

EXHIBIT “A”

101 EAST COURTHOUSE SQUARE, ROOM 1007, CUMMING, GEORGIA 30040
TELEPHONE: (770) 781-2120 FACSIMILE: (678) 807-1381

KELLIE SWEATT, Individually and as)
Personal Representative of the Estate of)
JAMES WADE SWEATT,)

Plaintiff,)

v.)

CIVIL ACTION FILE NO. 16SC-0394-A

AMAZON.COM, INC.;)
AMAZON.COM LLC;)
AMAZON PAYMENTS, INC.;)
AMAZON LOGISTICS, INC.;)
AMAZON.COM.DEDC LLC; and)
AMAZON SERVICES LLC,)

Defendants.)

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE
JUN 13 2016
M. Allen
CLERK SUPERIOR COURT

SUMMONS

TO THE ABOVE NAMED DEFENDANT: **AMAZON.COM, INC.**

c/o Registered Agent, Corporation Service Company
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808

You are hereby summoned and required to file with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:

John E. Suthers, Esq.
D. Adam Harper, Esq.
SUTHERS LAW FIRM
Post Office Box 8847
Savannah, Georgia 31412
(912) 232-6767 Telephone

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, Judgment by default will be taken against you for the relief demanded in the complaint.

This 13 day of June, 2016.

Greg G. Allen, Clerk of Court
State Court of Forsyth County, Georgia

By: Ada McMillian
Deputy Clerk, State Court of Forsyth County, Georgia

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AMAZON.COM, INC.;)
AMAZON.COM LLC;)
AMAZON PAYMENTS, INC.;)
AMAZON LOGISTICS, INC.;)
AMAZON.COM.DEDC LLC; and)
AMAZON SERVICES LLC,)

Defendants.)

CIVIL ACTION FILE NO. 16SC-0394-A

SUMMONS

TO THE ABOVE NAMED DEFENDANT: **AMAZON.COM LLC**
c/o Registered Agent, Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, Georgia 30092

You are hereby summoned and required to file with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:

John E. Suthers, Esq.
D. Adam Harper, Esq.
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Post Office Box 8847
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State Court of Forsyth County, Georgia

By: Boa McWilliam
Deputy Clerk, State Court of Forsyth County, Georgia

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TELEPHONE: (770) 781-2120 FACSIMILE: (678) 807-1381

KELLIE SWEATT, Individually and as)
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JAMES WADE SWEATT,)

Plaintiff,)

v.)

AMAZON.COM, INC.;)
AMAZON.COM LLC;)
AMAZON PAYMENTS, INC.;)
AMAZON LOGISTICS, INC.;)
AMAZON.COM.DEDC LLC; and)
AMAZON SERVICES LLC,)

Defendants.)

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

JUN 13 2016

M. Allen
CLERK SUPERIOR COURT

CIVIL ACTION FILE NO. 16SC-0394-A

SUMMONS

TO THE ABOVE NAMED DEFENDANT: **AMAZON PAYMENTS, INC.**
c/o Registered Agent, Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, Georgia 30092

You are hereby summoned and required to file with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:

John E. Suthers, Esq.
D. Adam Harper, Esq.
SUTHERS LAW FIRM
Post Office Box 8847
Savannah, Georgia 31412
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This 13 day of June, 2016.

Greg G. Allen, Clerk of Court
State Court of Forsyth County, Georgia

By: Abe McMillian
Deputy Clerk, State Court of Forsyth County, Georgia

101 EAST COURTHOUSE SQUARE, ROOM 1007, CUMMING, GEORGIA 30040
TELEPHONE: (770) 781-2120 FACSIMILE : (678) 807-1381

KELLIE SWEATT, Individually and as
Personal Representative of the Estate of
JAMES WADE SWEATT,

Plaintiff,

v.

AMAZON.COM, INC.;
AMAZON.COM LLC;
AMAZON PAYMENTS, INC.;
AMAZON LOGISTICS, INC.;
AMAZON.COM.DEDC LLC; and
AMAZON SERVICES LLC,

Defendants.

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

JUN 13 2016

M. Allen
CLERK SUPERIOR COURT

CIVIL ACTION FILE NO. 16SC-0394-A

SUMMONS

TO THE ABOVE NAMED DEFENDANT: **AMAZON.COM.DEDC LLC**

c/o Registered Agent, Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, Georgia 30092

You are hereby summoned and required to file with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:

John E. Suthers, Esq.
D. Adam Harper, Esq.
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This 13 day of June, 2016.

