

Food and Drug Administration
Center for Food Safety and Applied Nutrition
Office of Special Nutritionals

ARMS#

12485



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Autopsy Protocol

Coroner's Case Number: [REDACTED]

Autopsy Number: [REDACTED]

Name: [REDACTED]

Age: 38

Sex: Male

Time of Death: Reported 0711 hours, June 10, 1996

Race: Caucasian

Time of Autopsy: 1200 hours, June 12, 1996

Place of Autopsy: [REDACTED]

Deputy: [REDACTED]

HISTORY OF DEATH: According to the deputy coroner's report, from information received from [REDACTED] this 38-year-old decedent, a resident of [REDACTED] was brought in by ambulance to [REDACTED] on June 10, 1996, at 0700 hours with a diagnosis of full cardiac arrest. He had a history of heart problems. He was pronounced dead at 0711 hours on June 10, 1996, by an emergency room physician. There was no visible trauma.

According to the paramedics, the patient was out jogging in the morning and when he returned home he suddenly collapsed and had what appeared to be a seizure. 911 was called and CPR was begun by a friend. Paramedics found the patient with a ventricular rhythm of 20 which converted to asystole. Advanced cardiac life support by paramedics was instituted and the patient was transported to the [REDACTED]. Continued resuscitation was unsuccessful.

According to the decedent's wife, the decedent had been treated for pneumonia a few times and it was stated that he had some sort of "build up" around his heart. He was last treated 5 years ago at [REDACTED]. He reportedly jogs regularly and did not have an unusual diet. There is no history of drug or alcohol abuse. He did not smoke. He was stated to have a very high stress job as a regional trainer for the [REDACTED]. He would travel about 4 days a week within the United States. He had been feeling fine recently with no particular complaints. On this day he had been out for a 20 minute jog. When he returned he suddenly collapsed.

Review of the medical records confirm the above findings. The statement is made that on arrival at the emergency room, the decedent was cyanotic from the nipple line upwards.

EXTERNAL EXAMINATION: This is the nude body of a generally well-developed, mildly obese, adult Caucasian male appearing consistent with the stated age of 38 years. There is evidence of organ donation procedures. The estimated length is 69" (estimated because of extremity bone donation procedures), the weight is 197 pounds. The hair is blonde. Eye color cannot be determined due to corneal donation. The complexion is fair. A toe tag identifies the body as that of [REDACTED] case [REDACTED]. The body is not embalmed. The only therapeutic appliances include an oral endotracheal tube, EKG monitor pads, and an intravenous line in the left antecubital fossa.

The head is normocephalic. There is well-trimmed, short to medium length light brown hair. The face is clean shaven. There is no external evidence of trauma. The corneas have been donated.

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The nose is midline. The nares are patent. The nasal septum appears intact. There is no evidence of intraoral injury. There are no palpable facial bone fractures. The trachea is palpable in the midline.

The chest and abdomen are generally symmetric. The abdomen is mildly obese. There are multiple apparent needle puncture marks in the subclavian area, consistent with therapeutic maneuvers. There is a 3 c. x 3 cm. area of abrasion over the central sternum, consistent with therapeutic maneuvers. The external genitalia are normal male.

The upper extremities are generally symmetric. The right upper extremity is well formed and muscled. There is an approximately 40 cm. bone donation sutured incision from the top of the shoulder to the level of the elbow. The antecubital fossa appears unremarkable. There is mild posterior lividity. The digits of the right hand are intact.

The left lower extremity is well formed and muscled. There is a similar located sutured bone donation incision in the left upper arm. There is mild posterior lividity. There is minimal hemorrhage in the antecubital fossa, consistent with therapeutic maneuvers. The digits of the left hand are intact.

The lower extremities are generally symmetric. There is mild deformity of both lower extremities, due to bone donation procedures. There is an approximately 100 cm. sutured bone donation incision in the right leg going from the anterior-superior iliac area down to the heel. There is no overt injury to the right lower leg. The digits of the right foot are intact.

