

EXHIBIT 39

Ronald H. Wharton MD, FACC, FASE
50 Finch Drive
Roslyn, NY 11576

November 4, 2025

Chip Wagar, Esq.
Wagar Hickman LLC
1401 W. Causeway Approach
Mandeville, LA 70471

RE: Katherine Moller o/b/o Harmony Moller (D) v Martian Sales, Inc., et al; US District Court, Eastern District of Louisiana; Civil Action NO. 24-0228-WBV-DPC

Dear Mr. Wagar:

I am a physician certified in cardiovascular disease by the American Board of Internal Medicine. I received my medical degree from the College of Physicians and Surgeons of Columbia University in 1989. I completed a residency in Internal Medicine at Montefiore Medical Center in Bronx, NY, followed by a fellowship in cardiovascular disease at Maimonides Medical Center in Brooklyn, NY. I am currently an Associate Professor of Cardiology at the Zucker School of Medicine of Hofstra University, NY, and an attending cardiologist at North Shore University Hospital, Manhasset, NY.

You contacted me on September 16, 2025, and requested whether I would be interested in reviewing certain medical and other documents regarding the captioned case pending in the federal court in New Orleans involving the sudden death of Harmony Moller on February 6, 2023, at her home. Upon assenting, you provided me with certain documents which I reviewed and, pertinent to this inquiry, included:

- Images of the front and back of packages of Green Vein Maeng Da Kratom powder and of Maeng Da Kratom capsules by OPMS that were found in the bedroom of the decedent at the time of her death;
- A copy of the Certificate of Death of Harmony Moller by Charles Allen Preston, Coroner;
- Postmortem Forensic Medical Examination Report, St. Tammany Parish Coroner's Office consisting of four pages;
- Attached Toxicology Report by NMS Labs regarding the decedent and dated February 24, 2023 consisting of five pages;
- Sample Analysis Report by Clinical Toxicology and Environmental Biomonitoring Laboratory dated April 18, 2023, consisting of one page and signed by Ross Ellison and Roy Gerona, Ph.D; and
- Jesse E. Edwards Registry of Cardiovascular Disease heart pathology report consisting of four pages and signed by Shannon M. Mackey-Bojack, MD.

Specifically, you requested my opinion as to the cause of the sudden death of Harmony Moller. It is my opinion that Harmony Moller, an otherwise healthy 36-year-old young woman, suffered a cardiorespiratory cause of death on February 6, 2023.

Pertinent Medical History:

It is my understanding that the decedent was found on autopsy to have what was described as “abnormally high left coronary ostia takeoff exacerbated by mitragynine use”. It is also my understanding that Harmony Moller had no prodrome prior to her being found pulseless by her mother in the early morning hours. She had no recent medical illness and no chronic medical conditions, as was confirmed at autopsy.

I have also been asked to assume that Harmony Moller had resided in Southeast Asia as a teacher for some thirteen years, returning to the United States in 2021 to help care for her ailing father prior to his death. Apparently, while there, Harmony Moller had consumed natural *Mitragyna speciosa* leaf and, upon returning, purchased and consumed kratom sold in local stores in the area where she lived in Louisiana. The toxicology report confirmed the presence of mitragynine (150 ng/mL) in her femoral blood.

Discussion:

There are multiple reports in the medical literature that associate the use of kratom products with the development of ventricular tachycardia and ventricular fibrillation (VT/VF), which cause the heart to stop beating. This leads to the immediate cessation of circulation and death within a few minutes unless treated with defibrillation. My opinion is based on exclusion, as a cardiorespiratory death, such as cardiac arrhythmia, cannot be confirmed by autopsy or postmortem toxicology.

Sudden death occurs from either an anatomic or a toxic/metabolic cause. No anatomic cause (traumatic, cardiac, thromboembolic, or neurologic) was identified. There is no medical history of any condition that would cause a dangerous metabolic derangement (there were no chronic medical conditions identified at autopsy), nor was there any family history of premature sudden cardiac death.

Cardiac adverse events such as VT/VF can be precipitated by exogenous substances. A comprehensive review of opioid-associated arrhythmia in North America published in the Journal of the American College of Cardiology in 2023 by Krantz et. al.¹ demonstrated a “disproportionate” association of “life threatening arrhythmias in North America” with mitragynine.

