

SUSAN EPPARD, a Michigan Citizen and Resident, as the Personal Representative of the Estate of Matthew Eller, deceased,

Plaintiff,

v.

PREMIER MANUFACTURING PRODUCTS, LLC d/b/a MT BRANDS, a Florida Citizen, Resident, and Limited Liability Company; ATOFIL, LLC, a Florida Citizen, Resident and Limited Liability Company; BIOBOTANICAL, LLC, a Florida Citizen, Resident, and Limited Liability Company; NUTRASYNTH, LLC, a Florida Citizen, Resident and Limited Liability Company; JML WHOLESALE, INC. d/b/a FULL HOUSE WHOLESALE, a Michigan Company; and WILD BILL'S TOBACCO OF WHITEHALL LLC, a Michigan Company,

Defendants.

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT, IN AND FOR LEE COUNTY, FLORIDA

CASE NO.:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, SUSAN EPPARD, as the Personal Representative of the Estate of Matthew Eller, deceased, by and through the undersigned attorneys, hereby sues Defendants, PREMIER MANUFACTURING PRODUCTS LLC d/b/a MT BRANDS, a Florida Citizen, Resident, and Limited Liability Company (hereinafter "**PREMIER**"), ATOFIL, LLC, a Florida Citizen, Resident, and Limited Liability Company (hereinafter "**ATOFIL**"), BIOBOTANICAL, LLC, a Florida Citizen, Resident, and Limited Liability Company (hereinafter "**BIOBOTANICAL**"), NUTRASYNTH, LLC, Florida Citizen, Resident, and Limited Liability Company (hereinafter "**NUTRASYNTH**"), JML WHOLESALE, INC. d/b/a FULL HOUSE WHOLESALE, a Michigan Company (hereinafter "**JML**"), and WILD BILL'S TOBACCO OF WHITEHALL, LLC, a Michigan Company (hereinafter "**WILD BILL'S**"), and alleges as follows:

JURISDICTIONAL AND VENUE ALLEGATIONS

1. This is a wrongful death, strict liability product defect and negligence action for damages which exceed the sum of Fifty Thousand Dollars (\$50,000.00).

2. At all times material hereto, Plaintiff, Susan Eppard, in her capacity is or will be the duly appointed Personal Representative for the Estate of her son, the Decedent, **MATTHEW ELLER**, which is or will be open in Muskegon County, Michigan.¹

3. The Defendant, **PREMIER**, at all times material hereto, was a Florida Citizen, Resident and a Limited Liability Company, with its principal place of business located at 912 SE 46th Lane, Suite 204, Cape Coral, Florida 33904, its registered agent located at the same address in Cape Coral, Florida, and was authorized to do and was doing business throughout the State of Florida, including Lee County.

4. The Defendant, **ATOFIL**, at all times material hereto, was a Florida Citizen, Resident and a Limited Liability Company, with its principal place of business located at 912 SE 46th Lane, Suite 204, Cape Coral, Florida 33904, its registered agent located at the same address in Cape Coral, Florida, and was authorized to do and was doing business throughout the State of Florida, including Lee County.

5. The Defendant, **BIOBOTANICAL**, at all times material hereto, was a Florida Citizen, Resident and a Limited Liability Company, with its principal place of business located at 912 SE 46th Lane, Suite 204, Cape Coral, Florida 33904, its registered agent located at the same address in Cape Coral, Florida, and was authorized to do and was doing business throughout the State of

¹ Please note that Susan Eppard is the surviving parent or guardian of Matthew Eller, deceased. She is in the process of being appointed as the Personal Representative of the Estate of Matthew Eller and the Complaint will be amended with additional and updated information as needed and appropriate based on the rulings and orders of the Probate Court. (See paragraph 2 above.)

Florida, including Lee County.