The left lower leg shows a similarly located bone donation incision. There is no external evidence of trauma, other than subcutaneous hemorrhage associated with the bone donation procedure.

The back shows posterior lividity. There is no external injury.

INTERNAL EXAMINATION:

HEAD: There is an approximately 4 cm. x 4 cm. area of deep soft tissue and periosteal hemorrhage in the right parietal-temporal area just above the right ear. There is mild hemorrhage into the right temporalis muscle. The skull is intact without fractures. The dura is intact. There is no extradural or subdural hemorrhage. The leptomeninges are thin and transparent. There is a focal approximately 2 cm. area of subarachnoid hemorrhage on the left lateral parietal lobe, essentially opposite the soft tissue hemorrhage in the right parietal area. The cerebral convolutions are symmetric and normally formed. The superficial blood vessels are mildly congested. The vessels at the base of the brain are widely patent. The vessels of the circle of Willis are symmetric and normally formed. Serial coronal sections of the cerebellar hemispheres show good gray/white matter demarcation. There are no cortical contusions or parenchymal hemorrhage. The ventricles are of normal size with clear fluid. Serial sections of the brainstem and cerebellum are unremarkable. The brain weighs 1540 grams.

NECK: There is moderate hemorrhage in the soft tissues around the clavicular areas, consistent with therapeutic maneuvers. The hyoid bone and thyroid cartilage are intact. The upper airway is patent.

BODY CAVITIES: The pleural cavities are moist and smooth. There is approximately 50 cc. of serous fluid in both chest cavities. The peritoneal shows no inflammation or adhesions. There is no excess fluid.

CARDIOVASCULAR SYSTEM: The pericardial sac is intact and contains approximately 10 cc of serous fluid. The heart weighs 490 grams. The epicardium is unremarkable. The right and left coronary arteries arise normally. Serial sectioning shows significant narrowing to greater than 75% of the distal obtuse marginal branches of the left anterior descending and focal greater than 50% narrowing of the left anterior descending artery. There is focal narrowing of the proximal right coronary artery to 75% and focal narrowing of the proximal left circumflex artery to greater than 75%. The chambers are normally formed and situated. There is mild four chamber dilatation. The valves are normally formed and situated. The valve tissue is thin and pliable without vegetations. The interatrial and interventricular septa are intact. The endocardium is smooth and glistening. The myocardium is slightly flabby and red-brown. There are no definite focal areas of fibrosis, congestion or pallor. The coronary orifices are patent. The aorta shows minimal atherosclerotic plaque involving approximately 20% of its surface, primarily at the arch and at the distal abdominal aorta.

RESPIRATORY TRACT: The right and left lungs are normally formed and lobated. The right lung weighs 690 grams. The left lung weighs 560 grams. The endotracheal tube is approximately 3 cm. above the carina. The pleural surfaces are moist and smooth. Both lungs show diffuse deep red-brown congestion. There are no focal areas of consolidation. There are no masses or thromboemboli.

GASTROINTESTINAL TRACT: The esophagus is intact. The stomach contains approximately 100 cc. of bloody, thin fluid. There is focal decomposition and patchy, diffuse congestion. There are no focal lesions or ulcerations. The pylorus is unremarkable. The small and large intestines are normally formed and situated with a cecum and an unremarkable appendix in the right lower quadrant. There are no masses or strictures.

PANCREAS: The pancreas is softened, deep red-brown, but retains the usual lobular architecture.

HEPATOBIILIARY SYSTEM: The intact liver weighs 2760 grams. The capsule is intact. The parenchyma is firm, deep red-brown, with diffuse congestion and a slight "nutmeg" pattern. There are no masses. A thin walled, approximately 8 cm. x 4 cm. x 4 cm., gallbladder contains thin, green-brown bile and no stones.

