

FOR COURT USE ONLY

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

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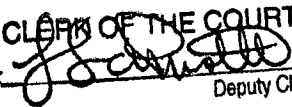
CITY AND ZIP CODE: San Francisco, 94102-4515

BRANCH NAME: Civic Center Courthouse

**FILED**Superior Court of California  
County of San Francisco

MAR 02 2020

CLERK OF THE COURT

BY:  Deputy Clerk

PLAINTIFF: Alicia Bryant, Shemaiah Small as guardian ad litem to Gallilee

Small-County

DEFENDANT: Airbnb Inc., Michael Young Wang, Wenlin Lou and

☒ DOES 1 TO 100**COMPLAINT—Personal Injury, Property Damage, Wrongful Death**☐ **AMENDED (Number):**

Type (check all that apply):

☐ MOTOR VEHICLE ☒ OTHER (specify):☐ Property Damage ☒ Wrongful Death☐ Personal Injury ☐ Other Damages (specify):

Jurisdiction (check all that apply):

☐ ACTION IS A LIMITED CIVIL CASEAmount 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:

CGC-20-583357

DEMAND FOR JURY

1. Plaintiff (name or names): Alicia Bryant, Shemaiah Small as guardian ad litem to Gallilee Small-County alleges causes of action against defendant (name or names): Airbnb Inc., Michael Young Wang, Wenlin Lou and Does 1 through 100
2. This pleading, including attachments and exhibits, consists of the following number of pages: 7
3. Each plaintiff named above is a competent adult
- a. ☒ except plaintiff (name): Gallilee Small-County
- (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): Application for guardian ad litem to be submitted prior to issuance of summons.
- (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.

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ORIGINAL

By Fax

SHORT TITLE: Bryant et al., v. Airbnb et al

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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): Airbnb, Inc(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):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):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): 1-100 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): 1-100 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: Bryant et al., v. Airbnb 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*):

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*): Prejudgment interest and wrongful death damages, see paragraph 12.

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

- a. ☐ listed in Attachment 12.
- b. ☒ as follows: All wrongful death damages, including, but not limited to: loss of financial support; loss of gifts and benefits; reasonable value of household services; loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, training and guidance.

Alicia Bryant is the mother of decedent Javlin J. County. Gallilee Small-County is the natural daughter of decedent Javlin J. County.

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: 2-27-2020

Christopher B. Dolan/Dianna L. Albini

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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FIRST  
(number)**CAUSE OF ACTION—General Negligence**

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ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): Alicia Bryant, Shemaiah Small as guardian ad litem to Gallilee Small-County

alleges that defendant (name): Airbnb Inc., Michael Young Wang, Wenlin Lou and

☒ Does 1 to 100

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): October 31, 2019

at (place): 114 Lucille Way, Orinda, California

(description of reasons for liability):

