

COPY

SUMMONS (CITACION JUDICIAL)

SUM-100

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

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO): MONSTER BEVERAGE CORPORATION, a Delaware Corporation; MONSTER ENERGY COMPANY, a Delaware Corporation, and DOES 1 through 100, inclusive,

ENDORSED FILED ALAMEDA COUNTY

JUN 25 2013

CLERK OF THE SUPERIOR COURT By Barbara LaMotte Deputy

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): PAULA MORRIS, individually, and as surviving parent, and as successor in interest to ALEX MORRIS

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro.

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

Alameda County Superior Court Rene C. Davidson Courthouse 1225 Fallon Street Oakland, California 94612

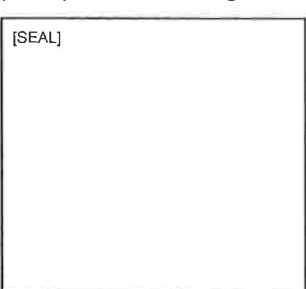
CASE NUMBER: (Número del Caso): RG13685028

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): R. Rex Parris, Esq. (SBN 96567) 661-949-2595 661-949-7524 Alexander R. Wheeler, Esq. (SBN 239541); Jason P. Fowler, Esq. (SBN 239426) R. REX PARRIS LAW FIRM 43364 10th Street West, Lancaster, California 93534

DATE: JUN 25 2013 (Fecha) Leah T. Wilson Clerk, by Barbara LaMotte Deputy (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



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 (authorized person)
[] other (specify):
4. [] by personal delivery on (date):

COPY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
R. Rex Parris, Esq. (SBN 96567); Alexander R. Wheeler, Esq. (SBN 239541)
Jason P. Fowler, Esq. (SBN 239426)
R. REX PARRIS LAW FIRM
43364 10th Street West
Lancaster, California 93534
TELEPHONE NO.: 661-949-2595 FAX NO.: 661-949-7524

FOR COURT USE ONLY

ENDORSED
FILED
ALAMEDA COUNTY
JUN 25 2013

CLERK OF THE SUPERIOR COURT
By: Barbara LaMotte Deputy

ATTORNEY FOR (Name):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
STREET ADDRESS: 1225 Fallon Street
MAILING ADDRESS: Same
CITY AND ZIP CODE: Oakland, California 94612
BRANCH NAME: Rene C. Davidson Courthouse

CASE NAME: Paula Morris v. Monster Beverage Corporation, et al.

CIVIL CASE COVER SHEET
[X] Unlimited (Amount demanded exceeds \$25,000)
[] Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
[] Counter [] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: RG13685028
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
Auto Tort: [] Auto (22), [] Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort: [] Asbestos (04), [X] Product liability (24), [] Medical malpractice (45), [] Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort: [] Business tort/unfair business practice (07), [] Civil rights (08), [] Defamation (13), [] Fraud (16), [] Intellectual property (19), [] Professional negligence (25), [] Other non-PI/PD/WD tort (35)
Employment: [] Wrongful termination (36), [] Other employment (15)
Contract: [] Breach of contract/warranty (06), [] Rule 3.740 collections (09), [] Other collections (09), [] Insurance coverage (18), [] Other contract (37)
Real Property: [] Eminent domain/Inverse condemnation (14), [] Wrongful eviction (33), [] Other real property (26)
Unlawful Detainer: [] Commercial (31), [] Residential (32), [] Drugs (38)
Judicial Review: [] Asset forfeiture (05), [] Petition re: arbitration award (11), [] Writ of mandate (02), [] Other judicial review (39)
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403): [] Antitrust/Trade regulation (03), [] Construction defect (10), [] Mass tort (40), [] Securities litigation (28), [] Environmental/Toxic tort (30), [] Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment: [] Enforcement of judgment (20)
Miscellaneous Civil Complaint: [] RICO (27), [] Other complaint (not specified above) (42)
Miscellaneous Civil Petition: [] Partnership and corporate governance (21), [] Other petition (not specified above) (43)

2. This case [] is [X] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. [] Large number of separately represented parties d. [] Large number of witnesses
b. [] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. [] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. [] Substantial amount of documentary evidence f. [] Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. [X] monetary b. [X] nonmonetary; declaratory or injunctive relief c. [X] punitive
4. Number of causes of action (specify): Seven (7)
5. This case [] is [X] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: June 21, 2013
Alexander R. Wheeler, Esq. (TYPE OR PRINT NAME) [Signature] (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
• File this cover sheet in addition to any cover sheet required by local court rule.
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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20 Attorneys for Plaintiff

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **FOR THE COUNTY OF ALAMEDA**

23 PAULA MORRIS, individually, and as
24 surviving parent, and as successor in
25 interest to ALEX MORRIS,

26 Plaintiff,

27 v.

28 MONSTER BEVERAGE
CORPORATION, a Delaware Corporation;
MONSTER ENERGY COMPANY, a
Delaware Corporation, and DOES 1
through 100, Inclusive,

Defendants.