6. The Defendant, **NUTRASYNTH**, at all times material hereto, was a Florida Citizen, Resident and a Limited Liability Company, with its principal place of business located at 730 NE 19th Place, Cape Coral, FL 33909, its registered agent located at the same address in Cape Coral, Florida, and was authorized to do and was doing business throughout the State of Florida, including Lee County.

7. The Defendant, **JML**, is a Michigan corporation, authorized to do and was doing business in the State of Florida and was engaged in the transaction of business throughout the State of Florida, including Lee County.

8. The Defendant, **WILD BILLS**, is a Michigan corporation, authorized to do and was doing business in the State of Florida and was engaged in the transaction of business throughout the State of Florida, including Lee County.

9. Venue is proper in Lee County, Florida by virtue of F.S. 47.011, 47.021, and 47.051 because Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, and NUTRASYNTH** are all Citizens and Residents of Lee County, Florida, keep offices for the transaction of its customary business in Lee County, Florida, and/or are engaged in the transaction of business throughout the State of Florida, including Lee County. Defendants, **JML** and **WILD BILLS**, contracted with **PREMIER, ATOFIL, BIOBOTANICAL, and NUTRASYNTH** to have their private label kratom designed, manufactured, and packaged in Florida and then shipped directly to **WILD BILLS'** facilities.

10. Jurisdiction is proper in Lee County, Florida by virtue of F.S. 48.193(1)(a)(1) because Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML, and WILD BILLS** all operate, conduct, engage in regular, systematic, substantial and not isolated business

activity throughout the State of Florida, including Lee County and Defendants, **PREMIER, ATOFIL BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS** carry on a business venture in Lee County, Florida. Further, the Subject Kratom and its private label were designed, manufactured, processed, and packaged in Lee County, Florida.

FACTUAL ALLEGATIONS REGARDING KRATOM

11. Kratom, also known as “mitragynine,” is a psychoactive substance that has neuropsychiatric effects mimicking those of prescribed medications.

12. Kratom is made up of the alkaloid mitragynine and the metabolite 7-hydroxymitragynine, and once harvested, processed, manufactured and stored, the amount of metabolite 7-hydroxymitragynine increases.

13. The alkaloid mitragynine and the metabolite 7-hydroxymitragynine can cause addiction and adverse health effects, including death, as its components inhibit a person’s existing CYP enzymes, which help the body slow down drug metabolism and increase a drug’s effect.

14. The addictive component of Kratom is dose dependent, where small doses produce effects resembling the stimulant effect of drugs and large doses produce effects resembling the sedative-narcotic effects of drugs.

15. As of February 2014, the Food and Drug Administration (“FDA”) has categorized Kratom as an unapproved dietary supplement and prohibited the import of kratom-containing supplements.

16. Since that time, the FDA has continuously announced the dangers associated with the alkaloid mitragynine and the metabolite 7-hydroxymitragynine.

17. At all times material hereto, Kratom is unregulated by the FDA and is deemed unreasonably dangerous for human consumption.

ALLEGATIONS COMMON TO ALL COUNTS

18. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**, designed, manufactured, packaged, distributed, advertised and sold a product named Boosted Kratom Red Bali Powder (hereinafter referred to as “Subject Kratom”). The Subject Kratom was designed, manufactured, and packaged in Lee County, Florida.

19. The Subject Kratom designed, manufactured, packaged, distributed, advertised and sold by the Defendants contained both alkaloid mitragynine and the metabolite 7-hydroxymitragynine and were addictive and/or dependence producing.

20. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH** manufactured, designed, and distributed the Subject Kratom with a personal label designed in Lee County, Florida, by the Defendants, **JML** and **WILD BILLS**. Defendants **JML** and **WILD BILLS** contracted with **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH** to have their private label designed, manufactured, and packaged in Florida and shipped to their facilities in Michigan. Once in Michigan, **JML** and **WILD BILLS** distributed its kratom, including the Subject Kratom, among its various retail locations.

