

1 Alfred W. Gerisch, Jr., State Bar No. 57088
2 Mark M. Williams, State Bar No. 089848
3 David J. Ozeran, State Bar No. 137452
4 LA FOLLETTE, JOHNSON, DE HAAS, FESLER & AMES
5 865 South Figueroa Street, 31st Floor
6 Los Angeles, California 90017-5443
7 Phone (213) 426-3600
8 Fax (213) 426-3650

9 Attorneys for Defendants/Cross-Complainants,
10 LINDSAY LOHAN and
11 CROSSHEART PRODUCTIONS, INC.

FILED
LOS ANGELES SUPERIOR COURT

JAN 02 2008

JOHN A. LYNN, CLERK

BY A E LA FLEUR-CLAYTON, DEPUTY

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

14 RAYMUNDO ORTEGA, an individual,
15 Plaintiff(s),

16 vs.

17 LINDSAY LOHAN, an individual;
18 CROSSHEART PRODUCTIONS, INC.;
19 THE IVY, a business entity of unknown
20 form; and DOES 1 through 100 inclusive,

21 Defendant(s).

22 AND ALL RELATED ACTIONS.

Case No. BC372753

ASSIGNED FOR ALL PURPOSES TO:
Michael L. Stern
Dept. "62"

REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
MOTION FOR SUMMARY
ADJUDICATION

DATE: March 21, 2008
TIME: 8:30 a.m.
DEPT: 62

DISCOVERY CUT-OFF: 03/07/08
MOTION CUT-OFF: 03/07/08
TRIAL DATE: 04/07/08
ACTION FILED: 06/14/07

23 TO ALL PARTIES AND THEIR COUNSEL:

24 Pursuant to Evidence Code sections 452(d) and 453, defendant, Lindsay Lohan,
25 respectfully requests that the court take judicial notice of the declarations of Adam
26 Novicki and Alonzo Howell, attached hereto as exhibits A and B, respectively. This
27 request for judicial notice is being filed in support of Ms. Lohan's motion for summary
28 adjudication, set for hearing on March 21, 2008 at 8:30 a.m. in Department 62.

The declaration of Adam Novicki is contained in the court's file in this matter,

1
REQUEST FOR JUDICIAL NOTICE

1 and was filed as exhibit G to the motion for summary judgment filed by The Ivy on or
2 about December 21, 2007, and set for hearing on March 21, 2008.

3 The declaration of Alonzo Howell is contained in the court's file in this matter,
4 and was filed as exhibit I to the motion for summary judgment filed by The Ivy on or
5 about December 21, 2007, and set for hearing on March 21, 2008.

6
7 DATED: December 31, 2007

LA FOLLETTE, JOHNSON, DE HAAS,
FESLER & AMES

8
9 By: 

10 DAVID J. OZERA
11 Attorneys for Defendants/Cross-
12 Complainants, LINDSAY LOHAN and
13 CROSSHEART PRODUCTIONS, INC.

LA FOLLETTE, JOHNSON, DE HAAS, FESLER & AMES

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T M Z

DECLARATION OF ADAM NOVICKI

I, ADAM NOVICKI, declare and state as follows:

1. I am not a named party to the within action. I am employed as a server for L.A. Desserts, Inc. dba the Ivy (hereinafter referred to as "The Ivy"), located at 113 North Robertson Boulevard, Los Angeles, California. I am over the age of 18. The facts set forth herein are of my own personal knowledge. If called upon to testify regarding the following, I could and would do so based upon my own personal knowledge.

2. I have been employed at the Ivy since January 2002.

3. On October 4, 2005, I worked at The Ivy from 11:00 a.m. until approximately 4:30 p.m.

4. On the afternoon of October 4, 2005, I saw Lindsay Lohan arrive at The Ivy with a female friend. They sat at a table on the outside patio of The Ivy. Several paparazzi photographers stood outside the restaurant while Ms. Lohan was at The Ivy.