1. Plaintiffs hereby incorporates by reference each and every paragraph contained in this complaint.
2. 114 Lucille Way, in Orinda, California ("SUBJECT PROPERTY") is a home owned by Defendants Michael Young Wang and Wenlin Lou;
3. The SUBJECT PROPERTY is used for a short term rental, advertised as a party house through Airbnb, Inc.
4. The SUBJECT PROPERTY owners, Defendants Michael Young Wang and Wenlin Lou registered their home in the City of Orinda as a short term rental.
5. City of Orinda Ordinance No. 17.3.12, limits the occupants of a short term rental. In this matter, the City of Orinda Ordinance No. 17.3.12 limits the occupancy of the SUBJECT PROPERTY to 11.
6. Defendants Michael Young Wang and Wenlin Lou, Defendant Airbnb Inc., rented and/or leased the SUBJECT PROPERTY as a house great for party's.
7. Prior to October 31, 2019, Defendants, and each of them, knew or should have known that short term rental at the SUBJECT PROPERTY occurred regularly for purposes of parties where the following would occur, which includes but not limited to, illicit and/or illegal drug consumption and/or sale, illegal purchase and sale of alcohol, underage drinking, large crowds of more than 100 people, vandalism and/or trespass to adjacent properties, loud music, interference with ingress and egress, littering on adjacent properties, fighting, threats, etc.
8. On or before October 31, 2019, the SUBJECT PROPERTY was rented/leased or otherwise acquired through Defendant Airbnb Inc. for purposes of a Halloween Party in which there were approximately 100 attendees, including 29 year-old Decedent Javlin J. County.
9. Defendants Michael Young Wang and Wenlin Lou knew or should have known that on October 31, 2019, the SUBJECT PROPERTY would host a Halloween party and that it was foreseeable due to the underage drinking, large crowds of more than 100 people, vandalism and/or trespass to adjacent properties, illicit and/or illegal drug consumption and/or sale, illegal purchase and sale of alcohol, loud music, interference with ingress and egress, littering on adjacent properties, fighting, threats, etc., paying party guest, such as Decedent Javlin County, could suffer serious and/or fatal injuries.
10. At the time of the incident, Defendants Airbnb, Inc., Michael Young Wang and Wenlin Lou and/or Does 1 - 40, and each of them, owned, and/or controlled, and/or managed, and/or operated, and/or maintained, and/or leased, and/or otherwise possessed the SUBJECT PROPERTY.
11. During the October 31, 2019 Halloween Party, one or more attendees were in possession of a firearm which was repeatedly discharged striking other guests, including Decedent Javlin J. County, directly and proximately causing fatal injuries to Decedent Javlin J. County.

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ATTACHMENT (Number): GN-1

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

12. Prior to October 31, 2019, Defendants Michael Young Wang and Wenlin Lou were repeatedly cited, warned and/or instructed that their use of the SUBJECT PROPERTY as a short term residence violated the City of Orinda Ordinances related to the number of legally allowed occupants to possess the SUBJECT PROPERTY.

13. Defendants, and each of them, owed a duty of reasonable care toward Plaintiff based upon Defendants Airbnb Inc., Michael Young Wang and Wenlin Lou and Does 1 - 40, owned and/or controlled, and/or managed, and/or operated, and/or maintained, rented and/or leased, and/or possessed the SUBJECT PROPERTY. This duty is based on California Civil Code section 1714, which requires all persons to act in a reasonable manner toward others. Pursuant to California Civil Code section 1714(a), "[e]veryone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management, of his or her property or person . . ."

14. Plaintiffs are informed and based upon such information and belief allege that Defendants Airbnb Inc., Michael Young Wang and Wenlin Lou and Does 1 - 40, failed to prevent Decedent Javlin J. County's death by, including but not limited to, complying with statutes, laws and the City of Orinda Ordinance No. 17.3.12. Defendants, and each of them, breached this duty as set forth in paragraph 13.

15. As a direct and proximate cause of the unlawful conduct and/or omissions of Defendants, and each of them, Plaintiffs suffered wrongful death damages, including, but not limited to: loss of financial support; loss of gifts and benefits; reasonable value of household services; loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, training and guidance.

16. Plaintiffs are unaware of any valid agreement to arbitrate these claims. Should a court of competent jurisdiction determine otherwise, Plaintiffs do not repudiate that agreement by filing this complaint.

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

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(Add pages as required)

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

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ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

Prem.L-1. Plaintiff (name): Alicia Bryant, Shemaiah Small as guardian ad litem to Gallilee Small-County alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.  
 On (date): October 31, 2019 plaintiff was injured on the following premises in the following fashion (description of premises and circumstances of injury): 1. Plaintiffs hereby incorporates by reference each and every paragraph contained in this complaint as though fully set forth herein.  
 2. On October 31, 2019, Javlin J. County sustained fatal injuries while attending a Halloween Party at 114 Lucille Way, in Orinda, California ("SUBJECT PROPERTY"), is a home owned by Defendants Michael Young Wang and Does 1-100. Continued on Attachment Prem.L-1.

