complaint

508753



SHORT TITLE: Wong v. Elephant Bar Resteraunt, et al.	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*): **Elephant Bar Resterau** c. **except** defendant (*name*):
- | | |
|--|---|
| (1) <input checked="" type="checkbox"/> a business organization, form unknown
(2) <input type="checkbox"/> a corporation
(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):

(4) <input type="checkbox"/> a public entity (<i>describe</i>):

(5) <input type="checkbox"/> other (<i>specify</i>): | (1) <input type="checkbox"/> a business organization, form unknown
(2) <input type="checkbox"/> a corporation
(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):

(4) <input type="checkbox"/> a public entity (<i>describe</i>):

(5) <input type="checkbox"/> other (<i>specify</i>): |
|--|---|
- b. **except** defendant (*name*):
- | | |
|---|---|
| (1) <input type="checkbox"/> a business organization, form unknown
(2) <input type="checkbox"/> a corporation
(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):

(4) <input type="checkbox"/> a public entity (<i>describe</i>):

(5) <input type="checkbox"/> other (<i>specify</i>): | d. <input type="checkbox"/> except defendant (<i>name</i>):
(1) <input type="checkbox"/> a business organization, form unknown
(2) <input type="checkbox"/> a corporation
(3) <input type="checkbox"/> an unincorporated entity (<i>describe</i>):

(4) <input type="checkbox"/> a public entity (<i>describe</i>):

(5) <input type="checkbox"/> other (<i>specify</i>): |
|---|---|
- 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*): 1-20 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*): 1-20 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, and
- a. has complied with applicable claims statutes, or
- b. is excused from complying because (*specify*):

SHORT TITLE: Wong v. Elephant Bar Resteraunt, et al.	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*):

Implied Warranty of Merchantability of Food

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*):

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: May 01, 2017

Ligia M. Parmenter
 (TYPE OR PRINT NAME)

 FAX
 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Wong v. Elephant Bar Rest., et al.	CASE NUMBER:
--	--------------

FIRST _____ CAUSE OF ACTION—General Negligence Page 4
 (number)

ATTACHMENT TO Complaint Cross - Complaint

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

GN-1. Plaintiff (name): May Wong

alleges that defendant (name): Elephant Bar Resteraunt,

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): on or abt12/23/2015

at (place): San Mateo County, California

(description of reasons for liability):

Plaintiff re-alleges and incorporates herein, all allegations contained in this Complaint.

Plaintiff, May Wong, was a invitee at the Defendant Elephant Bar Restaurant on or about December 23, 2015. Plaintiff was consuming food she ordered at the Defendant Elephant Bar Restaurant on the date of this incident.

By virtue of the aforesaid, Defendants and each of them, owed a duty of ordinary care to the Plaintiff, to use the degree of care and skill that a reasonable prudent person would use under similar circumstances In this case to use the degree of care that a "food preparer" or restaurateur would use when serving food for the consumption of the public at a restaurant.

Defendants, and each of them breached the aforesaid duties of care.

As a direct and legal result of the aforesaid, Plaintiff sustained injuries and harm. As a further direct legal result of the aforesaid, Plaintiff sustained medical costs, health care costs, lost income and other damages in a sum according to proof at trial.

SHORT TITLE: Wong v. Elephant Bar Rest., et al.	CASE NUMBER:
--	--------------

SECOND **CAUSE OF ACTION—Premises Liability** Page 5
(number)

ATTACHMENT TO Complaint Cross - Complaint
(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): May Wong
alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.
On (date): on or about 12/23/15 plaintiff was injured on the following premises in the following fashion (description of premises and circumstances of injury):

On or about December 23, 2015, Plaintiff May Wong was dining as a patron of the Defendant Elephant Bar Restaurant located in Serramonte, San Mateo County - California and was in the process of consuming food she had ordered and which had been brought to her table for her consumption. The food which the Plaintiff consumed was harmful when consumed in that a sharp object severely cut and lacerated, Plaintiff's mouth, gums, throat and esophagus.

Prem.L-2. **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
Elephant Bar Restaurant

Does 1 to 20

Prem.L-3. **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):

Elephant Bar Restaurant

Does 1 to 20

Plaintiff, a recreational user, was an invited guest a paying guest.

Prem.L-4. **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

Does _____ to _____

- a. The defendant public entity had actual constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b. The condition was created by employees of the defendant public entity.

Prem.L-5. a. **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):
Elephant Bar Restaurant

Does 1 to 20

- b. The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are described in attachment Prem.L-5.b as follows (names):
Elephant Bar Restaurant and Does 1-20

SHORT TITLE: Wong v. Elephant Bar Rest.	CASE NUMBER:
--	--------------

ATTACHMENT (Number): page 6

(This Attachment may be used with any Judicial Council form.)

THIS CAUSE OF ACTION - IMPLIED WARRANTY OF MERCHANTABILITY OF FOOD

Plaintiff re-alleges and incorporates herein, all allegations contained in this Complaint.

On or about December 23, 2015, Plaintiff May Wong was dining as a patron of the Defendant Elephant Bar Restaurant located in Serramonte, San Mateo County - California and was in the process of consuming food she had ordered and which had been brought to her table for her consumption.

At the time of the above purchase of food at the Elephant Bar Restaurant by the Plaintiff, Defendant was in the business of selling food product and held itself out to the public as having special knowledge or skill regarding the food which the Plaintiff had ordered and which was consumed by Plaintiff.

The food which the Plaintiff consumed was harmful when consumed in that a sharp object severely cut and lacerated, Plaintiff's mouth, gums, throat and esophagus.

The average consumer would not reasonably have expected the harmful condition that existed within the food.

Plaintiff May Wong was harmed as a result of the negligence of the Defendants, and each of them.

The food which the Plaintiff consumed caused

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page _____ of _____

(Add pages as required)