Case No.: **RG13685028**

COMPLAINT FOR:

- (1) Strict Product Liability (Design Defect);
- (2) Strict Product Liability (Failure to Warn);
- (3) Negligence (Design, Sale, Manufacturing);
- (4) Negligence (Failure to Warn);
- (5) Fraudulent Concealment;
- (6) Breach of Implied Warranties; and
- (7) Wrongful Death

**ENDORSED
FILED
ALAMEDA COUNTY**

JUN 25 2013

CLERK OF THE SUPERIOR COURT
By **Barbara LaMotte** Deputy

COMPLAINT

FAXED

1 Plaintiff, Paula Morris, Individually and as Surviving Parent and successor in interest to
2 Alex Morris (“Plaintiff”), by her undersigned counsel, hereby sues Defendants, Monster
3 Beverage Corporation, Monster Energy Company and DOES 1 through 100, inclusive
4 (collectively, “Defendants”), and in support thereof, states as follows:
5

6 **NATURE OF THE CASE AND PARTIES**

7 1. Plaintiff brings the instant survival and wrongful death actions for personal
8 injuries suffered as a result of the July 1, 2012 passing of her 19-year-old son, Alex Morris,
9 following his ingestion of a toxic amount of caffeine and other stimulants through his
10 consumption of at least two (2) 16-oz. cans of “MONSTER ENERGY” drinks in the twenty-
11 four (24) hours before and per day for three (3) years prior to his death.

12 2. Plaintiff is a resident of the State of California. Plaintiff, as Surviving Parent and
13 successor in interest to Alex Morris, seeks to recover all damages allowed by law for personal
14 injuries suffered by her son prior to his death. Additionally, Plaintiff seeks to recover all
15 damages allowed by law as a result of the wrongful death of her son.

16 3. Pursuant to the provisions of subdivision (a) of section 377.60 of the California
17 Code of Civil Procedure, Plaintiff is entitled to bring an action for the wrongful death of Alex
18 Morris. Plaintiff has standing to bring a wrongful death action against the defendants named
19 herein in that she is the natural parent of Alex Morris and the only surviving intestate heir at
20 law. In accordance with Code of Civil Procedure section 377.30, *et seq.*, each and every
21 plaintiff is also Alex Morris’ successor-in-interest. Plaintiff has separately filed the requisite
22 declaration as successor in interest and incorporate that declarations herein.

23 4. Monster Beverage Corporation is a corporation organized under the laws of the
24 State of Delaware, with its principal place of business located at 550 Monica Circle, Suite 201,
25 Corona, California 92880. At all times pertinent hereto, Defendant was engaged in and
26 responsible for the design, manufacture, production, testing, study, inspection, mixture,
27 labeling, marketing, advertising, sales, promotion, and/or distribution of the energy drink
28 named MONSTER ENERGY. Defendant, Monster Beverage Corporation, may be served with

1 process by service on its registered agent: CSC – Lawyers Incorporating Service, 2710
2 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833.

3 5. Monster Energy Company is a corporation organized under the laws of the State
4 of Delaware, with its principal place of business located at 550 Monica Circle, Suite 201,
5 Corona, California 92880. At all times pertinent hereto, Defendant was engaged in and
6 responsible for the design, manufacture, production, testing, study, inspection, mixture,
7 labeling, marketing, advertising, sales, promotion, and/or distribution of the energy drink
8 named MONSTER ENERGY. Defendant, Monster Beverage Corporation, may be served with
9 process by service on its registered agent: CSC – Lawyers Incorporating Service, 2710
10 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833.

11 6. The true names and/or capacities, whether individual, corporate, associate or
12 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff at this time,
13 who, therefore, sue said defendants by such fictitious names. Plaintiff is informed and believes,
14 and based thereon alleges, that each of the defendants fictitiously named herein as a Doe is
15 legally responsible, negligently or in some other actionable manner, for the events and legal
16 cause of the death of Alex Morris and the resulting injury and damages to Plaintiff, as
17 hereinafter alleged. Plaintiff will amend this Complaint to assert the true names and/or
18 capacities of such fictitiously named defendants when the same have been ascertained. For
19 convenience, Monster Beverage Corporation, Monster Energy Company and DOES 1 through
20 100 are sometimes collectively referred to herein as “Monster”.

21 7. Plaintiff is informed and believes, and based thereon alleges, that, at all times
22 mentioned herein, defendants were the agents (ostensible or otherwise), servants, employees
23 successors-in-interest and/or joint venturers of their co-defendants and were, as such, acting
24 within the purpose, course, scope and authority of said agency, employment, successor-in-
25 interest and/or joint venture and that each and every defendant, as aforesaid, was acting as a
26 principle and was negligent in the selection and hiring and retention of each and every
27 defendant as an agent, employee, successor-in-interest and/or joint venture. Each defendant has
28 ratified and approved the acts of their respective agents and employees.

1 **JURISDICTION AND VENUE**

2 8. Jurisdiction and venue are proper in the Superior Court of California for Alameda
3 County because, at all times relevant hereto, Defendants maintained a principal place of
4 business and were engaged in the design, manufacture, production, testing, study, inspection,
5 mixture, labeling, marketing, advertising, sales, promotion, and/or distribution of the energy
6 drink named MONSTER ENERGY in the State of California and regularly conducted business
7 in the County of Alameda.

8 9. This is an action for damages that exceeds twenty-five thousand dollars
9 (\$25,000.00), the minimum jurisdictional requirement.

10
11 **FACTUAL ALLEGATIONS**

12 10. During the twenty-four (24) hours prior to his death in the early morning of July
13 1, 2012, 19-year-old Alex Morris consumed at least two (2) 16-oz. cans of MONSTER
14 ENERGY drinks. During the preceding three (3) years, Alex regularly and routinely consumed
15 at least two (2) MONSTER ENERGY drinks per day, with total daily consumption of
16 MONSTER ENERGY drinks during this time period ranging from at least 32 oz. to 64 oz. per
17 day.