Greg G. Allen, Clerk of Court
State Court of Forsyth County, Georgia

By: *Alex McMillan*
Deputy Clerk, State Court of Forsyth County, Georgia

101 EAST COURTHOUSE SQUARE, ROOM 1007, CUMMING, GEORGIA 30040
TELEPHONE: (770) 781-2120 FACSIMILE: (678) 807-1381

KELLIE SWEATT, Individually and as
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JAMES WADE SWEATT,

Plaintiff,

v.

AMAZON.COM, INC.;
AMAZON.COM LLC;
AMAZON PAYMENTS, INC.;
AMAZON LOGISTICS, INC.;
AMAZON.COM.DEDC LLC; and
AMAZON SERVICES LLC,

Defendants.

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

JUN 13 2016

G. G. Allen
CLERK SUPERIOR COURT

CIVIL ACTION FILE NO. 16SC-0394-A

SUMMONS

TO THE ABOVE NAMED DEFENDANT: **AMAZON SERVICES LLC**

c/o Registered Agent, Corporation Service Company
40 Technology Parkway South, Suite 300
Norcross, Georgia 30092

You are hereby summoned and required to file with the Clerk of said Court and serve upon Plaintiff's Attorney, whose name and address is:

John E. Suthers, Esq.
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Greg G. Allen, Clerk of Court
State Court of Forsyth County, Georgia

By: *Asa Mc Millia*
Deputy Clerk, State Court of Forsyth County, Georgia

IN THE STATE COURT OF FORSYTH COUNTY
STATE OF GEORGIA

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

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KELLIE SWEATT, Individually and as)
Personal Representative of Estate of)
James Wade Sweatt,)
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Plaintiff,)
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vs.)
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AMAZON.COM, INC.;)
AMAZON.COM LLC;)
AMAZON PAYMENTS, INC.;)
AMAZON LOGISTICS, INC.;)
AMAZON.COM.DEDC LLC; and)
AMAZON SERVICES LLC,)
)
Defendants.)

Civil Action No. 16SC-0394-A

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff, Kellie Sweatt, Individually, and as Personal Representative of the Estate of James Wade Sweatt, and files this Complaint for Damages against the above-named Defendants, showing the Court as follows:

1. Plaintiff Kellie Sweatt is a citizen and resident of the State of Georgia, the surviving spouse of James Wade Sweatt who died on June 24, 2014, and the Personal Representative of the Estate of James Wade Sweatt.

2. Plaintiff brings this survival and wrongful death action for the personal injuries and death of James Wade Sweatt as a consequence of his ingestion of the caffeine powder that Defendants marketed, advertised, supplied, distributed, sold and/or promoted.

3. Defendant Amazon.com, Inc. is an on-line retail company that is a Delaware corporation with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by serving its Registered Agent, Corporation Service Company at 2711 Centerville Road Suite 400, Wilmington, Delaware 19808.

4. Amazon.com LLC is an on-line retail company that is a Delaware limited liability company registered in Georgia with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by serving its Registered Agent, Corporation Service Company at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092.

5. Amazon Payments, Inc. is an on-line retail company that is a Delaware corporation registered in Georgia with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by serving its Registered Agent, Corporation Service Company at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092.

6. Amazon Logistics, Inc. is an on-line retail company that is a Delaware corporation registered in Georgia with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by

serving its Registered Agent, Corporation Service Company at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092.

7. Amazon.com.DEDC LLC is an on-line retail company that is a Delaware limited liability company registered in Georgia with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by serving its Registered Agent, Corporation Service Company at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092.

8. Amazon Services LLC is an is an on-line retail company that is a Delaware limited liability company registered in Georgia with its headquarters in the City of Seattle in the State of Washington. Defendant does business in the State of Georgia and the County of Forsyth. Defendant may be served with process by serving its Registered Agent, Corporation Service Company at 40 Technology Parkway South, Suite 300, Norcross, Georgia 30092.

JURISDICTION AND VENUE

9. Defendants transact business in the State of Georgia.

10. Defendants contract to supply services or goods in the State of Georgia.

11. Defendants caused tortious injury in the State of Georgia, specifically Forsyth County.

12. Defendants regularly do or solicit business, and engage in other persistent courses of conduct and derive substantial revenue from goods used or consumed or services rendered in the State of Georgia.