5. Ms. Lohan showed no signs of intoxication when she arrived at The Ivy. Her eyes were not bloodshot or glassy. She was steady when she walked, she kept her balance and did not stagger or stumble. She was coherent and spoke without slurring her words. Her face was not flushed and she did not smell of alcohol. Her conduct was normal, she was not loud, boisterous or argumentative.

6. I was the server assigned to Ms. Lohan's table.

7. Ms. Lohan ordered a ginger ale and her friend ordered a diet Coke.

8. Approximately ten minutes after Ms. Lohan arrived at The Ivy, three more women arrived and joined Ms. Lohan and her friend at their table.

9. Some of the women at Ms. Lohan's table ordered Ivy Gimlets. The Ivy Gimlet is the restaurant's signature drink. It comes in a cocktail glass with clear crushed ice, a sugared rim and has a large sprig of mint.

10. I requested identification from the women who ordered the Ivy Gimlets. Each woman that ordered an Ivy Gimlet presented me with a valid identification which indicated that they were at least 21 years of age.

11. Ms. Lohan did not order an Ivy Gimlet or any other alcoholic beverage.

12. I did not serve, sell or give Ms. Lohan an Ivy Gimlet or any other alcoholic beverage at The Ivy on October 4, 2005.

13. I did not see any other employees at The Ivy serve, give or sell Ms. Lohan an Ivy Gimlet or any other alcoholic beverage on October 4, 2005.

14. I frequently checked on Ms. Lohan's table and never saw her consume any alcohol at The Ivy on October 4, 2005.

15. I did not see Ms. Lohan drink any other person's alcoholic beverage at The Ivy on October 4, 2005.

16. Ms. Lohan showed no signs of obvious intoxication at any time while she was at The Ivy on October 4, 2005. Her demeanor stayed the same, she remained well coordinated, spoke intelligibly, her eyes were clear, and she never smelled of alcohol.

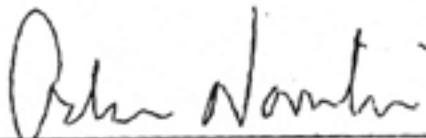
17. There were approximately ten paparazzi photographers standing outside of The Ivy during the entire time that Ms. Lohan and the other women were at the restaurant. After their meal, Ms. Lohan and her party left The Ivy and walked away from the restaurant with the paparazzi following them down the street.

18. When Ms. Lohan left The Ivy on October 4, 2005, she did not appear intoxicated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of December, 2007, at Los Angeles

California.


ADAM NOVICKI

1/2/08

DECLARATION OF ALONZO HOWELL

I, ALONZO HOWELL, declare and state as follows:

1. I am not a named party to the within action. I am over the age of 18. The facts set forth herein are of my own personal knowledge. If called upon to testify regarding the following, I could and would do so based upon my own personal knowledge.

2. I have been employed as a police officer with the Los Angeles Police Department for over 20 years. When I am off duty, I sometimes work as a security officer for L.A. Desserts, Inc., dba The Ivy (hereinafter referred to as "The Ivy"), located at 113 North Robertson Boulevard, Los Angeles, California.

3. On October 4, 2005, I was working as a security officer at The Ivy.

4. On the afternoon of October 4, 2005, I saw Lindsay Lohan arrive at The Ivy. Ms. Lohan showed no signs of intoxication when she arrived. She appeared coherent, spoke without slurring words, was steady on her feet, walked without staggering, maintained her complete balance and her eyes were not bloodshot.

5. Ms. Lohan sat at a table on the outside patio of The Ivy with approximately four other women. Several paparazzi photographers stood outside the restaurant while Ms. Lohan was at The Ivy.

6. I stood on the patio near Ms. Lohan's table and had an unobstructed view of Ms. Lohan while she was at The Ivy. I watched Ms. Lohan and her group to ensure that they would not be disturbed by others.

7. I am aware that the "Ivy Gimlet" is an alcoholic beverage, and I recognize the drink. It is The Ivy's signature cocktail and comes in a cocktail glass with clear crushed ice, a sugared rim and has a large sprig of mint.