LYMPHOID SYSTEM: The intact spleen weighs 480 grams. The capsule is tight but intact. The parenchyma is slightly softened, deep red brown, with loss of the usual follicular pattern. Lymph nodes throughout the body are unremarkable.

GENITOURINARY TRACT: The right and left kidneys are normally formed and situated. Each kidney weighs 210 grams. The capsules strip with ease revealing smooth, red-brown external surfaces. The cut surface shows diffuse congestion but a good corticomedullary demarcation. The pelves and ureters are not dilated and are free of stones. The bladder contains approximately 50 cc. of cloudy urine. The prostate is firm, light tan, without nodularity or enlargement. Both testes show the usual tan-brown, seminiferous tubules.

ENDOCRINE SYSTEM: The thyroid is symmetric. The cut surface reveals glistening, tan-brown colloid. The left and right adrenals are normally formed and situated and show the usual thin, yellow cortex. The pituitary is of normal size and shape for age.

MUSCULOSKELETAL SYSTEM: There are anterior fractures of right fourth and fifth ribs with minimal surrounding hemorrhage. There is hemorrhage around the anterior left fourth

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[REDACTED] AUTOPSY CONTINUED
PAGE 4
[REDACTED]

costochondral junction without overt fracture. These injuries are consistent with cardiopulmonary resuscitation.

MICROSCOPIC EXAMINATION:

Sections of central nervous system, adrenals, thyroid, kidneys, lymph nodes and stomach show varying degrees of vascular congestion but no significant histopathologic abnormalities. Sections of myocardium show moderate variation in size and shape of myocyte nuclei. There is no evidence of acute or chronic ischemia in the sectioned areas. A section of coronary artery shows atherosclerotic plaque occluding approximately 60% of the lumen at the sectioned site. Sections of lung show focal acute vascular congestion and focal acute alveolar hemorrhage. Sections of liver show moderate sinusoidal centrilobular congestion and moderate diffuse macrosteatosis. Sections of spleen show marked red pulp vascular congestion.

TOXICOLOGY: Postmortem blood is screened for ethanol and drugs of abuse. No ethanol or drugs are detected.

- DIAGNOSIS:
- I. Atherosclerotic cardiovascular disease.
 - A. Coronary atherosclerosis.
 - 1. Severe narrowing of three coronary vessels.
 - 2. Cardiomegaly (490 grams) with four chamber dilatation, mild.
 - 3. Congestive heart failure.
 - a. Marked bilateral pulmonary congestion.
 - b. Congestive hepatomegaly (2760 grams).
 - c. Congestive splenomegaly (480 grams).
 - II. Fractures of right fourth and fifth ribs, consistent with cardiopulmonary resuscitation.
 - III. Blunt force injuries consistent with fall.
 - A. Contusion, right parietal-temporal scalp.
 - B. Focal left parietal subarachnoid hemorrhage.
 - IV. Postmortem blood toxicology negative.

CAUSE OF DEATH: Acute arrhythmia, minutes, due to atherosclerotic cardiovascular disease, years.

[REDACTED]
[REDACTED] M.D.
Pathologist

[REDACTED]

Autopsy Completed 1320 hours, June 12, 1996.

Autopsy Protocol

Coroner's Case Number: [REDACTED]

Autopsy Number: [REDACTED]

Name: [REDACTED]

Age: 38

Sex: Male

Time of Death: Reported 0711 hours, June 10, 1996

Race: Caucasian

Time of Autopsy: 1200 hours, June 12, 1996

Place of Autopsy: [REDACTED]

Deputy: [REDACTED]

ADDENDUM REPORT November 26, 1996

At the request of the decedent's physician, a comprehensive toxicology was performed in order to evaluate for the presence of Ephedrine, as the decedent had been taking a herbal medication called Ma Huang. Ephedrine was found by GC/MS at a level of 0.11 micrograms/mL. Papaverine was also detected. Vitreous glucose and electrolytes included a glucose of 8 mg/dL, urea nitrogen 14 mg/dL, creatinine 0.7 mg/dL, bicarbonate 15 meq/L, chloride 128 meq/L, sodium 153 meq/L, and potassium 3.6 meq/L.