13. Upon information and belief, Defendants have an interest in, use, or possess real property in the State of Georgia.

14. Defendants intentionally exposed, supplied, marketed, promoted, advertised, offered for sale, sold, offered for delivery and/or delivered an unsafe and dangerous product — pure caffeine powder — into the State of Georgia and County of Forsyth.

15. All of Defendants' actions set forth herein were taken to specifically interact with Georgia residents.

16. Defendants collectively operate an interactive website, and have substantial contacts with Georgia residents and customers through their website. Defendants advertise for Georgia customers and conduct transactions with Georgia residents through the internet.

17. Defendants, and/or their subsidiary(s) and/or agents, employ "Customer Tracking" where they place "cookies" on Georgia residents' hard drives and Defendants know each and every visitor and/or customer that accesses Defendants' website(s) and then use its embedded marketing techniques to further target and conduct business with Georgia residents.

18. Defendants' interactions and transactions with Georgia residents are 24-hours a day, 7-days a week, 52 weeks of the year, and include marketing, advertising, promoting and selling products, including making personal purchase recommendations, accepting orders, receiving payments and making deliveries to Georgia Residents.

19. Defendants also provide service links for Georgia residents whereby Georgia residents' can e-mail questions or call Defendants.

20. Defendants' website is interactive to such a degree that it reveals a specific intent to target Georgia residents and to transact business or otherwise interact specifically with Georgia residents.

21. Defendants derive substantial revenue from goods used or consumed in the State of Georgia.

22. This Court has jurisdiction over the claims in this case pursuant to O.C.G.A. § 9-10-91. Defendants have purposely availed themselves of the privilege of conducting activities within the State of Georgia and all claims set forth herein arise out of the Defendants' direct activities in the State of Georgia.

23. Venue is proper in this Court pursuant to O.C.G.A. § 14-2-510.

FACTS

24. Defendants were regularly engaged in the business of marketing, promoting, advertising, packaging, distributing, and/or selling, either directly or indirectly, through third parties or related entities, non-prescription nutritional/dietary supplements for sale to, and use by, members of the general public, including pure caffeine powder.

25. Defendants have numerous policies in place regarding dietary supplement sales on its websites.

26. Defendants have policies in place regarding compliance with State and Federal laws and regulations regarding "dietary supplements" that they

advertise, market, promote, offer for sale, sell, supply, distribute and/or deliver.

27. Defendants employ “Compliance Specialists” who research, analyze and synthesize Federal and State regulations regarding restricted and regulated products, which include dietary supplements and pure caffeine powder.

28. Defendants employ a “Regulatory Team” that maintains compliance files and reports regarding restricted and/or regulated products, which include dietary supplements and pure caffeine powder.

29. For the safety of the public and consumers, Defendants have policies in effect to prevent unsafe and illegal products from reaching the marketplace.

30. Defendants’ safety policies include pre-approval for selling caffeine powder as a dietary supplement under the Health and Personal Care section of the Amazon.com website because this safety policy reflects “customer concerns about product quality, product branding and consumer safety.”

31. Defendants set forth requirements for selling products in the Health and Personal Care category, which includes dietary supplements, because of customers’ reliance on Amazon.com to sell quality, safe products.

32. Defendants state on their website that “[w]e are constantly innovating on behalf of our customers and working with regulators, third party experts, vendors, and sellers to improve the ways we detect and prevent illegal and unsafe products from reaching our marketplace. We work hard on this

issue every day because we know that our customers trust that they are buying safe and legal products when they shop on Amazon.com.”

33. Defendants control all aspects of the products listed on its website and control all aspects of content on its website to ensure “Amazon branding.”

34. Defendants’ above-mentioned policies, including pre-approval of pure caffeine powder, are in place for the safety of its consumers.

35. Defendants marketed, promoted, advertised, sold, supplied, distributed and/or placed into the stream of commerce pure caffeine powder, including Hard Rhino Pure Caffeine Anhydrous USP Pharma Grade Powder (hereinafter “Hard Rhino”), purchased by, ingested by and causing harm to James Wade Sweatt as alleged herein.

36. Defendants controlled and approved all information and images that appeared on its website regarding Hard Rhino.

37. Defendants are responsible for evaluating the safety of the products sold, promoted, marketed, advertised, supplied and/or distributed through Amazon.com, including caffeine powder, prior to selling, promoting, marketing, advertising, supplying and/or distributing the products.