8. Adam Novicki was the server for Ms. Lohan's table on October 4, 2005. I did not see Mr. Novicki serve, sell or give Ms. Lohan an Ivy Gimlet or any other alcoholic beverage on October 4, 2005.

9/2/06

EXB ✓

9. I did not see any employee of The Ivy or any other person serve, sell or give Ms. Lohan an Ivy Gimlet or any other alcoholic beverage on October 4, 2005.

10. I did not see Ms. Lohan consume or drink an Ivy Gimlet or any other alcoholic beverage at The Ivy on October 4, 2005.

11. I did not see or hear Ms. Lohan order an Ivy Gimlet or any other alcoholic beverage at any time while she was at The Ivy on October 4, 2005.

12. Ms. Lohan did not appear intoxicated at any time while she was at The Ivy on October 4, 2005.

13. I saw Ms. Lohan and her group leave The Ivy after their meal. When Ms. Lohan left The Ivy on October 4, 2005, she did not appear intoxicated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 7TH day of DECEMBER, 2007, at LOS ANGELES, California.


ALONZO HOWELL

1/27/08

1 PROOF OF SERVICE
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
4 the within action; my business address is 1950 So. Santa Fe Avenue, Los Angeles, California 90021.

5 On January 2, 2008, I served a copy of the foregoing document, enclosed in an addressed, sealed envelope,
6 described as:

7 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR SUMMARY
8 ADJUDICATION**

9 on:

10 Robert G. Klein, Esq.
11 Law Offices of Robert G. Klein
12 555 West 5th Street, 31st Floor
13 Los Angeles, CA 90013-1010
14 Phone: (213)996-8508
15 Fax: (213)947-1441
16 Attorneys for Plaintiff, RAYMUNDO ORTEGA, an individual

17 I delivered such envelope by hand to the above individual or an adult in charge at the above address.

18 Executed on January 2, 2008, at Los Angeles, California.

19 I declare under penalty of perjury that the above is true and correct.

20 LA EXPRESS SUPER RUSH

21 SIGN: 

22 PRINT: SAUL A. LARA.

LA FOLLETTE, JOHNSON, DE HAAS, FESLER & AMES

23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

1 PROOF OF SERVICE
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
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5 On January 2, 2008, I served a copy of the foregoing document, enclosed in an addressed, sealed envelope,
6 described as:

7 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR SUMMARY
8 ADJUDICATION**

9 on:

10 Brian Hummel, Esq.
11 Gomes, Hirshik & Hummel
12 16815 Von Karmen, Suite 250
13 Irvine, CA 92606
14 Phone: (949) 930-6470
15 Fax: (949) 930-6101
16 Attorneys for Cross-Defendant, RAYMUNDO ORTEGA

17 I delivered such envelope by hand to the above individual or an adult in charge at the above address.

18 Executed on January 2, 2008, at Los Angeles, California.

19 I declare under penalty of perjury that the above is true and correct.

20 LA EXPRESS SUPER RUSH

21 SIGN: *[Signature]*

22 PRINT: *Luis Cabrera*

1 PROOF OF SERVICE
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
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5 On January 2, 2008, I served a copy of the foregoing document, enclosed in an addressed, sealed envelope,
6 described as:

7 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION FOR SUMMARY
8 ADJUDICATION**

9 on:

10 Sonali Olson, Esq.
11 Norton & Melnik, APC
12 20920 Warner Center Lane, Suite B
13 Woodland Hills, CA 91367-6540
14 Phone: (818)999-9500
15 Fax: (818)999-9155
16 Email: solson@nortonmelnik.com
17 Attorneys for Defendant, L.A. DESSERTS, INC. dba THE IVY

18 I delivered such envelope by hand to the above individual or an adult in charge at the above address.

19 Executed on January 2, 2008, at Los Angeles, California.

20 I declare under penalty of perjury that the above is true and correct.

21 LA EXPRESS SUPER RUSH

22 SIGN:

[Handwritten Signature]

23 PRINT:

LUIS LABRERA

LA FOLLETTE, JOHNSON, DE HAAS, FESLER & AMES

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