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names): Airbnb Inc., Michael Young Wang, Wenlin Lou and

☒ Does 1 to 100

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): Airbnb Inc., Michael Young Wang, Wenlin Lou and

☒ Does 41 to 50 Decedent Javlin J. County  
 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): Airbnb Inc., Michael Young Wang, Wenlin Lou and

☒ Does 30 to 40

- 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):

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ATTACHMENT (Number): Prem.L-1

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

3. The SUBJECT PROPERTY is used for a short term rental, advertised as a party house through Airbnb, Inc.
4. The SUBJECT PROPERTY owners, Defendants Michael Young Wang and Wenlin Lou registered their home in the City of Orinda as a short term rental.
5. City of Orinda Ordinance No. 17.3.12, limits the occupants of a short term rental. In this matter, the City of Orinda Ordinance No. 17.3.12 limits the occupancy of the SUBJECT PROPERTY to 11.
6. Defendants Michael Young Wang and Wenlin Lou, Defendant Airbnb Inc., rented and/or leased the SUBJECT PROPERTY as a house great for party's.
7. Prior to October 31, 2019, Defendants, and each of them, knew or should have known that short term rental at the SUBJECT PROPERTY occurred regularly for purposes of parties where the following would occur, which includes but not limited to, illicit and/or illegal drug consumption and/or sale, illegal purchase and sale of alcohol, underage drinking, large crowds of more than 100 people, vandalism and/or trespass to adjacent properties, loud music, interference with ingress and egress, littering on adjacent properties, fighting, threats, etc.
8. On or before October 31, 2019, the SUBJECT PROPERTY was rented/leased or otherwise acquired through Defendant Airbnb Inc. for purposes of a Halloween Party in which there were approximately 100 attendees, including 29 year-old Decedent Javlin J. County.
9. Defendants Michael Young Wang and Wenlin Lou knew or should have known that on October 31, 2019, the SUBJECT PROPERTY would host a Halloween party and that it was foreseeable due to the underage drinking, large crowds of more than 100 people, vandalism and/or trespass to adjacent properties, illicit and/or illegal drug consumption and/or sale, illegal purchase and sale of alcohol, loud music, interference with ingress and egress, littering on adjacent properties, fighting, threats, etc., paying party guest, such as Decedent Javlin County, could suffer serious and/or fatal injuries.
10. At the time of the incident, Defendants Airbnb, Inc., Michael Young Wang and Wenlin Lou and/or Does 1 - 40, and each of them, owned, and/or controlled, and/or managed, and/or operated, and/or maintained, and/or leased, and/or otherwise possessed the SUBJECT PROPERTY.
11. During the October 31, 2019 Halloween Party, one or more attendees were in possession of a firearm which was repeatedly discharged striking other guests, including Decedent Javlin J. County, directly and proximately causing fatal injuries to Decedent Javlin J. County.
12. Prior to October 31, 2019, Defendants Michael Young Wang and Wenlin Lou were repeatedly cited, warned and/or instructed that their use of the SUBJECT PROPERTY as a short term residence violated the City of Orinda Ordinances related to the number of legally allowed occupants to possess the SUBJECT PROPERTY.
13. Defendants, and each of them, owed a duty of reasonable care toward Plaintiff based upon Defendants Airbnb Inc., Michael Young Wang and Wenlin Lou and Does 1 - 40, owned and/or controlled, and/or managed, and/or operated, and/or maintained, rented and/or leased, and/or possessed the SUBJECT PROPERTY. This duty is based on California Civil Code section 1714, which requires all persons to act in a reasonable manner toward others. Pursuant to California Civil Code section 1714(a), "[e]veryone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management, of his or her property or person . . ."
14. Plaintiffs are informed and based upon such information and belief allege that Defendants Airbnb Inc., Michael Young Wang and Wenlin Lou and Does 1 - 40, failed to prevent Decedent Javlin J. County's death by, including but not limited to, complying with statutes, laws and the City of Orinda Ordinance No. 17.3.12. Defendants, and each of them, breached this duty as set forth in paragraph 13.
15. As a direct and proximate cause of the unlawful conduct and/or omissions of Defendants, and each of them, Plaintiffs suffered wrongful death damages, including, but not limited to: loss of financial support; loss of gifts and benefits; reasonable value of household services; loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, training and guidance.
16. Plaintiffs are unaware of any valid agreement to arbitrate these claims. Should a court of competent jurisdiction determine otherwise, Plaintiffs do not repudiate that agreement by filing this complaint.