38. Defendants are responsible for the labeling of the products sold, promoted, marketed, advertised, supplied and/or distributed on their website, including pure caffeine powder, prior to selling, promoting, marketing, advertising, supplying and/or distributing the products.

39. Defendants are responsible for ensuring that products sold, promoted, marketed, advertised, supplied and/or distributed through their

website are labeled correctly, including pure caffeine powder, prior to selling, promoting, marketing, advertising, supplying and/or distributing the products.

40. A product label containing the words “can be dangerous if abused” or “failure to follow safety guidelines can result in serious injury and/or death” is an inadequate warning for pure caffeine powder.

41. For the safety of the public, consumers and users of caffeine powder, the product label must contain adequate instructions and warnings.

42. Defendants did not ensure that Hard Rhino had adequate instructions and warnings prior to selling, promoting, marketing, advertising, supplying and/or distributing the product.

43. Prior to and after James Wade Sweatt’s ingestion of Hard Rhino, Defendants knew or should have known that Hard Rhino pure caffeine powder was dangerous, or likely to be dangerous when used in a reasonable foreseeable manner. Such dangers include, but are not limited to, significant increase of cardiac arrest, cardiac arrhythmias, strokes, blood clots, heart attacks and death.

44. Defendants knew or should have known that users of Hard Rhino, including James Wade Sweatt, would not realize the dangers presented by the product.

45. Defendants knew or should have known of the defective condition, characteristics, and risks associated with Hard Rhino.

46. Defendants knew or should have known the Hard Rhino product sold, promoted, marketed, advertised, supplied and/or distributed on its

website was mislabeled and/or included dangerous, misleading and/or confusing instructions and/or warnings.

47. The potential risks and side effects associated with Hard Rhino presented, and continue to present, a substantive danger when the caffeine powder is used or misused in an intended or reasonably foreseeable way (i.e. ingestion orally).

48. Ordinary consumers and users of Hard Rhino would not, and do not, recognize the potential risks and side effects associated with ingesting Hard Rhino caffeine powder.

49. Defendants published on their website that Hard Rhino caffeine powder meets or exceeds standards set forth by the United States Pharmacopeia ("USP") and that USP is the official pharmacopeia of the United States.

50. Although one teaspoon of pure caffeine powder is equivalent to drinking 28 cups of coffee, Defendants sold, promoted, marketed, advertised, supplied and/or distributed Hard Rhino caffeine powder.

51. The FDA has stated that safe quantities of these products can be nearly impossible to measure accurately with common kitchen measuring tools. Volume measures, such as teaspoons, are not precise enough to calculate how many milligrams of caffeine are in the serving size of pure caffeine powder.

52. Deputy Commissioner of Foods at the FDA, Michael Taylor, stated that it is “inherently irresponsible” to market caffeine powder because it is such a potentially dangerous product. He further stated, after Mr. Sweatt’s death: “Our advice to consumers is to not buy this product. Don’t use it. It’s not the safe way to get caffeine.”

53. On or about June 10, 2014, James Wade Sweatt, purchased an over-the-counter dietary supplement known as Hard Rhino Pure Caffeine Anhydrous USP Pharma Grade Powder from and through Amazon.com and/or Defendants. Prior to this time, in the months preceding this purchase, James Wade Sweatt reviewed material listed on Amazon.com and numerous products sold, promoted, marketed and/or advertised on Amazon.com.

54. Defendants charged and received payment from James Wade Sweatt in the amount of \$24.99 for the 2.2 lbs. of Hard Rhino Pure Caffeine Anhydrous USP Pharma Grade Powder. Amazon.com Order Number 100-6158131-3383446.

55. Defendants arranged for the shipment of, supplied and/or distributed the Hard Rhino Pure Caffeine Anhydrous USP Pharma Grade Powder to James Wade Sweatt at his home located in the State of Georgia, County of Forsyth and City of Alpharetta.

56. The Hard Rhino Pure Caffeine Anhydrous USP Pharma Grade Powder was sold in direct violation of Georgia law, including, but not limited to, the fact that the product was sold without proper dosing instructions.

57. On or about June 13, 2014 James Wade Sweatt ingested Hard Rhino for the first time.

58. Soon thereafter, James Wade Sweatt's wife found him unresponsive on the floor of their home.

59. Mr. Sweatt was then rushed to Northside Hospital in Cumming, Georgia, where he was diagnosed as having gone into cardiac arrest due to a massive caffeine overdose.