18 11. While engaged in sexual activity with his girlfriend during the early morning
19 hours of July 1, 2012, Alex collapsed, went into cardiac arrest, and became unresponsive and
20 pulseless. Alex's girlfriend and his roommate unsuccessfully attempted CPR prior to the
21 arrival of the paramedics, who found Alex in ventricular fibrillation upon their arrival. Alex
22 was transported to Kaiser Permanente Hospital-Oakland, where he was pronounced dead. An
23 autopsy report identifies Alex's cause of death as "cardiac arrhythmia due to cardiomyopathy."

24 12. Alex was survived by his biological mother, Paula Morris.

25 13. At all relevant times, Defendants were responsible for the design, manufacture,
26 production, testing, study, inspection, mixture, labeling, marketing, advertising, sales,
27 promotion, and/or distribution of the MONSTER ENERGY drinks that Alex consumed and
28 from which he ultimately died.

1 14. MONSTER ENERGY drinks are marketed as products that provide benefits to
2 consumers in the form of “increased energy and stamina, weight loss, and enhanced physical
3 and/or mental performance.” SUBSTANCE ABUSE AND MENTAL HEALTH SERVS. ADMIN.,
4 CENTER FOR BEHAVIORAL HEALTH STATISTICS AND QUALITY, THE DAWN REPORT:
5 EMERGENCY DEPARTMENT VISITS INVOLVING ENERGY DRINKS 2 (NOV. 22, 2011) [hereinafter,
6 the "DAWN REPORT"].

7 15. In order to provide the marketed benefits, MONSTER ENERGY contains and
8 relies primarily upon massive amounts of caffeine, a substance known for imposing adverse
9 health effects upon consumers. Committee on Nutrition and the Council on Sports Medicine
10 and Fitness, *Sports Drinks and Energy Drinks for Children and Adolescents: Are They*
11 *Appropriate?*, 127 PEDIATRICS 1183 (2011) [hereinafter, "PEDIATRICS"]. Caffeine affects
12 various organ systems by, *inter alia*, increasing heart rate, blood pressure, speech rate, motor
13 activity, attentiveness, gastric secretion, diuresis, and body temperature. *Id.* at 1185. Most
14 importantly, caffeine is known to play a role in triggering arrhythmias. *Id.*; *see also* Adam J.
15 Burger and Kevin Alford, *Cardiac Arrest in a Young Man Following Excess Consumption of*
16 *Caffeinated "Energy Drinks"*, 190 MED. J. OF AUS. 41, 43 (2009) [hereinafter, "*Burger and*
17 *Alford*"] ("The role of caffeine in triggering arrhythmia is well established.").

18 16. Caffeine can be lethal in doses ranging from 200–400 milligrams. PEDIATRICS at
19 1185; *Burger and Alford* at 43. Adverse health effects, including arrhythmia, typically
20 manifest with ingestion of higher than 200 milligrams of caffeine. John P. Higgins, *et al.*,
21 *Energy Beverages: Content and Safety*, Mayo Clinic Proc., Nov. 2010 at 1033, 1034
22 [hereinafter, "*Higgins*"]. According to the American Academy of Pediatrics, the safe level of
23 caffeine consumption by adolescents is no more than 100 milligrams per day from all sources.
24 Cans of MONSTER ENERGY contain approximately 10 milligrams of caffeine per fluid
25 ounce, indicating two (2) 16-oz. cans of MONSTER ENERGY contain 320 milligrams of
26 caffeine. Caffeine Content of Drinks, <http://www.energyfiend.com/the-caffeine-database> (last
27 visited May 17, 2013).

28 ////

1 17. In December 2012, Monster dismissed a study by Consumer Reports finding that
2 MONSTER ENERGY had more than 270 milligrams of caffeine in a 24-oz. can, stating that
3 the Company does not post caffeine amounts because “there is no legal or commercial business
4 requirement to do so, and also because our products are completely safe, and **the actual**
5 **numbers are not meaningful to most consumers.**”

6 18. In addition to caffeine, MONSTER ENERGY drinks contain guarana and taurine.
7 Guarana is a plant extract that contains caffeine. PEDIATRICS at 1186. Taurine has an effect on
8 cardiac muscles similar to that of caffeine. *Burger and Alford* at 43. Studies have shown that
9 the synergistic effect of caffeine, guarana, taurine and/or other like substances can produce
10 significant adverse health effects, including cardiac arrest. *Higgins* at 1034.

