

Court of Common Pleas of Philadelphia County  
Trial Division

**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

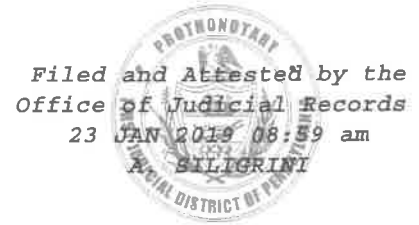
**JANUARY 2019**

**002001**

E-Filing Number: 1901050419

PLAINTIFF'S NAME SCOTT STURGIS		DEFENDANT'S NAME SOCAL HERBAL REMEDIES, LLC	
PLAINTIFF'S ADDRESS 1621 SUZANNE DRIVE WEST CHESTER PA 19380		DEFENDANT'S ADDRESS 612 BARRET WAY BIG BEAR CA 92314	
PLAINTIFF'S NAME LORI STURGIS		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS 1621 SUZANNE DR. WEST CHESTER PA 19380		DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 20 - PERSONAL INJURY - OTHER			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		<p style="text-align: center;"><b>FILED PRO PROTHY JAN 23 2019 A. SILIGRINI</b></p>	
		IS CASE SUBJECT TO COORDINATION ORDER? YES    NO	
<p>TO THE PROTHONOTARY:</p> <p>Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>SCOTT STURGIS , LORI STURGIS</u></p> <p>Papers may be served at the address set forth below.</p>			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY ROBERT J. MONGELUZZI		ADDRESS ONE LIBERTY PLACE 52ND FLOOR 1650 MARKET ST. PHILADELPHIA PA 19103	
PHONE NUMBER (215) 496-8282	FAX NUMBER (215) 496-0999		
SUPREME COURT IDENTIFICATION NO. 36283		E-MAIL ADDRESS VSmith@smbb.com	
SIGNATURE OF FILING ATTORNEY OR PARTY ROBERT MONGELUZZI		DATE SUBMITTED Wednesday, January 23, 2019, 08:59 am	

**SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.**  
BY: ROBERT J. MONGELUZZI/SAMUEL B. DORDICK  
IDENTIFICATION NO.: 36283/322647  
1650 MARKET STREET, 52ND FLOOR  
PHILADELPHIA, PA 19103  
(215) 496-8282



**SCOTT STURGIS and LORI STURGIS,**  
**h/w Individually and as Co-Administrators**  
**of the Estate of CALEB STURGIS,**  
**Deceased**  
1621 Suzanne Dr.  
West Chester, PA 19380

*Plaintiffs*

v.

**SOCAL HERBAL REMEDIES, LLC**  
612 Barret Way  
Big Bear City, CA 92314

*Defendant*

**PHILADELPHIA COUNTY**  
**COURT OF COMMON PLEAS**  
**LAW DIVISION**

**JANUARY TERM, 2019**

**NO.**

**JURY TRIAL DEMANDED**

**CIVIL ACTION COMPLAINT**

<p style="text-align: center;">"NOTICE</p> <p>"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.</p> <p>"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.</p> <p><u>THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.</u></p> <p>PHILADELPHIA BAR ASSOCIATION LAWYER REFERRAL and INFORMATION SERVICE One Reading Center Philadelphia, Pennsylvania 19107 (215) 238-1701"</p>	<p style="text-align: center;">"AVISO</p> <p>"Le han demandado en corte. Si usted quiere defenderse contra las demandas nombradas en las paginas siguientes, tiene veinte (20) días, a partir de recibir esta demanda y la notificación para entablar personalmente o por un abogado una comparecencia escrita y tambien para entablar con la corte en forma escrita sus defensas y objeciones a las demandas contra usted. Sea avisado que si usted no se defiende, el caso puede continuar sin usted y la corte puede incorporar un juicio contra usted sin previo aviso para conseguir el dinero demandado en el pleito o para conseguir cualquier otra demanda o alivio solicitados por el demandante. Usted puede perder dinero o propiedad u otros derechos importantes para usted.</p> <p>USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE ABOGADO (O NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO), VAYA EN PERSONA O LLAME POR TELEFONO LA OFICINA NOMBRADA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL. <u>ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.</u></p> <p><u>SI USTED NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO, ESTA OFICINA PUEDE PROPORCIONARLE INFORMACION SOBRE AGENCIAS QUE OFRECEN SERVICIOS LEGALES A PERSONAS QUE CUMPLEN LOS REQUISITOS PARA UN HONORARIO REDUCIDO O NINGUN HONORARIO.</u></p> <p>ASOCIACION DE LICENCIADOS DE FILADELFA SERVICO DE REFERENCIA E INFORMACION LEGAL One Reading Center Filadelfia, Pennsylvania 19107 Telefono: (215) 238-1701"</p>
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## INTRODUCTION