60. Mr. Sweatt remained in a coma until he was pronounced dead on June 24, 2014. Mr. Sweatt was 24 years old at the time of his death. Mr. Sweatt's death certificate listed his cause of death as "ingestion of over the counter supplement."

61. Defendants represent that the products they sell, market, advertise, promote, supply and/or distribute are legal and safe. The product at issue was neither legal nor safe. James Wade Sweatt relied upon Defendants to sell, market, advertise, promote, supply and distribute a safe product when he ordered and ingested the product purchased through Defendants. This reliance caused him injury and ultimately death.

62. It was reasonably foreseeable that purchasers of Hard Rhino caffeine powder, like James Wade Sweatt, would take too much of the product and that it would cause them injury and/or death, especially where the dosage instructions were incorrect, mislabeled and/or deceptive. It was also reasonably foreseeable that that purchasers of Hard Rhino caffeine powder, like James Wade Sweatt, would take too much of the product and that it would

cause them injury and/or death when the product was sold in such large quantities in comparison to the appropriate dosage. Each of the above stated reasons caused James Wade Sweatt's injury and death to be foreseeable to Defendants, but when combined together, the foreseeability of his death is even greater.

COUNT I
NEGLIGENCE

63. Plaintiff incorporates and realleges the preceding paragraphs of this Complaint for Damages as if the same were set forth verbatim herein.

64. Defendants had a duty to exercise reasonable care in the selling, marketing, promoting, advertising, supplying and/or distribution of caffeine powder, including a duty to assure that the product did not cause unreasonable or unnecessary injury.

65. Defendants breached their duty of care to Plaintiff's decedent, James Wade Sweatt, through its negligent acts and omissions. Defendants did not exercise reasonable care in the warning, sale, marketing, promoting, advertising, supplying and/or distribution into the stream of commerce of caffeine powder in that Defendants knew or should have known that caffeine powder could cause serious injuries and death.

66. Defendants were negligent in the sale, marketing, promoting, advertising, supplying and/or distribution of caffeine powder in at least the following particulars:

- a. failing to use due care in the sale, marketing, promoting, advertising, supplying and/or distribution of caffeine powder so as

to avoid or warn against the risks to consumers who used the caffeine powder;

- b. placing an unsafe product into the stream of commerce; and
- c. failing to discover or warn of the dangers associated with the use of caffeine powder despite having actual and/or constructive knowledge of such dangers.

67. Defendants knew or should have known that Plaintiff's decedent, James Wade Sweatt, could suffer injuries and death as a result of Defendants' failure to exercise ordinary care as described above.

68. The negligence and carelessness of Defendants' employees, agents and servants proximately caused Mr. Sweatt's injuries, resulted in additional medical treatment to Mr. Sweatt and additional medical expenses incurred for such treatment, caused unnecessary pain and suffering by Mr. Sweatt, and caused or substantially contributed to the cause of Mr. Sweatt's death. Accordingly, Plaintiff is entitled to recover damages from Defendants in an amount to be determined by the jury.

COUNT II
NEGLIGENT FAILURE TO WARN

69. Plaintiff incorporates and realleges the preceding paragraphs of this Complaint for Damages as if the same were set forth verbatim herein.

70. Defendants, as retailers and/or sellers of caffeine powder, owed a duty to warn of foreseeable dangers arising from the reasonable use for which the product was intended.

71. At the time of sale, Defendants had actual or constructive knowledge that pure caffeine powder, including Hard Rhino, created a danger for the ultimate consumer during the foreseeable and anticipated use of the product.

72. It was reasonably foreseeable that purchasers of Hard Rhino, such as James Wade Sweatt, would not be able to accurately measure and properly ingest the correct dosage because of the highly technical equipment required to safely ingest the caffeine powder.

73. The Hard Rhino pure caffeine powder marketed, distributed, promoted, advertised, and sold by Defendants was defective due to inadequate warning or instruction pursuant to Georgia law, because at the time it left the control of Defendants and was supplied to James Wade Sweatt, Defendants knew or should have known that their product was unreasonably dangerous as confirmed by the extensive body of published literature, including USP Safety Data Sheet, Georgia, and Federal law.

74. Defendants, as retailers and/or suppliers of dietary supplements, including caffeine powder, owed a duty to warn of foreseeable dangers arising from the reasonable use for which the product was intended.