11 19. For years, Monster successfully avoided meaningful regulation of its product by
12 the U.S. Food and Drug Administration. By classifying MONSTER ENERGY as a “dietary
13 supplement”—in other words, not a “food”—Monster manufactured its MONSTER ENERGY
14 drinks without any restrictions on caffeine content. MSNBC.msn.com, *Teen Girl Dies of*
15 *"Caffeine Toxicity" after Downing 2 Energy Drinks*,
16 [http://todayhealth.today.msnbc.msn.com/
17 news/2012/03/21/10780958-teen-girl-dies-of-
18 caffeine-toxicity-after-downing-2-energy-drinks?lite](http://todayhealth.today.msnbc.msn.com/news/2012/03/21/10780958-teen-girl-dies-of-caffeine-toxicity-after-downing-2-energy-drinks?lite) (last visited May 11, 2013). However,
19 after recent renewed controversy about the safety of energy drinks sparked, in part, by a
20 separate lawsuit filed against Monster by the parents of a 14-year-old girl who died after
21 consuming two MONSTER ENERGY drinks, Monster recently announced that MONSTER
22 ENERGY products will now be marketed as “beverages” and will, in the future, disclose its
23 caffeine content on its cans. *Jacque Wilson, Monster Energy Adds Caffeine Content to Labels*,
<http://www.cnn.com/2013/03/21/health/monster-energy-beverages> (last visited May 13, 2013).

24 20. From 2004 to 2009, energy drink sales increased 240 percent. DAWN REPORT at
25 2. Not surprisingly, this spike in energy drink sales coincided with a reported increase in the
26 number of annual emergency room visits due to caffeine overdoses, up from 1,128 in 2005 to
27 16,055 in 2008 and 13,114 in 2009. *Id.* at 3. Fifty-six percent of these emergency room visits
28 were made by adolescents and young adults aged 12 to 25. *Id.*

1 21. Today, MONSTER ENERGY drinks are part of a dangerous yet still growing
2 array of energy drink products in the marketplace. DAWN REPORT at 2. In 2011, MONSTER
3 ENERGY, just one line of Monster's vast collection of energy drink products, accounted for
4 \$1.3 billion in revenue, commanding 31.5% market share in convenience-store sales, the
5 primary outlet for MONSTER ENERGY products. Gary M. Stern, *Monster Beverage Courts*
6 *Young With Unique Ad Tack* (Feb. 24, 2012),
7 [http://news.investors.com/article/602190/201202241434/mnst-stirs-buzz-spikes-](http://news.investors.com/article/602190/201202241434/mnst-stirs-buzz-spikes-sales.htm?p=full)
8 [sales.htm?p=full](http://news.investors.com/article/602190/201202241434/mnst-stirs-buzz-spikes-sales.htm?p=full) (last visited May 17, 2013). In 2012, Defendant Monster captured 36.8% of
9 the \$10 billion U.S. retail market for energy drinks by volume, the largest percentage of all
10 energy drink manufacturers servicing the U.S. Mike Esterl, *Monster Beverage Under Fire*
11 (May 6, 2013), [http://online.wsj.com/articleSB10001](http://online.wsj.com/articleSB10001424127887323826804578466780766004340.html)
12 [424127887323826804578466780766004340.html](http://online.wsj.com/articleSB10001424127887323826804578466780766004340.html) (last visited May 11, 2013).

13 22. MONSTER ENERGY can increase the risk of caffeine overdose in both caffeine
14 abstainers and habitual consumers of caffeine for a variety of reasons. "Lack of adequate
15 labeling," results in consumption by consumers who may be "completely unaware of the
16 amount of caffeine they are ingesting" because the packaging fails to disclose the caffeine
17 content of the product. Chad J. Reissig, *et al.*, *Caffeinated Energy Drinks: A Growing*
18 *Problem*, 99(1-3) DRUG ALCOHOL DEPEND. 4 (2009) [hereinafter, "*Reissig*"]. The labeling of
19 MONSTER ENERGY drinks does nothing to attempt to warn of these severe health risks, as
20 the cans utterly fail to provide adequate information as to the total caffeine content of the
21 product.

22 23. Despite the well-known health risks associated with excessive caffeine
23 consumption, MONSTER ENERGY is heavily marketed towards teenagers and young adults,
24 the individuals most susceptible to caffeine-related injury. *See, e.g.*, DAWN REPORT at 2
25 ("Although consumed by a range of age groups, energy drinks are marketed to appeal to youth
26 and are consumed by 30 to 50 percent of children, adolescents, and young adults.");
27 PEDIATRICS at 1182 ("Sports and energy drinks are a large and growing beverage industry now
28 marketed to children and adolescents for a variety of uses."); Leah Steinke, *et al.*, *Effect of*

1 *"Energy Drink" Consumption on Hemodynamic and Electrocardiographic Parameters in*
2 *Healthy Young Adults*, 43 ANNALS OF PHARMACOTHERAPY 596, 599 (2009) ("Energy drink
3 marketing often employs nontraditional methods of advertising, such as word-of-mouth
4 campaigns on college campuses, to attract teenagers and young adults."). With names like
5 "Assault," "Khaos" and "Dub Edition" assigned to variations within the MONSTER ENERGY
6 product line, and references in marketing material to "jungle juice," a known concoction of
7 juices and grain alcohol served at college parties, Defendants' efforts to target teenagers and
8 young adults are readily transparent.

9 Monster Energy, <http://www.monsterenergy.com/us/en/products/> (last visited May 11, 2013).

10 24. Despite Monster's knowledge of the significant risks associated with
11 consumption of MONSTER ENERGY drinks, particularly with respect to its target audience,
12 Defendants mask and otherwise fail to alert consumers like Alex Morris of the significant risks
13 associated with the consumption of MONSTER ENERGY. To the contrary, MONSTER
14 ENERGY drinks expressly pride themselves on "deliver[ing] twice the buzz of a regular energy
15 drink," and encourage consumers to "tear into" MONSTER ENERGY. Indeed, Monster
16 describes its product as one that consumers "can really pound down," thereby encouraging
17 consumers to speedily and hastily ingest this dangerous product.