COMMENT: Ephedrine is a stimulant medication, and as such may have contributed to a fatal arrhythmia in the decedent.

[REDACTED]
[REDACTED] M.D.

Pathologist

[REDACTED]

TOXICOLOGY REPORT

NAME:

DATE OF DEATH: 06/10/96

Autopsy#:

PATHOLOGIST: M.D.

Blood Drug Screen:

Ethyl Alcohol, GC	-	Not Detected
Acetone, Methanol, Isopropanol, GC	-	Not Detected

Blood Radioimmunoassay Screens:

Cocaine/Benzoyllecgonine	-	Not Detected
Opiates	-	Not Detected
Methamphetamine	-	Not Detected
Phencyclidine	-	Not Detected
Amphetamine	-	Not Detected

APPROV
6/27/96

ADDENDUM I
TOXICOLOGY REPORT

NAME: [REDACTED] [REDACTED]
DATE OF DEATH: 06/10/96 Autopsy #: [REDACTED]
PATHOLOGIST: [REDACTED] M.D.

Blood Drug Screen:
Basic Drugs, GC/MS - Papaverine Detected
Neutral Drugs, GC/MS - Not Detected
Salicylic Acid, COLOR - Not Detected
Acetaminophen, COLOR - Not Detected
Ethchlorvynol, COLOR - Not Detected
Chloral Hydrate(TCE), COLOR - Not Detected

Blood Radioimmunoassay Screens
Barbiturates - Not Detected
Benzodiazepines - Not Detected

Blood: Ephedrine GC/MS
0.11 µg/mL

*Vitreous Panel:
Glucose 8 mg/dL
Urea Nitrogen 14 mg/dL
Creatinine 0.7 mg/dL
Bicarbonate 13 meq/L
Chloride 128 meq/L
Sodium 153 meq/L
Potassium 8.6 meq/L

* Test Performed at [REDACTED]

APPROVED: [REDACTED]
11/19/96 [REDACTED]

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SUMMONS ON FIRST AMENDED COMPLAINT
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (Aviso a Acusado)

TWIN LABORATORIES, INC.; TWINLAB; [REDACTED]

[REDACTED] and DOES 1 through 100,
inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(A Ud. le está demandando)

[REDACTED] individually and as Guardian ad Litem for
[REDACTED] a minor,

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: *(El nombre y dirección de la corte es)*

CASE NUMBER: *(número del Caso)*

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

DATE:
(Fecha)

Clerk, by _____, Deputy
(Actuario) (Delegado)

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of *(specify)*:
3. on behalf of *(specify)*:

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (individual)
 other:

4. by personal delivery on *(date)*:

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[REDACTED]

[REDACTED]

Attorney for Plaintiffs, [REDACTED] individually
and as Guardian ad Litem for [REDACTED]
a minor

SUPERIOR COURT OF THE [REDACTED]
FOR THE COUNTY OF [REDACTED]

[REDACTED] individually and)
as Guardian ad Litem for)
[REDACTED] a minor,)
Plaintiffs,)
vs.)
TWIN LABORATORIES, INC.; TWINLAB;))
[REDACTED])
individually and dba)
[REDACTED] and)
DOES 1 through 100, inclusive,)
Defendants.)