21. At all times material hereto, the Defendants, **JML** and **WILD BILLS**’ personal label for the Subject Kratom included a “Supplement Facts” section, which directly violated federal law as it was an unapproved dietary supplement by the FDA and did not quantify the alkaloid mitragynine and the metabolite 7-hydroxymitragynine contained within the product.

22. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**, packaged, marketed, advertised, and distributed the Subject Kratom to wholesalers and retailers to sell directly to consumers, like the decedent, **MATTHEW ELLER**.

23. In May 2021, the FDA in conjunction with the US Attorney's Office filed a forfeiture action against Defendant, **ATOFIL**, in **Fort Myers, Florida**, seizing over 50,000 packages of Kratom manufactured, designed, distributed and sold by **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**, including over 24,000 packages of the Subject Kratom, which was the result of the Defendants' illegal packaging and advertising.

24. Thereafter, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**, continued to design, manufacture, package, distribute, market and sell the Subject Kratom for profit with concealed or omitted material information not otherwise known or available, knowing the advertised information was false and misleading or failed to disclose a material fact concerning the health effects or addictive nature of consuming the Subject Kratom.

25. The Defendants designed, manufactured, packaged, distributed, marketed and sold the Subject Kratom for profit intending and knowing that the public would rely on the information on the packaging to their detriment.

26. On or about November 10, 2021, the decedent, **MATTHEW ELLER**, purchased the Subject Kratom, which had been designed, manufactured, packaged, distributed, and marketed by Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**, from the Defendant, **WILD BILLS**, consumed the Subject Kratom, and ultimately died as a result of toxic effects of mitragynine contained within the Subject Kratom.

27. The death of **MATTHEW ELLER** was a direct and proximate result of defects in and associated with the packaging of the Subject Kratom and the negligence of the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL, NUTRASYNTH, JML** and **WILD BILLS**.

28. Pursuant to the Florida Wrongful Death Act and section 768.21, Florida Statutes, the damages of the Estate and survivors are as follows:

- a. SANDRA EPPARD, as the surviving natural mother of **MATTHEW ELLER**, has incurred mental pain and suffering, both in the past and future, has lost the support and services of her son, both in the past and in the future; and has lost earnings and loss of earning capacity resulting from the need to care or provider for her son;
- b. DONALD ELLER, JR., as the surviving natural father of **MATTHEW ELLER**, has incurred mental pain and suffering, both in the past and future, has lost the support and services of his son, both in the past and in the future; and has lost earnings and loss of earning capacity resulting from the need to care or provider for his son;
- c. SANDRA EPPARD, as the Personal Representative for the Estate of **MATTHEW ELLER**, has incurred medical bills and funeral expenses;
- d. SANDRA EPPARD, as the Personal Representative for the Estate of **MATTHEW ELLER**, has suffered loss of net accumulations.

ALLEGATIONS COMMON TO ALL COUNTS AGAINST PREMIER, ATOFIL, BIOBOTANICAL AND NUTRASYNTH

29. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH** were in the business of designing, manufacturing, inspecting, packaging, distributing, marketing, and placing the Subject Kratom into the stream of commerce and held themselves out to the public as having a particular expertise with Kratom.

30. The Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH,** designed, manufactured, inspected, packaged, distributed, marketed and placed the Subject

Kratom into the stream of commerce, intending that it be used in the manner that it was being used at the time of the decedent's damages occurred.

31. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH**, knew, or in the exercise of reasonable care should have known, the Subject Kratom was deleterious and highly harmful to the public, including the decedent's health and wellbeing.

32. The Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH**, knew, or in the exercise of reasonable care should have known, that the human consumption of the Subject Kratom was harmful to human beings and that it could cause injuries including, but not limited to, drug dependency and death.

33. The Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH**, knew, or in the exercise of reasonable care should have known, that the Subject Kratom contained known defects but also contained latent characteristics and/or latent functional defects at the time it was manufactured, containing alkaloid mitragynine and 7-hydroxymitragynine, which the Defendants knew, or in the exercise of reasonable care should have known, would cause injuries including, but not limited to, drug dependency and death to those that consume the product, such as the decedent.