18 25. Though championing the benefits provided by MONSTER ENERGY,
19 Defendants entirely failed to warn or disclose to consumers like Alex Morris the known risks
20 and side effects of consuming MONSTER ENERGY products, including the risk of cardiac
21 arrhythmia, from which Alex Morris ultimately died.

22 26. Beyond their failure to warn of or disclose to consumers information related to
23 the significant risks associated with consuming MONSTER ENERGY, Defendants
24 intentionally withheld, suppressed and concealed from consumers information relating to the
25 risks of adverse health effects upon consumption of this product.

26 27. Defendants failed to conduct adequate testing, studies or clinical testing and
27 research, and similarly failed to conduct adequate marketing surveillance regarding MONSTER
28 ENERGY's adverse effects upon the cardiovascular health of consumers.

1 28. Despite Defendants' representations to the contrary, the MONSTER ENERGY
2 drinks consumed by Alex Morris were not safe or fit for the use for which they were intended.

3 29. Had Defendants properly disclosed and warned of the significant risk of suffering
4 adverse cardiac episodes, including cardiac arrhythmias, due to the consumption of MONSTER
5 ENERGY, a product containing exorbitant levels of caffeine, taurine and guarana, Alex Morris
6 would not have consumed at least two (2) 16-oz. MONSTER ENERGY drinks on a daily basis
7 for three (3) years prior to his death.

8 30. Defendants' failures in designing, manufacturing, marketing, distributing,
9 warning and/or selling MONSTER ENERGY drinks directly and proximately caused Alex
10 Morris to suffer the cardiac arrhythmia that ultimately led to his death.

11 I. SURVIVAL ACTION CAUSES OF ACTION

12 FIRST CAUSE OF ACTION

13 **(Strict Liability: Design Defect against all Defendants by**
14 **Plaintiff as surviving parent and successor in interest to Alex Morris)**

15 31. Plaintiff re-alleges each and every allegation contained in this Complaint with the
16 same force and effect as if fully set forth herein.

17 32. Defendants manufactured, sold, and supplied MONSTER ENERGY and had
18 significant involvement in distribution including the capability of exercising control over
19 quality.
20

21 33. Defendants placed MONSTER ENERGY into the stream of commerce.
22 MONSTER ENERGY was expected to, and did, reach Alex Morris without substantial change
23 in its condition. Alex Morris consumed MONSTER ENERGY and it caused his cardiac
24 arrhythmia and death.

25 34. Alex Morris consumed the MONSTER ENERGY drinks that caused his death in
26 the way that Defendants intended all MONSTER ENERGY drinks to be used – he ingested
27 them orally.

28 ////

1 35. The MONSTER ENERGY products that Alex Morris consumed, and that caused
2 his death, did not perform as safely as an ordinary consumer would have expected them to
3 perform when used or misused in an intended or reasonably foreseeable way.

4 36. At the time the MONSTER ENERGY drinks consumed by Alex Morris left
5 Defendants’ control, they were in a condition not contemplated by him and were unreasonably
6 dangerous and defective. MONSTER ENERGY was at the time of Alex Morris’s consumption
7 (and remains to this day) dangerous to an extent beyond that which would be contemplated by
8 the ordinary consumer in his position.

9 37. The risks associated with ingesting MONSTER ENERGY outweigh any claimed
10 or perceived benefits. There are practicable, feasible and safer alternatives to achieve “energy”
11 and increased awareness that do not present the severe health risks that accompany MONSTER
12 ENERGY.

13 38. The failure of the MONSTER ENERGY drinks that Alex Morris consumed, and
14 that caused his death, to perform safely was a substantial factor in causing him harm.

15 39. As a direct and proximate result of Defendants’ design, manufacture, marketing,
16 and/or sale of MONSTER ENERGY, Alex Morris suffered serious injuries herein described,
17 and ultimately died.

18 40. As a direct and proximate result of Defendants’ design, manufacture, marketing,
19 and/or sale of MONSTER ENERGY, it became necessary for Alex Morris to incur expenses
20 for doctors, hospitals, nurses, pharmaceuticals, and other reasonably required and medically
21 necessary supplies and services.

22 41. As a direct and proximate result of Defendants’ design, manufacture, marketing,
23 and/or sale of MONSTER ENERGY, Alex Morris suffered serious and permanent physical
24 injury, harm, damages and economic loss, and ultimately died.

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SECOND CAUSE OF ACTION

(Strict Liability: Failure to Warn against all Defendants by Plaintiff as surviving parent and successor in interest to Alex Morris)

42. Plaintiff re-alleges each and every allegation contained in this Complaint with the same force and effect as if fully set forth herein.

43. Prior to Alex Morris’s consumption of the MONSTER ENERGY drinks, Defendants designed, manufactured, marketed, distributed and/or sold MONSTER ENERGY, and at all material times were in the business of doing so. Defendants placed MONSTER ENERGY into the stream of commerce. MONSTER ENERGY was expected to, and did, reach Alex Morris without substantial change in its condition. Alex Morris consumed MONSTER ENERGY and it caused his cardiac arrhythmia and death.