1. On June 27, 2018, the life of twenty-five (25) year old Caleb Sturgis was tragically cut short by an “herbal supplement” known as Kratom.

2. Although Kratom is marketed and sold as an herbal supplement, the reality is that Kratom is a powerful and dangerous opioid.

3. Kratom, or *Mitragyna speciosa*, is a plant which is grown in Thailand, Malaysia, Indonesia and Papua New Guinea.

4. On June 27, 2018, after drinking a tea made with Kratom, Caleb Sturgis suffered a fatal heart attack caused by the Kratom while driving his 2007 Toyota Corolla on I-76 East in Chester County, Pennsylvania.

5. Defendant, SoCal Herbal Remedies, LLC (hereinafter referred to as SoCal Herbal Remedies”) sold Caleb the deadly Kratom through its online website, marketing the substance as an innocuous tea with absolutely no warnings or information of any kind regarding the dangerous and harmful effects of the substance.

6. As discussed more fully herein, Kratom has a deadly history and is under scrutiny by the United States Drug Enforcement Administration (“DEA”) and the Food and Drug Administration (“FDA”); despite this, Defendant SoCal Herbal Remedies continues to reap the economic benefits of selling Kratom to unsuspecting users and marketing it as a harmless herbal supplement all while knowing of its potentially fatal effects.

7. Caleb’s life and future was taken from him by SoCal Herbal Remedies—a company interested only in concealing the dangerous effects of the opioids it masquerades around as an “herbal supplement” so that it can continue to peddle its deadly products.

## PARTIES

8. Plaintiffs, Scott Sturgis and Lori Sturgis, h/w, are adult citizens and residents of the Commonwealth of Pennsylvania, residing at 1621 Suzanne Dr., West Chester, PA 19380.

9. Plaintiffs were the parents of Caleb Sturgis, and on November 15, 2018 they were appointed as Co-Administrators of the Estate of Caleb Sturgis by the Register of Wills, in and for the County of Chester in the Commonwealth of Pennsylvania. See Letters of Administration, attached hereto as **Exhibit "A"**.

10. Defendant, SoCal Herbal Remedies, LLC, is a corporation or other business entity organized and existing under the laws of the State of California, with a principal place of business at 612 Barrett Way, Big Bear City, CA 92314.

11. At all times relevant hereto, Defendant SoCal Herbal Remedies was acting by and through its agents, ostensible agents, apparent agents, servants, workmen and/or employees, who were acting within the course and scope of their agency, service and/or employment with Defendant SoCal Herbal Remedies.

12. At all relevant times relevant hereto, Defendant SoCal Herbal Remedies purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out substantial, continuous and systematic business activities in Pennsylvania, and regularly conducts business in Philadelphia County.

## KRATOM'S DEADLY HISTORY

13. Kratom is a dangerous and addictive opioid that is marketed and sold as an herbal supplement or remedy.

14. Companies that produce and sell Kratom, including Defendant SoCal Herbal Remedies, claim that Kratom can be used to cure or treat a variety of conditions or ailments,

including anxiety, depression, fatigue, and even opioid cessation, despite the fact that it is an opioid itself.

15. In August, 2016, the DEA announced that it was temporarily reclassifying Kratom as a Schedule I drug; however, after organized backlash by Kratom advocacy groups, such as the American Kratom Association, the DEA decided in October, 2016 to postpone the reclassification of Kratom to allow for further public comment.