75. The lack and/or inadequacy of such a warning by Defendants was a direct and proximate cause of Mr. Sweatt's injuries. Accordingly, Plaintiff is entitled to recover damages from Defendants in an amount to be determined by the jury.

COUNT III
NEGLIGENCE PER SE

76. Plaintiff incorporates and realleges all of the preceding paragraphs as if the same were set forth verbatim herein.

77. The negligent acts and omissions of Defendants were in violation of Georgia laws and Georgia Rules and Regulations promulgated by the State of Georgia, including, but not limited to, O.C.G.A. § 26-3-3. These laws, rules and regulations were designed to protect and benefit individuals like James Wade Sweatt. As a seller, marketer, promoter, advertiser, supplier and/or distributor of products such as Hard Rhino, Defendants are subject to the above-referenced regulations.

78. Defendants' violation of these laws, rules and regulations proximately caused the injuries sustained by James Wade Sweatt and constituted negligence per se. Accordingly, Plaintiff is entitled to recover damages from Defendants in an amount to be determined by the jury.

COUNT IV
BREACH OF IMPLIED WARRANTIES

79. Plaintiff incorporates and realleges the preceding paragraphs of this Complaint for Damages as if the same were set forth verbatim herein.

80. By reason of O.C.G.A. §§ 11-2-314 and 315, Defendants impliedly warranted that the Hard Rhino caffeine powder it sold and provided to James Wade Sweatt would be of merchantable quality, reasonably suited for the use intended, and fit for the ordinary purpose for which it is normally used.

81. James Wade Sweatt reasonably relied entirely on the expertise, knowledge, skill, judgment, and implied warranties of Defendants in choosing to ingest Hard Rhino.

82. The Hard Rhino caffeine powder that James Wade Sweatt ingested was neither safe for its intended use, nor of merchantable quality, in that it is a dangerous chemical, when put to its intended use, caused severe, permanent and fatal injuries to Plaintiff's decedent. As such, Hard Rhino was not fit for the ordinary purpose for which such goods are normally used.

83. By selling, delivering, marketing, promoting, advertising and/or distributing the defective Hard Rhino caffeine powder, Defendants breached the implied warranty of merchantability and implied warranty of fitness and was a direct and proximate cause of Mr. Sweatt's injuries. Accordingly, Plaintiff is entitled to recover damages from Defendants in an amount to be determined by the jury.

COUNT V
VIOLATION OF THE FAIR BUSINESS PRACTICES
ACT ("FBPA") O.C.G.A. § 10-1-390 ET. SEQ.

84. Plaintiff incorporates and realleges the preceding paragraphs of this Complaint for Damages as if the same were set forth verbatim herein.

85. O.C.G.A. § 10-1-393(a) provides that "[u]nfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce are declared unlawful."

86. Section 10-1-393(b)(5) declares unfair, deceptive, and unlawful as "representing that goods or services have sponsorship, approval,

characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have.” Additionally, under section 10-1-393(b)(7), any entity that represents that “goods or services are of a particular standard, quality, or grade or that goods are of a particular style or model, if they are of another” is committing an unfair, deceptive, and unlawful business practice.

87. Defendants knowingly, intentionally, and with the intent to deceive the consuming public, concealed from the consumers the dangerous propensities of Hard Rhino caffeine powder. The Hard Rhino product is highly toxic as alleged herein, and has caused serious injury and death to the consuming public, including James Wade Sweatt.

88. As a seller, marketer, promoter, advertiser, supplier and/or distributor of Hard Rhino, Defendants had a duty to warn Mr. Sweatt, and members of the general public of the dangers associated with their products.

89. If James Wade Sweatt had known of the potential risks and side effects associated with Hard Rhino sold, marketed, promoted, advertised, supplied and/or distributed by Defendants, he would not have purchased or ingested the product. As such, the misrepresentation and/or concealment by Defendants was material.

90. Despite their knowledge of the dangers of pure caffeine powders such as Hard Rhino, Defendants intentionally opted to sell, market, promote, advertise, supply and/or distribute Hard Rhino without attempting to warn or protect Mr. Sweatt and members of the general public from the risk of injury.

Instead, Defendants intentionally failed to reveal its knowledge of said risks, thus impliedly representing to Plaintiff and members of the general public that Hard Rhino was safe for all reasonably foreseeable uses, and thereby wrongfully inducing Mr. Sweatt to purchase this product.