While data and research into kratom is evolving, the literature discussing kratom consumption and its effects suggests a significant linkage between the main alkaloid in

Mitragyna speciosa (kratom) use, ventricular arrhythmias (ventricular tachycardia, ventricular fibrillation) and cardiorespiratory adverse events^{1,2}. In March 2025, potentially fatal effects on the electrocardiogram attributed to the use of kratom were published^{3,4}.

Conclusions:

1. Harmony Moller had no known signs or symptoms of chronic or acute disease or injury presaging her sudden death prior to her demise on February 6, 2023.
2. The high ostia take-off of the left coronary artery is a benign finding which was not a cause of her sudden death.
3. In my opinion, more likely than not, Harmony Moller died from a cardiorespiratory adverse event induced by consumption of kratom.

The conclusions reached in this report are based on my education, training, and experience, and are all within reasonable medical probability. This report is based on the material I have been asked to review as of November 4, 2025. I am being compensated at a rate of \$700/hr for my consultation in this case. I reserve the right to amend this report should further information become available.

Ronald H Wharton

Ronald H. Wharton MD, FACC, FASE

References:

1. Krantz, M.J. et. al. Ventricular Arrhythmias Associated With Over-the-Counter and Recreational Opioids. *J Am Coll Cardiol* 2023;81:2258–2268
2. Eckhardt, Lee, Nickel, Andrew. The Changing Complexities of Opioid-Related Sudden Death. *J Am Coll Cardiol* 2023;81:2269–2271
3. Miller et. al. Kratom Cardiotoxicity: Reversible Brugada Pattern and QTc Prolongation. *J Am Coll Cardiol Case Rep.* 2025;30:103109
4. Jain et. al. A Kratomic Bomb. Cardiotoxicities From Mitragyna speciosa Extract. *J Am Coll Cardiol Case Rep.* 2025;30:103110

Curriculum Vitae

Ronald H. Wharton MD, FACC, FASE
June 2025

Date Prepared: June 14, 2025

Name: Ronald H. Wharton MD, FACC, FASE

Address: Department of Cardiology
North Shore University
Hospital 300 Community
Drive, Cohen 1
Manhasset, NY 11030

Home Address: 50 Finch Drive, Roslyn NY

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Work Email: rwharton1@northwell.edu

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Current Position

March 2019- Director, Hypertrophic Cardiomyopathy Program
Co-Director, Collaborative Program in Cardiovascular Diseases and
Sleep Disordered Breathing
North Shore University Hospital / Northwell Health
300 Community Drive, Manhasset NY 11030.

Educational Background

Education

1989	MD	Medicine	Columbia University
1985	BA, with Distinction in all Subjects	Chemistry	Cornell University

Postdoctoral Training

2005	Fellowship in Cardiovascular Disease	Maimonides Medical Center, Brooklyn NY
1992	Residency in Internal Medicine	Montefiore Medical Center, Bronx NY
1990	Internship in Internal Medicine	Montefiore Medical Center, Bronx NY

Professional Experience

Faculty Academic Appointments

07/2020 – present Associate Professor of Cardiology, Zucker School of Medicine,
Hofstra

07/2019 - 06/2020 Assistant Professor of Cardiology, Zucker School of Medicine,

Hofstra

01/2009 - 03/2019 Assistant Professor of Medicine, Albert Einstein College of Medicine

07/2006 - 12/2008 Assistant Professor of Medicine, Mt. Sinai School of Medicine

Appointments at Hospitals/Affiliated Institutions

Current:

03/19 – Attending Physician, Department of Cardiology North Shore University Hospital, Manhasset NY

Past:

01/09 – 02/19 Attending Physician, Division of Cardiology
Montefiore Medical Center, Bronx, NY

07/06 – 12/08 Attending Physician, Division of Cardiology
Maimonides Medical Center, Brooklyn, NY

07/05 – 06/06 Attending Physician, Cardiology
St. Francis Hospital, Roslyn NY

10/96 – 06/02 Attending Physician, Department of Emergency Medicine St.
Francis Hospital, Roslyn NY

07/92 – 09/96 Attending Physician, Department of Internal Medicine
Montefiore Medical Center, Bronx NY

Major Administrative Leadership Positions

Local:

01/15-02/19 Assistant Program Director, Fellowship in Cardiovascular
Disease Montefiore Medical Center

02/15-02/19 Director of Cardiovascular Services
Hutchinson Metro Campus, Montefiore Medical Center

Committee Service

National:

07/13 – 07/16 Member, Continuing Education Committee
American Society of Echocardiography

Professional Societies

07/2016 Member, American Board of Internal Medicine
Fall 2016 Cardiovascular Disease Maintenance of Certification Standard
Setting Meeting

06/2020 Member, ABIM Standard Setting Meeting for Cardiovascular Disease Maintenance of Certification

Editorial Activities

Journal Reviewer

2011 Reviewer, American Journal of Critical Care Medicine

2012 Reviewer, PACE (Pacing and Clinical Electrophysiology)

Other Editorial Roles:

2014: Abstract grader, Clinical Cases, American Society of Echocardiography Annual Meeting, Portland, OR.