16. In February, 2018, the FDA explicitly noted the dangers of Kratom use, stating that the “Compounds in kratom make it so it isn’t just a plant – it’s an opioid...Kratom compounds are predicted to affect the body just like opioids.”

17. The FDA has also identified the lethal effects of Kratom, citing 44 reported deaths “associated with the use of Kratom.”

18. In a February 21, 2018 press release, the FDA urged United States distributors of Kratom, including Defendant SoCal Herbal Remedies, to destroy their supply of Kratom and products that contain Kratom.

19. In a May 22, 2018 press release, FDA Commissioner Scott Gottlieb, M.D., issued an explicit notice to producers and sellers of Kratom that they need to immediately cease the sale of products containing Kratom due to its addictive and dangerous effects:

**Despite our warnings that *no kratom product is safe*, we continue to find companies selling kratom and doing so with *deceptive medical claims* for which there’s no reliable scientific proof to support their use...As we work to combat the opioid epidemic, we cannot allow unscrupulous vendors to take advantage of consumers by selling products with unsubstantiated claims that they can treat opioid addiction. Far from treating addiction, we’ve determined that kratom is an opioid analogue that may actually contribute to the opioid epidemic and puts patients at risk of serious side effects.**

20. The FDA has directly warned suppliers of Kratom, including Defendant SoCal Herbal Remedies, that they must cease the sale of products containing Kratom due to the dangerous and potentially fatal effects on unsuspecting consumers.

21. Despite this, Defendant SoCal Herbal Remedies continued to sell Kratom without any warnings whatsoever concerning the dangerous effects of Kratom, and instead touting it as a natural, herbal treatment for a variety of ailments, including opioid addiction and opioid withdrawal.

### **THE TRAGIC DEATH OF CALEB STURGIS**

22. On June 27, 2018, the deadly history of Kratom and Defendant SoCal Herbal Remedies' efforts to conceal the dangerous effects of the drug and continue reaping the economic benefits of selling it, culminated in the tragic and untimely death of Caleb Sturgis.

23. Upon information and belief, on or about June 25, 2018, Caleb Sturgis purchased Kratom from Defendant SoCal Herbal Remedies through their online shop.

24. Defendant SoCal Herbal Remedies shipped its Kratom directly to Caleb.

25. Caleb, believing the lies and misrepresentations of Defendant SoCal Herbal Remedies and the Kratom industry, began taking Kratom in an attempt to alleviate anxiety and pain.

26. Caleb was unaware of the potentially lethal side effects of Kratom, and Defendant SoCal Herbal Remedies' sold its Kratom to Caleb in packaging that contained absolutely no warnings or information on the potential side effects or dangers of the product.

27. Defendant SoCal Herbal Remedies' website similarly contains absolutely no warnings or information of any kind regarding the dangerous and potentially deadly effects of Kratom.

28. Defendant SoCal Herbal Remedies knew, or in the exercise of a reasonable degree of care, should have known of the devastating injuries, addiction and/or death that would befall its customers upon the ingestion of its product, Kratom.

29. Defendant SoCal Herbal Remedies knew, or in the exercise of a reasonable degree of care, should have known that selling its Kratom in packaging that contained no warnings or information regarding the dangerous side effects of the Kratom would result in serious injury, addiction and/or death to its customers.

30. Despite this knowledge, Defendant SoCal Herbal Remedies outrageously continued to sell its Kratom and took absolutely no steps to provide its unsuspecting customers, including Caleb Sturgis, with any information or warnings of the potentially dangerous side effects whatsoever.

31. Defendant SoCal Herbal Remedies' deliberate decision to deprive its customers of warnings and information regarding the dangerous effects of Kratom was made for purely economic reasons.

32. Defendant SoCal Herbal Remedies chose profits over the safety of its customers, including Caleb Sturgis.

33. Solely and as a direct result of the negligence, gross negligence, carelessness, recklessness and outrageous acts of Defendant SoCal Herbal Remedies, Plaintiffs' decedent, Caleb Sturgis, sustained injuries that led to his death; he sustained conscious pain and suffering and fear of impending death; he sustained a permanent loss of earnings and loss of earning capacity; he has sustained a permanent loss of enjoyment of life, loss of life's pleasures and the loss of life's hedonic pleasures; he has been permanently prevented from performing all of his

usual duties, occupations, recreational activities and avocations all to his and his beneficiaries' loss and detriment.