CASE NO.:
FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:
1. Wrongful Death (Strict
Products Liability);
2. Wrongful Death
(Negligence);
3. Negligent Infliction of
Emotional Distress
[REDACTED]
Case Management Conference Set for
1/23/98 at 9:30 a.m.. Attendance
is Mandatory. Case Assigned to
Judge [REDACTED]

Plaintiffs, [REDACTED] individually and as Guardian ad Litem
for [REDACTED] a minor, allege as follows:

FIRST CAUSE OF ACTION

[Wrongful Death (Strict Products Liability)]

1. The tortious conduct giving rise to this lawsuit occurred
in the [REDACTED] County of [REDACTED] State of

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[REDACTED]

2. Plaintiff, [REDACTED] is a minor of the age of 8, having been born on April 10, 1989. Immediately subsequent to the filing of this action, plaintiff, [REDACTED] as natural mother of said minor children, will apply to the Court for an Order to be appointed as Guardian ad Litem.

3. At all times relevant herein, plaintiffs, [REDACTED] and [REDACTED] were and are residents of the County of [REDACTED] State of [REDACTED] Plaintiff, [REDACTED] was at the time of decedent [REDACTED] death, decedent's lawful wife. Plaintiff, [REDACTED], is the surviving natural child of the decedent and plaintiff, [REDACTED]

4. The true names or capacities, whether individual, corporate, associate, alter ego or otherwise of the defendants DOES 1 through 100, are unknown to plaintiffs at the time of filing of this complaint, and plaintiffs, therefore, sue said defendants by such fictitious names and will ask leave of Court to amend this complaint to show their true names or capacities when the same have been ascertained or discovered.

5. Plaintiffs are informed and believe and thereon allege that each of the defendants designated as a DOE herein is legally responsible in some manner for the subject product and events and happenings referred to, and negligently, consciously, willfully, intentionally, knowingly, recklessly, vicariously, or otherwise tortiously caused and/or is legally liable for the injuries and damages proximately thereby to plaintiff as hereinafter alleged, either through said defendants' design, manufacturing, research, sale,

1 distribution, ownership, possession, supervision, inspection, control,
2 use, or other relationship to the subject herbal dietary supplement
3 known as "Ripped Fuel" which is alleged to have caused the injuries
4 and damages as alleged herein.

5 6. At all relevant times herein, each of the defendants was an
6 agent, servant, employee and/or alter ego of each of the remaining
7 defendants, and was at all times acting within the time, purpose or
8 scope of said agency or employment, and acting with the express or
9 implied knowledge, authority, permission and/or consent of the
10 remaining defendants, and each of them.

11 7. Plaintiffs are informed and believe and thereon allege, that
12 at all relevant times herein, defendants, and each of them, were
13 qualified to do business and are now doing business in the County of
14 [REDACTED] State of [REDACTED]

15 8. At all times herein mentioned, defendants, TWIN
16 LABORATORIES, INC., TWINLAB, and DOES 1 through 25, were corporations
17 or other business entities organized and existing under the laws of
18 the State of [REDACTED] and qualified to do business in [REDACTED] with
19 their principal place of business in the City of [REDACTED]

20 9. Defendants, TWIN LABORATORIES, INC., TWINLAB, [REDACTED]
21 [REDACTED]
22 [REDACTED] individually and dba [REDACTED]
23 [REDACTED] and DOES 1 through 100, were engaged in
24 the business of manufacturing, inter alia, non-prescription
25 nutritional/dietary supplements for sale to, and use by, members of
26 the general public, and as a part of their business, said defendants
27 and each of them prior to June-10, 1996, manufactured a purported
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1 nutritional/dietary supplement known as "Ripped Fuel", which was
2 represented to be a safe, natural metabolic enhancer; recommended as
3 a fat burner to effect weight loss and as an energy enhancer during
4 exercise.

