

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KATHLEEN MOLLER

* CIVIL ACTION NO. 24-0228-WBV-DPC
* ALL CASES
*

VERSUS

* JUDGE WENDY B. VITTER
*

MARTIAN SALES, INC; JOPEN, LLC,
a Texas limited liability company;
JOHNSON FOODS, LLC, a Wyoming
limited liability company; LP IND., LLC,
a Wyoming limited liability company;
CAG HOLDINGS, LLC, a Wyoming
limited liability company; RMH
HOLDINGS, INC., a Wyoming
corporation; ABC INSURANCE
COMPANY and John Does 1-4.

* MAGISTRATE DONNA PHILLIPS
* CURRAULT
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**PLAINTIFF'S STATEMENT OF MATERIAL FACTS FOR PARTIAL SUMMARY
JUDGMENT REGARDING COMPARATIVE FAULT**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, Plaintiff, Kathleen Moller, provides her statement of material facts in support of partial summary judgment regarding comparative fault, and states as follows:

STATEMENT OF MATERIAL FACTS

1. On February 6, 2023, Harmony Moller was found dead at home in her room at the age of 36. See Third Amended Complaint, Dkt. No 100.
2. Discovered near her lifeless body was OPMS Green Vein Maeng Da Silver Kratom. (Exhibits 1 & 2).
3. The OPMS kratom product discovered was manufactured, imported, distributed, packaged, marketed, and sold by Defendants. (Exhibit 2).

4. An autopsy was completed, and the death certificate lists the cause of death as abnormally high left coronary ostia takeoff exacerbated by mitragynine use. (Exhibit 15).
5. The autopsy report identifies mitragynine as a contributing factor in Harmony Moller's death. (Exhibit 3).
6. The OPMS product label did not contain any warning that use of the product could cause death. (Exhibits 1 & 2).
7. The OPMS product label did not contain any warning regarding cardiovascular risks. *Id.*
8. The OPMS product label did not provide dosing instructions or maximum recommended usage amounts. *Id.*
9. Toxicology testing detected the presence of mitragynine in Harmony Moller's system. (Exhibit 3).
10. Toxicology testing detected diphenhydramine and promethazine. *Id.*
11. The medical examiner does not identify diphenhydramine or promethazine as causes or contributing factors of death. *Id.*
12. No evidence in the record establishes that Harmony Moller consumed OPMS kratom in a manner inconsistent with its intended use.
13. The OPMS kratom product label did not instruct consumers to avoid using other over the counter or pharmaceutical substances when consuming its product. (Exhibits 1 & 2).

Dated: March 2, 2026.

Respectfully submitted,

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