34. The Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH**, knew, or in the exercise of reasonable care should have known, that the Subject Kratom violated federal law and continued to design, manufacture, package, distribute and sell the Subject Kratom to the general public.

35. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH,** owed a duty to the decedent, and other users of the Subject Kratom, to design, manufacture, inspect and provide adequate warnings and instructions on or with the Subject Kratom and to not place an unreasonably dangerous product into the stream of commerce to be used by an intended consumer, such as the decedent, in a way the Defendants would expect.

36. At all times material hereto, the Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH,** owed a duty to the decedent, and other users of the Subject Kratom, to use reasonable care in providing adequate warnings and instructions regarding all possible dangers, and side effects of consuming the Subject Kratom.

37. The Defendants, **PREMIER, ATOFIL, BIOBOTANICAL,** and **NUTRASYNTH,** had an ongoing duty to stay apprised of all risks associated with the Subject Kratom before packaging, distributing, advertising, marketing, selling and placing in the stream of commerce, and to update the labeling and marketing communications to effectively warn of all risks.

38. The Defendants breached their aforementioned duties by:

- a. Failing to manufacture and design the Subject Kratom in a reasonably safe condition to be consumed by intended users, such as the decedent;
- b. Failing to prevent foreseeable injuries arising from the use to the Subject Kratom;
- c. Failing to warn of the risks of abuse, dependence, addition, overdose, dangerous drug interactions and death;
- d. Failing to truthfully advertise the Subject Kratom to not to mislead the intended users, such as the decedent;
- e. Failing to ensure the Subject Kratom was properly labeled;

- f. Failing to reasonably investigate and inspect the Subject Kratom to ensure it was safe for human consumption;
- g. Failing to test each batch of the Subject Kratom for purity and potency;
- h. Failing to include specific instructions and/or warnings regarding consumption levels;
- i. Failure to make timely and truthful disclosures about the Subject Kratom's risks and side effects;
- j. Failing to comply with the FDA and federal law;
- k. Manufacturing, packaging, distributing, and/or selling an adulterate product; and
- l. Failing to exercise reasonable care under all relevant surrounding circumstances.

39. The Defendants knew the Subject Kratom would be used by its consumers, such as the decedent, and without inspection for defects and truthful advertising, the intended users of the Subject Kratom would not be advised that the product could cause injuries or even death. Such facts made the Subject Kratom inherently and unreasonably dangerous in that the decedent was not apprised of, could not and would not contemplate the danger and/or the extent of the danger of contracting the aforementioned injuries as a result of his consumption of the Subject Kratom.

40. At all times material hereto, the use of the Subject Kratom in a manner that was intended or reasonably foreseeable by the Defendants, involved substantial dangers that would not be readily recognized by inexperienced or ordinary consumers of the Subject Kratom.

41. At all times material hereto, these dangers were known or knowable by the Defendants in light of the generally recognized and prevailing best scientific knowledge available at the time of the design, manufacture, packaging and distributing of the Subject Kratom, and as a result prudent design and manufacturing process and reasonable care required warnings and instruction on or with the Subject Kratom.

ALLEGATIONS COMMON TO THE CLAIMS AGAINST JML AND WILD BILLS

42. At all times material hereto, the Defendants, **JML** and **WILD BILLS**, were in the business of packaging, inspecting, distributing, advertising, marketing, selling and placing the Subject Kratom into the stream of commerce and held themselves out to the public as having a particular expertise with Kratom.

43. The Defendants, **JML** and **WILD BILLS**, packaged, inspected, distributed, marketed and placed the Subject Kratom into the stream of commerce, intending that it be used in the manner that it was being used at the time of the decedent's damages occurred.

44. At all times material hereto, the Defendants, **JML** and **WILD BILLS**, knew, or in the exercise of reasonable care should have known, the Subject Kratom was deleterious and highly harmful to the public, including the decedent's health and wellbeing.