5 10. At all times herein mentioned, defendants, [REDACTED]
6 [REDACTED] and DOES 26 through 50, were
7 corporations organized and existing under the laws of the State of
8 [REDACTED] and qualified to do business in [REDACTED] with its
9 principal place of business in the City of [REDACTED]

10 11. At all times herein mentioned, defendants, [REDACTED]
11 [REDACTED] dba [REDACTED]
12 [REDACTED] and DOES 51 through 75, were business entities, forms
13 unknown, with their principal place of business located at [REDACTED]
14 [REDACTED] in the City of [REDACTED] County of [REDACTED]
15 [REDACTED]

16 12. At all times herein mentioned, defendants, [REDACTED]
17 [REDACTED]
18 [REDACTED] and DOES 51 through 100, were engaged in the
19 business of the distribution, promotion and retail sale of the subject
20 product to members of the general public through, inter alia, the
21 business known as [REDACTED] in the City of
22 [REDACTED] County of [REDACTED] which, at all times
23 herein relevant, was engaged in the distribution, promotion and retail
24 sale of health and nutritional products, including the hereinabove
25 described product known as "Ripped Fuel" Metabolic Enhancer,
26 manufactured by defendants, TWIN LABORATORIES, INC., TWINLAB, and DOES
27 1 through 25.

1 13. Defendants, [REDACTED] and DOES 76 through 100,
2 are, and at all times herein mentioned were, owners, operators,
3 principals, joint venturers, partners, investors and/or legally
4 responsible for defendant, [REDACTED] and
5 DOES 51 through 75.

6 14. Plaintiffs are informed and believe and thereon allege that
7 at all relevant times herein, defendants, TWIN LABORATORIES, INC.,
8 TWINLAB, and DOES 1 through 25, and each of them, were engaged in the
9 business of formulating, manufacturing, selling, promoting,
10 advertising, distributing, wholeselling, retailing, storing,
11 packaging, labeling, supplying, testing, inspecting, importing,
12 franchising, furnishing, operating, or otherwise involved in the chain
13 of production and distribution of the subject product known as "Ripped
14 Fuel" for sale to, and use by, members of the general public and which
15 defendants and each of them represented to be a safe, natural herbal
16 natural metabolic enhancer and fat burner to facilitate weight loss
17 and increase energy for exercise.

18 16. Defendants, and each of them, at all times herein mentioned
19 knew and intended that the subject "Ripped Fuel" product would be
20 purchased from defendant retailers by members of the general public
21 and used by such purchasers and other users without a prescription and
22 without any inspection for defects based upon the representations made
23 by defendants on the product label and in their other
24 promotional/sales materials.

25 17. At the time of its manufacture and sale to plaintiffs'
26 decedent, the subject nutritional/diet product known as "Ripped Fuel"
27 was unsafe and defective to consumers, including plaintiffs' decedent,
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1 using said product for its intended purposes and in a reasonably
2 foreseeable manner, inter alia, for the following reasons: Defendants
3 incorporated into said product "Ma Huang Extract", a Chinese herbal
4 extract known to contain Ephedrine and "Guarana Extract" (known to
5 contain caffeine); Ephedrine being recognized as a potent chemical
6 stimulant similar to amphetamines which when ingested by itself or in
7 combination with caffeine (another known stimulant) was and is
8 scientifically known to be capable of causing sudden death and/or
9 serious personal injuries due to heart attack, irregular/excessive
10 heart rate, stroke, seizures and/or other life or health threatening
11 reactions when used for its intended purposes in foreseeable manners.

12 19. Defendants, and each of them, failed to provide appropriate
13 and legally adequate warnings to consumers, including plaintiffs'
14 decedent, of the above-referenced, scientifically known potential
15 dangers and/or risks of said product contents.

16 19. Plaintiffs are informed and thereon believe that on or about
17 June 10, 1996, plaintiffs' decedent, [REDACTED] ingested the
18 recommended dosage (2 capsules) of "Ripped Fuel" (from a bottle of 60
19 capsules identified with Lot #56491) he had purchased from [REDACTED]
20 [REDACTED] in May of 1996) consistent with label
21 instructions prior to his morning exercise (jogging).

22 20. As the direct and legal result of decedent's use of said
23 unsafe and defective product as herein alleged, upon decedent's return
24 to his home after his run, plaintiffs' decedent suffered a sudden
25 cardiac arrhythmia, which caused him to suddenly collapse, exhibit
26 seizure-type symptoms; ultimately culminating in his untimely death
27 on June 10, 1996.