44. MONSTER ENERGY had potential risks and side effects that were known or knowable to Defendant by the use of scientific knowledge available at and after the time of design, manufacture, marketing, distribution and/or sale of the MONSTER ENERGY consumed by Alex Morris. Defendants knew or should have known of the defective condition, characteristics, and risks associated with MONSTER ENERGY, as previously set forth herein.

45. The potential risks and side effects associated with MONSTER ENERGY presented, and continue to present, a substantial danger when the drinks are used or misused in an intended or reasonably foreseeable way – *i.e.* ingested orally.

46. Ordinary consumers would not have recognized the potential risks and side effects associated with ingesting MONSTER ENERGY.

47. When placing MONSTER ENERGY into the stream of commerce, Defendants failed to provide adequate warnings as to the risks associated with the product. Defendants failed to warn consumers of the true risks and dangers – and of the symptoms, scope and severity of the potential side effects of the MONSTER ENERGY drinks that Alex Morris consumed, such as significantly increased risk of strokes, blood clots, heart attacks and cardiac arrhythmias.

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1 48. As detailed herein, Defendants failed to adequately warn and instruct of the
2 potential risks and side effects associated with ingesting MONSTER ENERGY. Examples of
3 the inadequacies of Defendants' warnings include, but are not limited to, the following:

4 a. The warnings were insufficient to alert Alex Morris of the significant risk,
5 scope, duration and severity of adverse events and/or reactions associated with
6 MONSTER ENERGY, subjecting him to risks which far exceeded the benefits of
7 MONSTER ENERGY;

8 b. Defendants marketed and sold MONSTER ENERGY using misleading
9 marketing materials emphasizing the efficacy of the drinks while downplaying
10 the risks associated with it, thereby making the use of MONSTER ENERGY
11 more dangerous than any consumer would reasonably expect; and

12 c. Defendants failed to disclose the increased risks of adverse cardiac
13 episodes associated with the consumption of MONSTER ENERGY by children,
14 adolescents, and young adults like Alex Morris.

15 49. The lack of sufficient instructions or warnings was a substantial factor in causing
16 Alex Morris's death.

17 50. As a direct and proximate result of Defendants' failure to provide adequate
18 warnings in connection with its design, manufacture, marketing, distribution and/or sale of
19 MONSTER ENERGY, Alex Morris suffered serious injuries herein described, and ultimately
20 died.

21 51. As a direct and proximate result of Defendants' failure to provide adequate
22 warnings in connection with its design, manufacture, marketing, distribution and/or sale of
23 MONSTER ENERGY, it became necessary for Alex Morris to incur expenses for doctors,
24 hospitals, nurses, pharmaceuticals, and other reasonably required and medically necessary
25 supplies and services.

26 ////

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28 ////

1 c. Failed to cease manufacturing or otherwise alter the composition of
2 MONSTER ENERGY to produce a safer alternative despite the fact that
3 Defendant knew or should have known that such drinks posed a serious risk of
4 bodily harm to consumers;

5 d. Failed to conduct post-marketing surveillance to determine the safety of
6 MONSTER ENERGY;

7 e. Failed to exercise reasonable care with respect to post-sale warnings and
8 instructions for safe use by consumers;

9 f. Failed to exercise ordinary care in the labeling of MONSTER ENERGY;
10 and

11 g. Was otherwise careless and negligent.

12 57. At all relevant times, it was foreseeable to Defendants that consumers, like Alex
13 Morris, would suffer injury as a result of Defendants' failure to exercise ordinary care.

14 58. As a direct and proximate result of Defendants' negligence, Alex Morris suffered
15 serious injuries herein described, and ultimately died.

16 59. As a direct and proximate result of Defendants' negligence, it became necessary
17 for Alex Morris to incur expenses for doctors, hospitals, nurses, pharmaceuticals, and other
18 reasonably required and medically necessary supplies and services.

19 60. As a direct and proximate result of Defendants' negligence, Alex Morris suffered
20 serious and permanent physical injury, harm, damages and economic loss, and ultimately died.

21
22 **FOURTH CAUSE OF ACTION**

23 **(Negligence – Failure to Warn against all Defendants by
24 Plaintiff as surviving parent and successor in interest to Alex Morris)**

25 61. Plaintiff re-alleges each and every allegation contained in this Complaint with the
26 same force and effect as if fully set forth herein.

27 62. Prior to, on, and after the date of Alex Morris's ingestion of MONSTER
28 ENERGY, and at all relevant times, Defendants were engaged in the design, manufacture,
production, testing, study, inspection, mixture, labeling, marketing, advertising, sales,

1 promotion, and/or distribution of MONSTER ENERGY, which were intended for consumption
2 by consumers like Alex Morris.

3 63. Prior to, on, and after the date of Alex Morris's ingestion of MONSTER
4 ENERGY, Defendants knew or should have known that MONSTER ENERGY was dangerous
5 or was likely to be dangerous when used in a reasonably foreseeable manner. Such dangers
6 include, but are not limited to, significantly increased risk of strokes, blood clots, heart attacks
7 and cardiac arrhythmias.

8 64. Prior to, on, and after the date of Alex Morris's ingestion of MONSTER
9 ENERGY, Defendants knew or should have known that consumers of MONSTER ENERGY,
10 including Alex Morris, would not realize the dangers presented by the product.