### **COUNT I – PRODUCT LIABILITY**

#### **PLAINTIFFS v. DEFENDANT SOCAL HERBAL REMEDIES**

34. All preceding paragraphs of this Complaint are incorporated by reference the same as if fully set forth herein.

35. Defendant, SoCal Herbal Remedies, by and through its agents, servants, workers, contractors, designers, assemblers, manufacturers, sellers, suppliers and distributors is strictly liable under § 402(A) of the Restatement (Second) of Torts because:

- a. Defendant is engaged in the regular business of designing, assembling, manufacturing, selling, supplying, distributing, and/or placing into the stream of commerce Kratom and/or products containing Kratom, such as the Kratom that caused Caleb Sturgis's death;
- b. The product involved in the subject incident was marketed and placed in the general stream of commerce by Defendant SoCal Herbal Remedies;
- c. The product was expected to and did reach users without substantial change in the condition in which it was designed, assembled, manufactured, sold, supplied, distributed, and/or placed into the stream of commerce;
- d. The product was designed, assembled, manufactured, sold, supplied, distributed, and/or placed into the stream of commerce in the defective condition for the reasons set forth above and below.

36. The product was in a defective condition as: (1) the danger contained therein is unknowable and unacceptable to the average or ordinary consumer; and/or (2) a reasonable person would conclude that the probability and seriousness of the harm caused by the product outweigh the burden or costs of taking precautions.

37. The product was in a defective condition as it came with absolutely no warnings or information regarding the dangers and risks associated with the product.



38. The defective condition of the product caused Caleb Sturgis' injuries, death and damages as described above.

39. Defendant, SoCal Herbal Remedies, by and through its agents, servants, workers, contractors, designers, assemblers, manufacturers, sellers, suppliers and distributors, are strictly liable under § 402(A) of the Restatement of the Law of Torts (Second), the Restatement (Third) of Torts: Product Liability, and pursuant to Tincher v. Omega Flex, 104 A.3d 328 (Pa. 2014) and its progeny by:

- a. Designing, assembling, manufacturing, selling, supplying and/or distributing a product in a defective condition;
- b. Designing, assembling, manufacturing, selling, supplying and/or distributing the subject Kratom without warnings or information of any kind regarding the potentially dangerous effects of the Kratom;
- c. Designing, assembling, manufacturing, selling, supplying and/or distributing a product that was unreasonably dangerous to its intended and foreseeable users;
- d. Designing, assembling, manufacturing, selling, supplying and/or distributing a product that was unreasonably dangerous for its intended and foreseeable uses;
- e. Designing, assembling, manufacturing, selling, supplying and/or distributing that was not safe for all of its intended and represented purposes;
- f. Continuing to design, manufacture, sell, supply and/or distribute Kratom and Kratom-containing products to U.S. consumers, including Caleb Sturgis, despite Defendant's knowledge that its Kratom and Kratom-containing products would unreasonably expose users to devastating injuries, health risks, addiction and/or death.
- g. Continuing to design, manufacture, sell, supply and/or distribute Kratom and Kratom-containing products to U.S. consumers, including Caleb Sturgis with knowledge that the Kratom would unreasonably expose users to devastating injuries, health risks, addiction and/or death, but utterly failing to provide adequate, explicit warnings to the ultimate users of the Kratom about the significant risks associated with its use;
- h. Designing, assembling, manufacturing, selling, supplying and distributing the Kratom and Kratom-containing products to U.S. consumers, including Caleb Sturgis, as an "herbal supplement" and/or "herbal tea" despite knowing or being in the position to know that Kratom acts as an opioid

and has all of the same addictive and dangerous qualities and effects as an opioid;

- i. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to make all the necessary corrections and/or changes to eliminate the risk of and prevent future injuries and/or deaths;
- j. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to investigate, retain, and analyze prior incident information in order to warn and/or notify ultimate users and consumers;
- k. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to adequately warn users and consumers that the Kratom was capable of causing injuries and/or death;
- l. Despite being a supplier, failing to give any warnings and/or instructions of the possible risks of using the product that may be required, or that are created by inherent limitations in the safety of such use; and
- m. Designing, assembling, manufacturing, selling, supplying and distributing a product, the risks of which outweigh its utility.