2015: Abstract grader, Clinical Cases, American Society of Echocardiography Annual Meeting, Boston, MA.

2016: Abstract grader, Clinical Cases, American Society of Echocardiography Annual Meeting, Seattle, WA

2017: Abstract grader, Clinical Cases, American Society of Echocardiography Annual Meeting, Baltimore, MD.

Honors and Prizes

2020 Cardiology Fellowship Teacher of the Year, presented by the cardiology fellows at North Shore University Hospital, June 2020.

2016 Member of “*Team Echo Plan*”, winning First Place, “*Echovation*” Competition, American Society of Echocardiography Scientific Sessions Seattle WA.

2013 Division of Cardiology, Montefiore Medical Center
Program Director’s Award for Excellence in Teaching
Presented by the Program Director, Cardiovascular Disease Fellowship

2013 Division of Cardiology, Montefiore Medical Center
Distinguished Educator of the Year
Presented by the Cardiology fellows

2010 Division of Cardiology, Montefiore Medical Center
Program Director’s Award for Excellence in Teaching
Presented by the Program Director, Cardiovascular Disease Fellowship

2010 Division of Cardiology, Montefiore Medical Center
Distinguished Educator of the Year
Presented by the Cardiology fellows

2005 *Samuel Epstein Award*, given to the Outstanding Fellow in Cardiovascular Disease, Maimonides Medical Center

Regional and National Teaching and Presentations

Invited Presentations and Courses

Regional:

- March 2009 "Update in Preventive Cardiology".
Internal Medicine Grand Rounds, Coney Island Hospital, Brooklyn NY
- October 2015 Echocardiography Conference, St. Francis Hospital, Roslyn NY
"Echocardiographic Evaluation of Patients with Left Ventricular Assist Devices"

National

- June 2013 "Demystifying Diastology Dilemmas"
Symposium on Diastolic Function, Annual Scientific Sessions of the American Society of Echocardiography
Minneapolis, MN
- June 2014 Co-Chair, Symposium on Diastolic Heart Function,
Annual Scientific Sessions of the American Society of Echocardiography
Portland, OR
- June 2015 Lecturer, Challenging Cases in Echocardiography
Co-Chair, Symposium: "Challenging Cases in Diastology and Pericardial Disease" Annual Scientific Sessions of the American Society of Echocardiography, Boston, MA
- May 2016 Lehigh Valley Health Network, Allentown, PA
Cardiology Grand Rounds
"Non-Invasive Assessment of Left Ventricular Filling Pressures: Should the Swan-Ganz have its Swan Song?"
- June 2019 Speaker, session on Pericardial Disease
"Postoperative Pericardial Tamponade"
Annual Scientific Sessions, American Society of Echocardiography
Portland, OR.

Report of Clinical Activities and Innovations

Current Licensure and Certification

- 1992 New York State (active)
2022 Pennsylvania (active)

Industry Sponsored Clinical Trials and Registries:

- 1) DISCOVER-HCM Bristol Myers Squibb, 2022-2025, Principal Investigator
- 2) ODYSSEY-HCM Bristol Myers Squibb, 2023-2025, Principal Investigator
- 3) ACACIA-HCM Cytokinetics, 2024-present, Principal Investigator
- 4) CIRRUSS-HCM Edgewise Therapeutics, 2024 to present, Principal Investigator
- 5) MARVEL-HCM Bristol Myers Squibb, 2025 to present, Principal Investigator

Report of Scholarship

Peer Reviewed Publications in Print or Other Media

A. ORIGINAL ARTICLES:

Research Investigations:

- Zaremski, L., **Wharton, R** Wide Screening of Obstructive Sleep Apnea in a Cardiology Clinic. Cardiovascular Investigations 2017:1-4 June 2017.
 - Other Peer Reviewed Publications:
- **Wharton, R.**, D'Agati V, Magun AM, Whitlock R, Kunis CL, Appel GB. Acute Deterioration of Renal Function Associated With Enteric Hyperoxaluria. Clinical Nephrology, Volume 34 No. 3, September 1990
- Murthy, S. MD, Greenberg, M. MD, **Wharton, R. MD** Myocardial Infarction With Acute Valvular Regurgitation. Journal of Invasive Cardiology 2012;24(8):E170-E171, August 2012
- Chua AT, Cleven KL, **Wharton R**, Appel DW. Chylothorax and Pulmonary Arterial Hypertension after Treatment with Dasatinib: A Case Report. Ann Clin Case Rep. 2017; 2: 1408.
- **Wharton, R.**, Greenstein, S. Cardiac Tamponade: A Case for Point of Care Ultrasound. Cardiovascular Imaging Case Reports, August 2022, p. 263-265.
- **Wharton, R.**, Koss, E., Rutkin, B, Palazzo, R., Kuvin, J. Cardiac Myosin Inhibition for the treatment of LVOT obstruction in a patient with severe AS. J Am Coll Cardiol Case Rep 2024;29:102381, July 2024.

ABSTRACTS

- Newhouse, H.K., DiMattia, D.G., Menegus, M.A., **Wharton, R.H.** Exercise Testing for Rapid Triage of Emergency Room Patients with Chest Pain. Abstract accepted for presentation at American College of Cardiology 45th Annual Scientific Session, March 1996
- Cosico, J., Kunkel, L., **Wharton, R.**, Menegus, M., Hemingway, K., Goldberger, M., Meuller, H. Impact of Chest Pain Evaluation Program on Early Thrombolysis in Acute Myocardial Infarction. Journal of Investigative Medicine April 1996, p. 288A.
- T. Bhuiya MD, MPH, Ji-Cheng Hsieh, MD, Joshua Gilman, MD, John Makaryus, MD, and **Ronald Wharton, MD.** Hidden in Plain Sight: Mavacamten's Role in Unmasking Structural Abnormalities in Obstructive Hypertrophic Cardiomyopathy. Circulation Volume 150 Supplement 1. November 11, 2024.
- S. Abraham, D.O., H. Greeneberg, MD, **R. Wharton, MD**, A. Iakovlou, MD, et. al. Bridging Specialties: An Integrated Sleep Medicine – Cardiology Screening and referral Program for Sleep Apnea. Poster Presented at Sleep Medicine Conference, Seattle, WA. June 2025.

Non-Peer Reviewed Scientific or Medical Publications/Materials in Print or Other Media

1. Fisher, John D., Kim, Soo G., Kaufman, David M., Ferrick, Kevin J., Gross, Jay N., and **Wharton, R.**, Syncope and Presyncope in Medical Management of Heart Disease, Sobel, Burton E., ed. Marcel Dekker, Inc. c.1996

Professional Educational Materials or Reports, in Print or Other Media

A. **EDUCATIONAL PUBLICATIONS:**

1. Author, "Analyze this Image" at [medscape.org/cardiology](https://www.medscape.org/cardiology), February 2012-December 2019.
2. Author, "Case Studies" at [medscape.org/cardiology](https://www.medscape.org/cardiology), November 2012-December 2016
3. Associate Author, "ASEUniversity III: **Case Based Learning**
<http://www.aseuniversity.org/ase/lessons/27>

Authors: Sunil Mankad; David Adams; Carol Mitchell; Judy Hung; Becky Hahn; Marty Keane; Gerry Aurigemma; Mary Etta King; Anne Marie Valente; Dennis Tighe; Muhamed Saric; Stephen Sawada; William Katz;
Ronald H. Wharton. Release Date: November 1, 2013. This is an educational product of the American Society of Echocardiography

approved for maintenance of certification credit by the American Board of Internal Medicine

4. Associate Editor and Author, **ASCeXAM/ReASCE Online Practice Exam Simulation** at <http://netclients.captus.com/ase/>. *Content Chairs*: Rebecca T.Hahn, Gerard P. Aurigemma. *Associated editors and authors*: David Adams, Jennifer M. Blake, Judy Hung, Martin G. Keane, Mary Etta E. King, Sunil Mankad, Robert B. McCully, Carol Mitchell, David S. Rubenson, Muhamed Saric, Stephen G. Sawada, Dennis A. Tighe, **Ronald H. Wharton**. *Associate Editor*: Benjamin Freed. Captus Press Inc. Released June 2012.