1 21. Immediately prior to suffering the above-alleged fatal
2 arrhythmia on June 10, 1996, the decedent, [REDACTED] was a
3 strong and healthy male of the age of 38 years (date of birth [REDACTED]
4 [REDACTED]

5 22. As a direct and legal result of the unsafe and defective
6 nature of said product, and the resulting untimely death of [REDACTED]
7 [REDACTED] plaintiffs, [REDACTED] and [REDACTED] have
8 sustained pecuniary loss resulting from the loss of the love, care,
9 companionship, comfort, affection, society, solace, moral support and
10 financial support of the decedent; in addition, plaintiff, [REDACTED]
11 [REDACTED] only, suffered the loss of the enjoyment of her marital and
12 sexual relationship with the decedent and the loss of his physical
13 assistance in the maintenance and operation of their household; all
14 in a total sum within the jurisdiction of this Court to be determined
15 according to proof at trial.

16 23. As a direct and proximate result of said unsafe and
17 defective product, plaintiffs have incurred medical expenses and
18 funeral and burial expenses in a sum within the jurisdiction of this
19 Court to be determined according to proof.

20 SECOND CAUSE OF ACTION

21 [Wrongful Death (Negligence)]

22 24. Plaintiffs incorporate by reference paragraphs 1 through 23
23 of their First Cause of Action as though fully set forth herein.

24 25. At all times prior to the manufacture, distribution and
25 ultimate sale of said "Ripped Fuel" product to plaintiffs' decedent,
26 defendants, and each of them, knew or should have known that "Ma
27 Huang" and extracts thereof contained Ephedrine, which was, and is,
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1 known to be a potent stimulant and, especially in combination with
2 caffeine, was, and is, known to be capable of causing and was being
3 reported to be causing multiple incidents of sudden, fatal and/or life
4 threatening and serious reactions and injuries (as previously alleged)
5 to consumers having used products containing Ephedrine and/or
6 Ephedrine in combination with caffeine.

7 26. Defendants and each of them nonetheless negligently,
8 carelessly, recklessly, wilfully, unlawfully and unreasonably
9 continued, and still continue, to manufacture, distribute, sell,
10 promote, market, wholesale, retail and otherwise provide to the public
11 the subject unsafe and unreasonably dangerous products, including
12 "Ripped Fuel", containing Ephedrine and caffeine and have failed and
13 refused, and continue to fail and refuse, to either remove these
14 products from the market, remove the Ephedrine from their products or
15 to provide clear warnings of the potential danger to consumers of
16 sudden death or serious injuries from using the subject product for
17 its intended purpose in a reasonably foreseeable manner.

18 27. As a direct and legal result of the negligence of
19 defendants, and each of them, as hereinabove alleged, on or about June
20 10, 1996, plaintiffs' decedent, [REDACTED] ingested the
21 recommended dosage (2 capsules) of "Ripped Fuel" (from a bottle of 60
22 capsules (identified with Lot #56491) he had purchased from [REDACTED]
23 [REDACTED] in May of 1996) consistent with label
24 instructions prior to his morning exercise (jogging).

25 28. As the direct and legal result of decedent's use of said
26 unsafe and defective product as herein alleged, upon decedent's return
27 to his home after his run, plaintiffs' decedent suffered a sudden
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1 cardiac arrhythmia, which caused him to collapse, exhibit seizure-type
2 symptoms ultimately culminating in his untimely death on June 10,
3 1996.

4 29. Immediately prior to suffering the above-alleged fatal
5 arrhythmia on June 10, 1996, the decedent, [REDACTED] was a
6 strong and healthy male of the age of 38 years (date of birth [REDACTED]
7 [REDACTED]).