45. The Defendants, **JML** and **WILD BILLS**, knew, or in the exercise of reasonable care should have known, that the human consumption of the Subject Kratom was harmful to human beings and that it could cause injuries including, but not limited to, drug dependency and death.

46. The Defendants, **JML** and **WILD BILLS**, knew, or in the exercise of reasonable care should have known, that the Subject Kratom contained known defects but also contained latent characteristics and/or latent functional defects at the time it was manufactured, containing alkaloid mitragynine and 7-hydroxymitragynine, which the Defendants knew, or in the exercise of reasonable care should have known, would cause injuries including, but not limited to, drug dependency and death to those that consume the product, such as the decedent.

47. The Defendants, **JML** and **WILD BILLS**, knew, or in the exercise of reasonable care should have known, that the Subject Kratom violated federal law and continued to package, distribute and sell the Subject Kratom to the general public.

48. At all times material hereto, the Defendants, **JML** and **WILD BILLS**, owed a duty to the decedent, and other users of the Subject Kratom, to inspect and provide adequate warnings and instructions on or with the Subject Kratom and to not place an unreasonably dangerous product into the stream of commerce to be used by an intended consumer, such as the decedent, in a way the Defendants would expect.

49. At all times material hereto, the Defendants, **JML** and **WILD BILLS**, owed a duty to the decedent, and other users of the Subject Kratom, to provide truthful information on the packaging to alert the intended users and consumers of all possible dangers and side effects of consuming the Subject Kratom.

50. The Defendants, **JML** and **WILD BILLS**, had an ongoing duty to stay apprised of all risks associated with the Subject Kratom before packaging, distributing, advertising, marketing, selling and placing in the stream of commerce, and to therefore update the labeling and marketing communications to effectively warn of all risks.

51. At all times material hereto, the Defendants, **JML** and **WILD BILLS** knew, or in the exercise of reasonable care should have known, the Subject Kratom was deleterious and highly harmful to the public, including the decedent's health and wellbeing.

52. The Defendants, **JML** and **WILD BILLS** knew, or in the exercise of reasonable care should have known, that the human consumption of the Subject Kratom was harmful to human beings and that it could cause injuries including, but not limited to, drug dependency and death.

53. The Defendants, **JML** and **WILD BILLS** knew, or in the exercise of reasonable care should have known, that that the Subject Kratom contained known defects but also contained latent characteristics and/or latent functional defects at the time they were manufactured and at the time the decedent was exposed to it in that said products contained alkaloid mitragynine and 7-hydroxymitragynine which the Defendants knew, or in the exercise of reasonable care should have known, would cause injuries including, but not limited to, drug dependency and death to those that consume the product, such as the decedent.

54. The Defendants, **JML** and **WILD BILLS**, breached their aforementioned duties by:

- a. Failing to prevent foreseeable injuries arising from the use to the Subject Kratom;
- b. Failing to warn of the risks of abuse, dependence, addition, overdose, dangerous drug interactions and death;
- c. Failing to truthfully advertise the Subject Kratom to not to mislead the intended users;
- d. Failing to ensure the Subject Kratom was properly labeled;
- e. Failing to reasonably investigate and inspect the Subject Kratom to ensure it was safe for human consumption;
- f. Failing to test each batch of the Subject Kratom for purity and potency;

- g. Failing to include specific instructions and/or warnings regarding consumption levels;
- h. Failing to make timely and truthful disclosures about the Subject Kratom's risks and side effects;
- i. Failing to comply with the FDA and federal law;
- j. Selling an adulterated product; and
- k. Failing to exercise reasonable care under all relevant surrounding circumstances.

55. The Defendants, **JML** and **WILD BILLS** knew the Subject Kratom would be used by its consumers, such as the decedent, and without inspection for defects and truthful advertising, the intended users of the Subject Kratom would not be advised that the product could cause injuries or even death. Such facts made the Subject Kratom inherently and unreasonably dangerous in that the decedent was not apprised of, could not and would not contemplate the danger and/or the extent of the danger of contracting the aforementioned injuries as a result of his consumption of the Subject Kratom.