11 65. Prior to, on, and after the date of Alex Morris's ingestion of MONSTER
12 ENERGY, Defendants failed to adequately warn of the dangers associated with consumption of
13 MONSTER ENERGY and/or failed to adequately instruct consumers on the safe use of the
14 product. Such failures to warn and/or instruct included, but were not limited to: failing to issue
15 adequate warnings to consumers concerning the risks of serious bodily harm associated with
16 the ingestion of MONSTER ENERGY; failing to supply adequate warnings regarding all
17 potential adverse health effects associated with the use of its product and the comparative
18 severity of these side effects; and failing to set forth adequate warnings directed to consumers
19 with common underlying cardiac conditions that are more susceptible to adverse cardiac
20 reactions.

21 66. It was foreseeable to Defendants that consumers, including Alex Morris, might
22 suffer injury as a result of its failure to exercise ordinary care in providing adequate warnings
23 concerning the dangers associated with consumption of MONSTER ENERGY.

24 67. As a direct and proximate result of Defendants' negligence, Alex Morris suffered
25 serious injuries herein described, and ultimately died.

26 68. As a direct and proximate result of Defendants' negligence, it became necessary
27 for Alex Morris to incur expenses for doctors, hospitals, nurses, pharmaceuticals, and other
28 reasonably required and medically necessary supplies and services.

1 76. As a direct and proximate result of the fraud and deceit alleged, Alex Morris
2 suffered serious injuries herein described, and ultimately died.

3 77. As a direct and proximate result of the fraud and deceit alleged, it became
4 necessary for Alex Morris to incur expenses for doctors, hospitals, nurses, pharmaceuticals, and
5 other reasonably required and medically necessary supplies and services.

6 78. As a direct and proximate result of the fraud and deceit alleged, Alex Morris
7 suffered serious and permanent physical injury, harm, damages and economic loss, and
8 ultimately died.

9
10 **SIXTH CAUSE OF ACTION**
11 **(Breach of Implied Warranties against all Defendants by**
12 **Plaintiff as surviving parent and successor in interest to Alex Morris)**

13 79. Plaintiff re-alleges each and every allegation contained in this Complaint with the
14 same force and effect as if fully set forth herein.

15 80. Alex Morris's daily consumption of MONSTER ENERGY for at least three (3)
16 years, along with his consumption of two (2) 16-oz. cans of MONSTER ENERGY during the
17 twenty four (24) hours between June 30 and July 1, caused his death in the early morning hours
18 of July 1, 2012.

19 81. At the time of Alex Morris's consumption of the MONSTER ENERGY products
20 that caused his death, Defendants were in the business of selling the drink products.

21 82. The MONSTER ENERGY products that Alex Morris consumed, and that caused
22 his death, were harmful when consumed.

23 83. The harmful condition of the MONSTER ENERGY products that Alex Morris
24 consumed, and that caused his death, would not reasonably be expected by the average
25 consumer.

26 84. The MONSTER ENERGY drinks were a substantial factor in causing Alex
27 Morris's death.

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1 85. Prior to Alex Morris's consumption of MONSTER ENERGY, Defendants
2 impliedly warranted to Alex Morris and other consumers that MONSTER ENERGY was of
3 merchantable quality and safe and fit for the use for which it was intended.

4 86. Alex Morris relied entirely on the expertise, knowledge, skill, judgment, and
5 implied warranty of Defendants in choosing to consume MONSTER ENERGY.

6 87. The MONSTER ENERGY drinks that Alex Morris consumed were neither safe
7 for their intended use, nor of merchantable quality, in that they possessed a dangerous mixture
8 of ingredients that, when put to its intended use, caused severe, permanent and fatal injuries to
9 Alex Morris. As such, the MONSTER ENERGY drinks were not of the same quality as those
10 energy drinks generally acceptable in the trade and they were not fit for the ordinary purposes
11 for which such goods are used.

12 88. By selling, delivering and/or distributing the defective MONSTER ENERGY
13 drinks to Alex Morris, Defendants breached the implied warranty of merchantability and the
14 implied warranty of fitness.

15 89. As a direct and proximate result of Defendants' breach of the implied warranty of
16 merchantability and the implied warranty of fitness, Alex Morris suffered serious injuries
17 herein described, and ultimately died.

18 90. As a direct and proximate result of Defendants' breach of the implied warranty of
19 merchantability and the implied warranty of fitness, it became necessary for Alex Morris to
20 incur expenses for doctors, hospitals, nurses, pharmaceuticals, and other reasonably required
21 and medically necessary supplies and services.

22 91. As a direct and proximate result of the breach alleged, Alex Morris suffered
23 serious and permanent physical injury, harm, damages and economic loss, and ultimately died.

24
25 **PUNITIVE DAMAGES ALLEGATIONS**
26 **(Against all Defendants by Plaintiff as surviving parent**
27 **and successor in interest to Alex Morris)**

27 92. Plaintiff re-alleges each and every allegation contained in this Complaint with the
28 same force and effect as if fully set forth herein.

1 93. Section 377.34 of the California Code of Civil Procedure allows for “penalties or
2 punitive or exemplary damages that the decedent would have been entitled to recover had the
3 decedent lived.”

4 94. At all relevant times, Defendants knew that MONSTER ENERGY contained
5 dangerous levels of caffeine and other stimulants, and knew the serious health risks to
6 consumers associated with the consumption of MONSTER ENERGY.