8 30. As a direct and legal result of the negligence of
9 defendants, and each of them, and the resulting untimely death of the
10 [REDACTED] plaintiffs, [REDACTED] and [REDACTED]
11 have sustained pecuniary loss resulting from the loss of the love,
12 care, companionship, comfort, affection, society, solace, moral
13 support and financial support of the decedent; in addition, plaintiff,
14 [REDACTED] only, suffered the loss of the enjoyment of her marital
15 and sexual relationship with the decedent and the loss of his physical
16 assistance in the maintenance and operation of their household; all
17 in a total sum within the jurisdiction of this Court to be determined
18 according to proof at trial.

19 31. As a direct and proximate result of said unsafe and
20 defective product, plaintiffs have incurred medical expenses and
21 funeral and burial expenses in a sum within the jurisdiction of this
22 Court to be determined according to proof.

23 THIRD CAUSE OF ACTION

24 [Negligent Infliction of Emotional Distress
25 [REDACTED]

26 32. Plaintiffs incorporate by reference paragraphs 1 through 23
27 of their First Cause of Action—and paragraphs 29 through 31 of the
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1 Second Cause of Action as though fully set forth herein.

2 33. Plaintiff, [REDACTED] decedents' wife, and plaintiff,
3 [REDACTED] the minor daughter of decedent, were physically
4 present and contemporaneously perceived both visually and audibly the
5 ultimately fatal arrhythmia suffered by [REDACTED] on June 10,
6 1996, including his sudden collapse, subsequent seizure activity and
7 the unsuccessful attempts of emergency intervention prior to decedent
8 being pronounced dead by attending medical personnel on June 10, 1996.

9 34. As the direct and legal result of said unsafe and defective
10 product and/or the negligent acts and omissions of defendants and each
11 of them, as previously alleged, and of plaintiffs' contemporaneous
12 perception of the fatal injuries suffered by their decedent caused
13 thereby, plaintiffs have been caused to suffer, and to continue to
14 suffer, severe emotional distress, mental anguish and psychological
15 and emotional damages and injuries, the nature, extent and amount of
16 which will be subject to proof at trial.

17 WHEREFORE, plaintiffs, [REDACTED] and [REDACTED] pray
18 for judgment against the defendants, and each of them, as follows:

19 FOR PLAINTIFFS' FIRST AND SECOND CAUSES OF ACTION

20 [WRONGFUL DEATH]:

21 1. For wrongful death damages, in an amount within the
22 jurisdiction of this Court to be determined according to proof;

23 2. For medical expenses, funeral and burial expenses in a sum
24 within the jurisdiction of this Court to be determined according to
25 proof;

26 3. For interest and pre-judgment interest as provided by law;

27 4. For costs of suit and for such other and further relief as
28

1 the Court deems proper.

2 FOR PLAINTIFFS' THIRD CAUSE OF ACTION

3 [NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS]:

4 1. For general damages for severe emotional distress and
5 psychological damages and injuries, in an amount within the
6 jurisdiction of this Court to be determined according to proof;

7 2. For medical expenses, funeral and burial expenses in a sum
8 within the jurisdiction of this Court to be determined according to
9 proof;

10 3. For interest and pre-judgment interest as provided by law;

11 4. For costs of suit and for such other and further relief as
12 the Court deems proper.

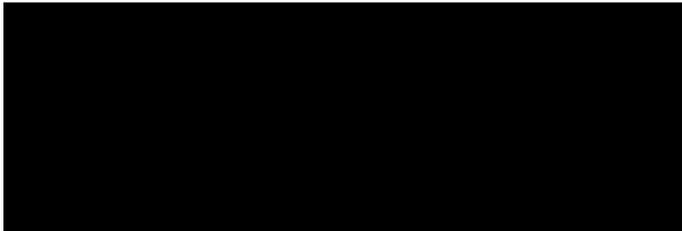
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14 DATED: July 21, 1997

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Attorneys for plaintiffs

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