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

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(Add pages as required)

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**Exemplary Damages Attachment**Page 8ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

EX-1. As additional damages against defendant (name): Airbnb Inc., Michael Young Wang, Wenlin Lou and Does 1 to 100,

Plaintiff alleges defendant was guilty of

☒ malice☒ fraud☒ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Plaintiffs incorporate each and every paragraph of this complaint as though fully set forth herein.

Plaintiffs are informed and believe and based upon such information and belief allege that Defendants Airbnb Inc., Michael Young Wang, Wenlin Lou and Does 1 to 100 knew that it was a violation of state, federal and/or the City of Orinda Ordinances, including but not limited to No. 17.3.12, to use short term rental property as a party house and that the maximum occupancy of a short term rental in the City of Orinda was limited to approximately 11 individuals. Despite this and in willful and conscious disregard to the safety and welfare others continued to rent the SUBJECT PROPERTY as a party house.

Plaintiffs are informed and believe and based upon such information and belief allege that Defendant Airbnb Inc., Michael Young Wang, Wenlin Lou and Does 1 to 100, prior to October 31, 2019, were informed verbally and in writing by local residents, governmental entities and/or others that illicit, illegal and/or violent conduct, illegal sale and consumption of alcohol, illicit drug use was occurring weekly at the SUBJECT PROPERTY located at 114 Lucille Way in Orinda, California, due to the SUBJECT PROPERTY's use as a party house.

Defendants, and each of them knowingly and intentionally promoted and/or encouraged violation of the law by authorizing the use of the SUBJECT PROPERTY as a party house when they knew the following conduct was occurring at the SUBJECT PROPERTY: underage drinking, large crowds of more than 100 people would congregate, vandalism and/or trespass to adjacent properties, loud music, interference with ingress and egress, property damage, littering on adjacent properties, fighting, threats, etc., that it was foreseeable that party guests, such as Decedent Javlin County, could suffer serious and/or fatal injuries.

Plaintiffs are informed and believe and based upon such information and belief allege that prior to October 31, 2019, Defendants Airbnb Inc., Michael Young Wang, Wenlin Lou and Does 1 to 100, knew of the similar circumstances of an Airbnb party house event resulting in catastrophic injury occurring in approximately 2016 at short term Airbnb Inc rental in the City of Orinda, in close proximity to the SUBJECT PROPERTY.

Prior to October 31, 2019, Defendants, and each of them intentionally misrepresented or omitted that their short term rental property at 114 Lucille Way, Orinda, California complied and/or operated within the laws, regulations, and local city ordinances for operating a short term rental in the City of Orinda such that party attendees relied on the safety associated with a such an event.

Despite Defendants, and each of their knowledge that operating short term rentals as a party house causes serious harm to those attending parties at the SUBJECT PROPERTY, such as Decedent Javlin County. Despite such knowledge, Defendants, and each of their conduct in promoting, advertising and/or encouraging the use of the SUBJECT PROPERTY as a party house was carried on with a willful and conscious disregard for the rights, safety, and/or welfare of others.

Defendants, and each of them exhibited conduct that was despicable in that it was carried on with a willful and conscious disregard for the rights and safety of others.

EX-3. The amount of exemplary damages sought is

a. ☐ not shown, pursuant to Code of Civil Procedure section 425.10.b. ☐ \$