7 95. With such knowledge and in furtherance of their own financial interests,
8 Defendants willfully, wantonly and maliciously engaged in the design, manufacture,
9 production, testing, study, inspection, mixture, labeling, marketing, advertising, sales,
10 promotion, and/or distribution of MONSTER ENERGY while simultaneously failing to warn
11 potential consumers of its dangerous propensities, and targeting consumers most vulnerable
12 (including but not limited to, children, teenagers, and young adults) to the known serious health
13 risks associated with the consumption of MONSTER ENERGY.

14 96. With such knowledge and in furtherance of their own financial interests,
15 Defendants willfully, wantonly and maliciously, and with conscious disregard for, and
16 indifference to, the health and safety of consumers, including Plaintiff, failed and refused to
17 supply adequate warnings and/or information to protect consumers and/or otherwise reduce or
18 eliminate the health risks to consumers associated with the consumption of MONSTER
19 ENERGY.

20 97. In addition to such conduct, Defendants have knowingly, intentionally and
21 deliberately marketed MONSTER ENERGY as an “Energy Supplement” so as to avoid
22 limitations imposed upon soft drink and other beverage manufacturers by the U.S. Food and
23 Drug Administration restricting the caffeine content of such soft drinks or beverages. In
24 classifying MONSTER ENERGY as an “Energy Supplement,” Monster avoids meaningful
25 regulation by the FDA and uses amounts of caffeine in MONSTER ENERGY that far exceed
26 such regulations imposed upon other beverages.

27 98. As a direct and proximate result of such conduct, and because the acts and
28 omissions of Defendants were willful, wanton, malicious, intended and in conscious disregard

1 for, and indifference to, the health and safety of potential consumers, like Alex Morris, an
2 award of exemplary or punitive damages is appropriate and necessary to punish Defendants,
3 and to deter Defendants from engaging in such misconduct in the future and to affect
4 significant change in the way Defendants design, manufacture, market, promote, warn about,
5 distribute and/or sell MONSTER ENERGY.

6
7 **II. WRONGFUL DEATH CAUSE OF ACTION**

8
9 **SEVENTH CAUSE OF ACTION**
10 **(Wrongful Death against all Defendants by Plaintiff Paula Morris)**

11 99. Plaintiff re-alleges each and every allegation contained in this Complaint with the
12 same force and effect as if fully set forth herein.

13 100. Plaintiff Paula Morris is the surviving heir of and successor in interest to the
14 decedent, Alex Morris, and does hereby bring any and all Wrongful Death causes of action
15 pursuant to California Code of Civil Procedure § 377.60 and California Probate Code §
16 6402(b).

17 101. The wrongful actions of Defendants described in the preceding paragraphs, and
18 the defects in the MONSTER ENERGY product designed, manufactured, marketed, distributed
19 and/or sold by Defendants, caused the death of Plaintiff's son, Alex Morris. As a direct and
20 proximate result of the strict liability, negligence, fraud, and breach of warranty described
21 above, Alex Morris purchased and consumed MONSTERY ENERGY, which resulted in his
22 death.

23 102. As a result of the death of her son, Plaintiff was deprived of the love,
24 companionship, comfort, affection, support, and society of her decedent.

25 103. Plaintiff is entitled to recover economic and non-economic damages against
26 Defendants for the wrongful death proximately caused by her son's consumption of
27 MONSTER ENERGY and directly attributable to Defendants' failures as described in the
28 preceding paragraphs.

////

1 **PRAYER FOR RELIEF AS TO ALL CLAIMS**

2 WHEREFORE, Plaintiff prays judgment against all Defendants for all claims asserted
3 herein as follows:

4
5 **FOR THE FIRST THROUGH SIXTH CAUSES OF ACTION**

- 6 1. For property damages and medical expenses incurred by Alex Morris, by and
7 through his surviving parent and successor in interest, according to proof;

8
9 **FOR THE SEVENTH CAUSE OF ACTION**

- 10 2. For general damages for loss of love, companionship, comfort, care, assistance,
11 protection, affection, society, moral support, and other non-economic damages as
12 a result of the death of Alex Morris, according to proof;
- 13 3. For funeral and burial expenses, loss of financial support, and loss of gifts and
14 benefits that Plaintiff expected to receive from her decedent, as well as the costs
15 of household services the decedent would have provided, and other economic and
16 non-economic losses, if any, according to proof; and

17
18 **FOR ALL CAUSES OF ACTION**

- 19 4. All costs of suits; and
20 5. For such other and further relief as the Court may deem just and proper.

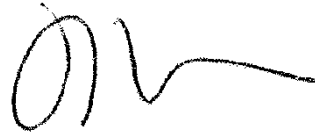
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1 **PUNITIVE DAMAGES PRAYER**

2 As to the First, Second and Fifth Causes of Action against all Defendants, Plaintiff as
3 surviving parent and successor in interest to Alex Morris, prays for punitive or exemplary
4 damages in an amount to be determined at trial.

5
6 Date: June 21, 2013

R. REX PARRIS LAW FIRM

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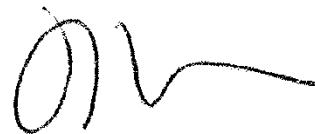
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10 By: _____
11 Alexander R. Wheeler
12 Attorneys for Plaintiff

13
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a jury trial on all issues.

16
17
18 Date: June 21, 2013

R. REX PARRIS LAW FIRM

19
20 

21 By: _____
22 Alexander R. Wheeler
23 Attorneys for Plaintiff
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