40. By conducting itself as set forth above, Defendant SoCal Herbal Remedies' acts and/or omissions were a substantial factor in, a factual cause of, and/or increased the risk of Caleb Sturgis' devastating injuries and tragic death.

41. The subject Kratom was not equipped at the time it left Defendant's possession and control with every element necessary to make it safe for its reasonably foreseeable uses and reasonably foreseeable misuses.

42. By reason of the breach of duties—pursuant to § 402(A) of the Restatement of the Law of Torts (Second), the Restatement (Third) of Torts: Product Liability, and pursuant to Tincher v. Omega Flex, 104 A.3d 328 (Pa. 2014) and its progeny—by Defendant SoCal Herbal Remedies, by and through its agents, servants, workmen, contractors, suppliers, distributors and/or employees as aforesaid, Plaintiff's decedent was caused to sustain devastating injuries that led to his death, as set forth above.

WHEREFORE, Plaintiffs demand judgment against Defendant, SoCal Herbal Remedies, LLC, jointly and/or severally in an amount in excess of the jurisdictional limit in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit and bring this action to recover same.

**COUNT II – NEGLIGENCE**

**PLAINTIFFS v. DEFENDANT SOCAL HERBAL REMEDIES**

43. All preceding paragraphs of this Complaint are incorporated by reference the same as if fully set forth herein.

44. At all times relevant hereto, Defendant SoCal Herbal Remedies designed, assembled, manufactured, sold, distributed, and/or placed into the stream of commerce Kratom and products containing Kratom, such as the Kratom that caused the death of Caleb Sturgis.

45. Defendant SoCal Herbal Remedies owed a duty to those persons purchasing its products, including Caleb Sturgis, to provide a reasonably safe product, free from defects which could cause unreasonable hazards.

46. Defendant SoCal Herbal Remedies knew or should have known of the dangerous and potentially lethal effects of Kratom, which Defendant intended its customers to ingest and/or otherwise consume.

47. Defendant SoCal Herbal Remedies knew or should have known of the devastating injuries, addiction and/or death that would befall its customers upon the ingestion and/or use of its Kratom.

48. Despite this knowledge, Defendant SoCal Herbal Remedies utterly failed to design, assemble, manufacture, sell, supply, distribute, and/or place into the stream of commerce a product free of defects to prevent the unknowing consumption of the dangerous product.

49. Despite this aforementioned knowledge, Defendant SoCal Herbal Remedies outrageously and deliberately failed to include warnings and/or information regarding the dangerous and lethal effects of its Kratom product.

50. Defendant SoCal Herbal Remedies' deliberate decision to not include warnings and/or information with its Kratom product was made for purely economic reasons and was made in reckless, willful and wanton disregard for the health and rights of its customers, including Caleb Sturgis.

51. The negligence, gross negligence, carelessness, recklessness and outrageously wrongful conduct of Defendant SoCal Herbal Remedies, its agents, servants and/or employees, which are the proximate cause of the accident described herein, and the injuries and death to Caleb Sturgis, consisted of the following:

- a. Designing, assembling, manufacturing, selling, supplying and/or distributing a product in a defective condition;
- b. Designing, assembling, manufacturing, selling, supplying and/or distributing the subject Kratom without warnings or information of any kind regarding the potentially dangerous effects of the Kratom;
- c. Designing, assembling, manufacturing, selling, supplying and/or distributing a product that was unreasonably dangerous to its intended and foreseeable users;
- d. Designing, assembling, manufacturing, selling, supplying and/or distributing a product that was unreasonably dangerous for its intended and foreseeable uses;
- e. Designing, assembling, manufacturing, selling, supplying and/or distributing that was not safe for all of its intended and represented purposes;
- f. Continuing to design, manufacture, sell, supply and/or distribute Kratom and Kratom-containing products to U.S. consumers, including Caleb Sturgis, despite Defendant's knowledge that its Kratom and Kratom-containing products would unreasonably expose users to devastating injuries, health risks, addiction and/or death.
- g. Continuing to design, manufacture, sell, supply and/or distribute Kratom and Kratom-containing products to U.S. consumers, including Caleb