56. At all times material hereto, the use of the Subject Kratom in a manner that was intended or reasonably foreseeable by the Defendants, **JML** and **WILD BILLS**, involved substantial dangers that would not be readily recognized by inexperienced or ordinary consumers of the Subject Kratom.

COUNT 1 – STRICT LIABILITY – DESIGN DEFECTS AGAINST PREMIER

57. At the time the Subject Kratom was designed and be placed into the stream of commerce by **PREMIER**, the Subject Kratom itself, as well as its packaging, contacted design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

58. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **PREMIER**.

59. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

**COUNT 2 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST
PREMIER**

60. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **PREMIER**, it contained manufacturing defects as a result of the product being manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

61. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **PREMIER**.

62. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

**COUNT 3 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST PREMIER**

63. At the time the Subject Kratom was designed and manufactured and placed into the stream

of commerce by **PREMIER**, it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

64. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **PREMIER**.

65. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

COUNT 4 – NEGLIGENCE – DESIGN DEFECTS AGAINST PREMIER

66. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

67. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

COUNT 5 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST PREMIER

68. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

69. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

**COUNT 6 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST PREMIER**

70. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **PREMIER**, and further demands trial by jury.

COUNT 7 – STRICT LIABILITY – DESIGN DEFECTS AGAINST ATOFIL

71. At the time the Subject Kratom was designed and be placed into the stream of commerce by **ATOFIL**, the Subject Kratom itself, as well as its packaging, contacted design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

72. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **ATOFIL**.

73. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

COUNT 8 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST ATOFIL

74. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **ATOFIL**, it contained manufacturing defects as a result of the product being manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects

rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

75. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **ATOFIL**.

76. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

**COUNT 9 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST ATOFIL**

77. At the time the Subject Kratom was designed and manufactured and placed into the stream of commerce by **ATOFIL**, it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

78. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **ATOFIL**.

79. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

COUNT 10 – NEGLIGENCE – DESIGN DEFECTS AGAINST ATOFIL

80. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

81. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

COUNT 11 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST ATOFIL

82. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

83. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

COUNT 12 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS AGAINST ATOFIL

84. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **ATOFIL**, and further demands trial by jury.

COUNT 13 – STRICT LIABILITY – DESIGN DEFECTS AGAINST BIOBOTANICAL

85. At the time the Subject Kratom was designed and be placed into the stream of commerce by **BIOBOTANICAL**, the Subject Kratom itself, as well as its packaging, contacted design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

86. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **BIOBOTANICAL**.

87. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

**COUNT 14 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST
BIOBOTANICAL**

88. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **BIOBOTANICAL**, it contained manufacturing defects as a result of the product being manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

89. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **BIOBOTANICAL**.

90. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

**COUNT 15 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST BIOBOTANICAL**

91. At the time the Subject Kratom was designed and manufactured and placed into the stream

of commerce by **BIOBOTANICAL**, it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

92. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **BIOBOTANICAL**.

93. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

COUNT 16 – NEGLIGENCE – DESIGN DEFECTS AGAINST BIOBOTANICAL

94. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

95. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

**COUNT 17 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST
BIOBOTANICAL**

96. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

97. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

**COUNT 18 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST BIOBOTANICAL**

98. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **BIOBOTANICAL**, and further demands trial by jury.

COUNT 19 – STRICT LIABILITY – DESIGN DEFECTS AGAINST NUTRASYNTH

99. At the time the Subject Kratom was designed and be placed into the stream of commerce by **NUTRASYNTH**, the Subject Kratom itself, as well as its packaging, contacted design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

100. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **NUTRASYNTH**.

101. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

**COUNT 20 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST
NUTRASYNTH**

102. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **NUTRASYNTH**, it contained manufacturing defects as a result of the product being

manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

103. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **NUTRASYNTH**.

104. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

**COUNT 21 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST NUTRASYNTH**

105. At the time the Subject Kratom was designed and manufactured and placed into the stream of commerce by **NUTRASYNTH**, it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

106. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **NUTRASYNTH**.

107. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

COUNT 22 – NEGLIGENCE – DESIGN DEFECTS AGAINST NUTRASYNTH

108. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

109. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

COUNT 23 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST NUTRASYNTH

110. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

111. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

**COUNT 24 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST NUTRASYNTH**

112. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **NUTRASYNTH**, and further demands trial by jury.

COUNT 25 – STRICT LIABILITY – DESIGN DEFECTS AGAINST JML

113. At the time the Subject Kratom was designed and be placed into the stream of commerce by **JML**, the Subject Kratom itself, as well as its packaging, contained design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and

other intended and foreseeable users.

114. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **JML**.

115. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

COUNT 26 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST JML

116. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **JML**, it contained manufacturing defects as a result of the product being manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

117. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **JML**.

118. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

COUNT 27 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS AGAINST NUTRASYNTH

119. At the time the Subject Kratom was placed into the stream of commerce by **JML**,

it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

120. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **JML**.

121. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

COUNT 28 – NEGLIGENCE – DESIGN DEFECTS AGAINST JML

122. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

123. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

COUNT 29 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST JML

124. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

125. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

**COUNT 30 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST JML**

126. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **JML**, and further demands trial by jury.

COUNT 31 – STRICT LIABILITY – DESIGN DEFECTS AGAINST WILD BILLS

127. At the time the Subject Kratom was designed and be placed into the stream of commerce by **WILD BILLS**, the Subject Kratom itself, as well as its packaging, contacted design defects which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

128. As a result of the design defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **WILD BILLS**.

129. The design defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

**COUNT 32 – STRICT LIABILITY – MANUFACTURING DEFECTS AGAINST WILD
BILLS**

130. At the time the Subject Kratom was manufactured and placed into the stream of commerce by **WILD BILLS**, it contained manufacturing defects as a result of the product being manufactured in violation of prudent manufacturing practices, specifications and tolerances. These defects rendered the Subject Kratom unreasonably dangerous to persons, such as the

decedent, and other intended and foreseeable users.

131. As a result of the manufacturing defects, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **WILD BILLS**.

132. The manufacturing defects in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

**COUNT 33 – STRICT LIABILITY – DEFECTIVE WARNINGS AND INSTRUCTIONS
AGAINST WILD BILLS**

133. At the time the Subject Kratom was placed into the stream of commerce by **WILD BILLS**, it lacked and/or contained defective warnings and instructions which rendered the Subject Kratom unreasonably dangerous to persons, such as the decedent, and other intended and foreseeable users.

134. As a result of the lack of and defective warnings and instructions, the Subject Kratom was dangerous beyond the expectation of the intended user or consumer when used as intended or in a manner reasonably foreseeable by **WILD BILLS**.

135. The lack of and defective warnings and instructions in the Subject Kratom were the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

COUNT 34 – NEGLIGENCE – DESIGN DEFECTS AGAINST WILD BILLS

136. The negligent manner in which the Subject Kratom was designed was the direct and proximate cause of the ultimate death of the decedent.

137. The negligent design of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

COUNT 35 – NEGLIGENCE – MANUFACTURE DEFECTS AGAINST WILD BILLS

138. The negligent manner in which the Subject Kratom was manufactured was the direct and proximate cause of the ultimate death of the decedent.

139. The negligent manufacture of the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

COUNT 36 – NEGLIGENCE – DEFECTIVE WARNINGS AND INSTRUCTIONS AGAINST WILD BILLS

140. The lack of and/or negligent warnings and instructions on or with the Subject Kratom was the direct and proximate cause of the ultimate death of the decedent.