91. James Wade Sweatt relied upon Defendants' intentional misrepresentations and lack of warnings relating to Hard Rhino. As a direct, foreseeable and proximate result thereof, Mr. Sweatt has been injured as alleged herein.

92. Defendants have violated and continue to violate O.C.G.A. § 10-1-390 et seq. proscription against engaging in unfair, deceptive, and unlawful business practices and are liable for their conduct and for damages suffered by James Wade Sweatt. Accordingly, Plaintiff is entitled to recover damages from Defendants in an amount to be determined by the jury.

COUNT VI
PUNITIVE DAMAGES

93. Plaintiff incorporates and realleges the preceding paragraphs of this Complaint for Damages as if the same were set forth verbatim herein.

94. Despite Defendants' knowledge of the above-referenced dangers associated with Hard Rhino, and the potential consequences to consumers, Defendants chose not to warn or notify their customers and end users of the Hard Rhino of the potential dangers associated with the use of the product.

95. The conduct of Defendants and the repeated negligent acts and omissions by their employees, agents and servants, as set forth herein above, showed willful misconduct, malice, fraud, wantonness, oppression, and that

entire want of care which raises the presumption of conscious indifference to the consequences. Accordingly, Plaintiff is entitled to recover punitive damages from Defendants in an amount to be determined by the jury, and not subject to any cap or limit.

WHEREFORE, Plaintiff respectfully requests a trial by jury and prays for judgment against Defendants in an amount in excess of Ten Thousand Dollars (\$10,000.00) to compensate Plaintiff for James Wade Sweatt's physical injuries, medical expenses, funeral expenses, pain and suffering, and for the full value of the life of Mr. Sweatt. Plaintiff also prays for an award of punitive damages in an amount sufficient to penalize and punish Defendants for their conduct and deter Defendants from engaging in such conduct in the future. Plaintiff prays that all costs of this action be cast against Defendants and request such other and further relief as the Court shall deem just and proper.

This 10th day of June 2016.



John E. Suthers

Georgia Bar No. 693210

jes@sutherslaw.com

D. Adam Harper

Georgia Bar No. 997912

adam@sutherslaw.com

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[Signatures continue on following page.]

Jeff Friedman

Alabama State Bar No.
ASB-6868-N77J
Application for *Pro Hac Vice*
to be Filed

Matt Conn

Alabama State Bar No.
ASB-9628-T83C
Application for *Pro Hac Vice*
to be Filed

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Application for *Pro Hac Vice*
to be Filed

Judson B. Allen

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Application for *Pro Hac Vice*
to be Filed

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ATTORNEYS FOR PLAINTIFF

General Civil Case Filing Information Form (Non-Domestic)

Court _____ **County** Forsyth **Date Filed** _____
 Superior _____ MM-DD-YYYY
 State **Docket #** _____

Plaintiff(s)

Sweatt, Kellie
 Last First Middle I. Suffix Prefix Maiden

Individually and as Personal Representative
 Last First Middle I. Suffix Prefix Maiden

of the Estate of James Wade Sweatt
 Last First Middle I. Suffix Prefix Maiden

 Last First Middle I. Suffix Prefix Maiden

Defendant(s)

Amazon.com, Inc.; Amazon.com LLC;
 Last First Middle I. Suffix Prefix Maiden

Amazon Payments, Inc.; Amazon Logistics, Inc.;
 Last First Middle I. Suffix Prefix Maiden

Amazon.com.DEDC LLC; and
 Last First Middle I. Suffix Prefix Maiden

Amazon Services LLC
 Last First Middle I. Suffix Prefix Maiden

No. of Plaintiffs 2

No. of Defendants 6

Plaintiff/Petitioner's Attorney **Pro Se**

Suthers, John E.
 Last First Middle I. Suffix

Bar # 693210

Check Primary Type (Check only ONE)

- Contract/Account
- Wills/Estate
- Real Property
- Dispossession/Distress
- Personal Property
- Equity
- Habeas Corpus
- Appeals, Reviews
- Post Judgment Garnishment, Attachment, or Other Relief
- Non-Domestic Contempt
- Tort (If tort, fill in right column)
- Other General Civil Specify _____

If Tort is Case Type:
(Check no more than TWO)

- Auto Accident
- Premises Liability
- Medical Malpractice
- Other Professional Negligence
- Product Liability
- Other Specify Wrongful Death

Are Punitive Damages Pleaded? Yes No