Sturgis with knowledge that the Kratom would unreasonably expose users to devastating injuries, health risks, addiction and/or death, but utterly failing to provide adequate, explicit warnings to the ultimate users of the Kratom about the significant risks associated with its use;

- h. Designing, assembling, manufacturing, selling, supplying and distributing the Kratom and Kratom-containing products to U.S. consumers, including Caleb Sturgis, as an “herbal supplement” and/or “herbal tea” despite knowing or being in the position to know that Kratom acts as an opioid and has all of the same addictive and dangerous qualities and effects as an opioid;
- i. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to make all the necessary corrections and/or changes to eliminate the risk of and prevent future injuries and/or deaths;
- j. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to investigate, retain, and analyze prior incident information in order to warn and/or notify ultimate users and consumers;
- k. Despite having actual knowledge of prior deaths and injuries caused by use of Kratom and/or Kratom-containing products, failing to adequately warn users and consumers that the Kratom was capable of causing injuries and/or death;
- l. Despite being a supplier, failing to give any warnings and/or instructions of the possible risks of using the product that may be required, or that are created by inherent limitations in the safety of such use;
- m. Designing, assembling, manufacturing, selling, supplying and distributing a product, the risks of which outweigh its utility;
- n. Failing to have adequate warnings on and/or with the product;
- o. Failing to have adequate warnings on and/or with the product despite knowing that the dangers and risks associated with the product were unknown and unknowable to the ordinary consumer and/or user, including Caleb Sturgis;
- p. Failing to have adequate warnings on and/or with the product despite knowing that the dangers and risks associated with the product would cause unreasonable and severe injuries, addiction and/or death;
- q. Failing to provide warnings to all potential users;
- r. Designing, assembling, manufacturing, selling, supplying and/or distributing a product without simple and cost-effective safety devices and/or measures, including but not limited to adequate warnings and/or instructions;
- s. Failing to adequately and properly test and/or research said product; and

t. Failing to take steps to make the product safer.

52. By reason of the carelessness, negligence, gross negligence and recklessness of Defendant SoCal Herbal Remedies, as aforesaid, Plaintiffs' decedent, Caleb Sturgis, was caused to sustain severe and devastating injuries that led to his death as set forth above.

53. By conducting itself as set forth above, Defendant's acts and/or omissions were a substantial factor in, a factual cause of, and/or increased the risk of harm of Caleb Sturgis' severe injuries and ultimate death.

WHEREFORE, Plaintiffs demand judgment against Defendant, SoCal Herbal Remedies, LLC, jointly and/or severally in an amount in excess of the jurisdictional limit in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit and bring this action to recover same.

### **COUNT III – BREACH OF WARRANTY**

#### **PLAINTIFFS v. DEFENDANT SOCAL HERBAL REMEDIES**

54. All preceding paragraphs of this Complaint are incorporated by reference the same as if fully set forth herein.

55. In designing, manufacturing, marketing, promoting, selling, distributing, delivering and/or supplying the subject Kratom, Defendant SoCal Herbal Remedies impliedly warranted that the Kratom was merchantable, fit and safe for its intended use and the ordinary purposes for which it was sold, and that it was free from defects.

56. The subject Kratom as designed and supplied was not safe for its intended use and, as a result, Defendant breached the implied warranty of merchantability.

57. Defendant's breach of the warranty of merchantability was a substantial factor in, a factual cause of, and/or increased the risk of Plaintiff's devastating injuries and ultimate death.

WHEREFORE, Plaintiffs demand judgment against Defendant, SoCal Herbal Remedies, LLC, jointly and/or severally in an amount in excess of the jurisdictional limit in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit and bring this action to recover same.