WHEREFORE, the Plaintiff demands judgment for damages against Defendant, **WILD BILLS**, and further demands trial by jury.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Complaint and Demand for Jury Trial upon all parties to this action via Florida Courts E-Filing Portal which transmits an electronic copy of the same to all counsel of record.

Dated: 31st day of August, 2023.

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(pro hac vice applications forthcoming)
Counsel for Plaintiff

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
_____ COUNTY, FLORIDA CIVIL ACTION

Plaintiff(s),

vs.

CASE NO:

Defendant(s).
_____ /

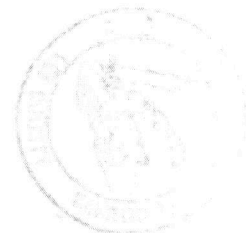
**STANDING ORDER IN CIRCUIT CIVIL CASES IN THE
TWENTIETH JUDICIAL CIRCUIT**

PURSUANT to Florida Rule of Civil Procedure 1.200(a), Florida Rule of Judicial Administration 2.545, and Administrative Order 1.13 (as amended) entered by the Chief Judge of this Circuit, the parties are ordered to adhere to the following information and procedures applicable to civil lawsuits:

1. **SERVICE OF THIS ORDER.** The Plaintiff is directed to serve a copy of this order with each Summons issued in this case. One copy of this Order is to be filed with the Clerk of the Circuit Court with proof of service. The Plaintiff shall pay the appropriate statutory clerk's fees for copies for each Standing Order issued and attached to the Summons.

2. **CIVIL CASE MANAGEMENT SYSTEM.** The Supreme Court of Florida has established guidelines for the prompt processing and resolution of civil cases. This Court has adopted a case management system to help meet those guidelines. In contested cases (other than residential foreclosures, involuntary commitment of sexually violent predators, Extraordinary Writs, 90 day Notice of Medical Malpractice Claim, and Administrative Appeals), the parties are required to participate in the case management system. The Court will issue a Case Management Plan after 150 days of the filing of a case in the event the parties have not submitted an Agreed Case Management Plan that has been approved by the Court. However, if it becomes necessary to amend the court-issued Case Management Plan, the parties may submit an Agreed Case Management Plan, subject to approval by the Court, or if the parties cannot agree on an Amended Plan, the parties may request a case management conference. The form of the Agreed Case Management Plan may be accessed at the Court's website at: <http://www.ca.cjis20.org/web/main/civil.asp>. If a case management conference is scheduled, attendance by trial counsel and those parties who are not represented by counsel is mandatory.

3. **ALTERNATIVE DISPUTE RESOLUTION (ADR).** ADR provides parties with an out-of-court alternative for settling disagreements. The Court requires the parties to participate in ADR prior to trial. Mediation is mandatory unless the parties agree to another form of ADR. Mediation is a conference at which an independent third party attempts to arrange a settlement between the parties. The Court, at its discretion, may order the case be referred to Non-Binding Arbitration. Non-Binding Arbitration is the process in which the court refers a case to a registered arbitrator, or panel of arbitrators, who will hear evidence and make an award which may become a final judgment if a Motion for Trial De Novo is not timely filed pursuant to Fla. R. Civ. P. 1820(h).



4. **FAILURE TO PROSECUTE.** The Court will issue a Notice of Intent to Dismiss a case if there is no record of activity within a ten (10) month period of time.

5. **RULES OF PROFESSIONALISM.** The Twentieth Judicial Circuit has adopted Administrative Order 2.20, which sets forth standards of professional courtesy and conduct for all counsel practicing within the Circuit and self-represented litigants. The Court requires that all parties familiarize themselves and comply with Administrative Order 2.20. Administrative Order 2.20 may be viewed on the Court's website at: http://www.ca.cjis20.org/web/main/ao_admin.asp

DONE AND ORDERED at _____, _____ County, Florida, on _____, 20__.

Administrative Judge