**COUNT IV – WRONGFUL DEATH ACTION**

**PLAINTIFFS v. DEFENDANT SOCAL HERBAL REMEDIES**

58. All preceding paragraphs of this Complaint are incorporated by reference the same as if fully set forth herein.

59. Plaintiffs, Scott Sturgis and Lori Sturgis, bring this action individually and as Co-Administrators of the Estate of Caleb Sturgis, on behalf of those entitled by law to recover for his wrongful death, under and by virtue of 42 Pa.C.S.A. § 8301, et seq., commonly known as the Pennsylvania Wrongful Death Act.

60. No action for damages was brought by Caleb Sturgis during his lifetime as a result of the accident at issue in this case.

61. The wrongful death beneficiaries that are entitled to recover damages for the tragic death of Caleb Sturgis, pursuant to 42 Pa.C.S.A. § 8301, et seq., are Plaintiffs, his mother Lori Sturgis and his father Scott Sturgis.

62. Plaintiffs claim damages for pecuniary loss suffered by decedent's beneficiaries by reason of the death of Caleb Sturgis, and specifically for reimbursement of medical expenses, funeral expenses, and expenses of administration.

63. Plaintiffs, individually and as Co-Administrators of the Estate of Caleb Sturgis, claims for decedent's beneficiaries damages resulting from the deprivation of comfort, aid, assistance, society and the loss of guidance and tutelage to his beneficiaries due to his death.

64. The acts and omissions set forth herein were done in a negligent, grossly negligent, willful, reckless and wanton fashion, with a conscious indifference to the rights of members of the public generally, and decedent in particular.

WHEREFORE, Plaintiffs demand judgment against Defendant, SoCal Herbal Remedies, LLC, jointly and/or severally in an amount in excess of the jurisdictional limit in compensatory damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit and bring this action to recover same.

**COUNT V – SURVIVAL ACTION**

**PLAINTIFFS v. DEFENDANT SOCAL HERBAL REMEDIES**

65. All preceding paragraphs of this Complaint are incorporated by reference the same as if fully set forth herein.

66. Plaintiffs bring this action under and by virtue of 42 PA.C.S.A. § 8302, commonly known as the Pennsylvania Survival Act.

67. The Estate of Caleb Sturgis claims damages for pain and suffering, embarrassment, humiliation, disfigurement and loss of enjoyment of life undergone by the decedent as a result of the Defendant's tortious conduct, and damages for the amount that Caleb Sturgis would have earned from the date of his death to the end of his life expectancy.

68. The acts and omissions set forth herein were done in a negligent, grossly negligent, willful, reckless and wanton fashion, with a conscious indifference to the rights of members of the public generally, and decedent in particular.

WHEREFORE, Plaintiffs demand judgment against Defendant, SoCal Herbal Remedies, LLC, jointly and/or severally in an amount in excess of the jurisdictional limit in compensatory



damages, punitive damages, delay damages pursuant to Pa.R.C.P. 238, interest and allowable costs of suit and bring this action to recover same.

**SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.**

BY: /s/ Robert J. Mongeluzzi  
ROBERT J. MONGELUZZI  
SAMUEL B. DORDICK

**EXHIBIT "A"**

# SHORT CERTIFICATE

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CHESTER

File Number: 1518-2221

I, TERRI CLARK, Register of Wills, in and for the County of Chester in the Commonwealth of Pennsylvania, do hereby certify that on the 15th day of November, 2018

LETTERS OF ADMINISTRATION  
on the Estate of:  
CALEB J. STURGIS, Deceased

were granted to:  
SCOTT B. STURGIS  
and LORI L. STURGIS

having first been qualified well and truly to administer the same. I further certify that no revocation of said Letters appears of record in my office.

Date of Death: 06/27/2018  
Soc. Sec. No.: 177-74-6522

Given under my hand and seal of office this  
15th day of November, 2018

  
Deputy for the Register of Wills

NOT VALID WITHOUT ORIGINAL SIGNATURE AND IMPRESSED SEAL

**VERIFICATION**

The averments or denials of fact contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of the 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

/s/ Robert J. Mongeluzzi  
ROBERT J. MONGELUZZI

Date: \_\_\_\_\_