STATE OF NORTH CAROLINA PITT COUNTY	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION ____-CVS-____
JOHN WARD as Administrator of the Estate of PHILLIP WARD, Plaintiff, *v.* MINDBLOOM, INC., a Delaware Corporation; and ENOVEX PHARMACY, LLC; ELLIOT SKWERER, P.A., Individually; and IJAZ RASUL, M.D., Individually, Defendants.	**COMPLAINT** ***(Jury Trial Demand)***

Plaintiff John Ward as Administrator of the Estate of Phillip Ward, brings this Complaint against the above-listed Defendants, and alleges as follows:

INTRODUCTION

1. This is an action for the wrongful death of 27-year-old Phillip Ward ("PHILLIP" or "DECEDENT"), whose life was cut short on October 29, 2023. Phillip Ward's death was a direct and proximate result of a for-profit telehealth scheme operated by Defendants MINDBLOOM, INC. ("MINDBLOOM") and ENOVEX PHARMACY, LLC ("ENOVEX"). Defendants prescribed, manufactured, and shipped a potent, unapproved, and dangerously unpredictable anesthetic for Phillip to use at home without adequate instructions, warnings nor direct medical supervision during and after ingestion. Defendants consciously ignored the obvious risks and recklessly disregarded Phillip's history of hypertension and substance abuse and his repeated

failure to attend mandatory clinician appointments. Defendants supplied a product that had not been tested for safety or efficacy that led to this tragic and preventable death.

THE PARTIES

2. Plaintiff JOHN is, and at all times mentioned herein was a citizen and resident of the State of North Carolina. John Ward has been appointed as the Administrator of the Estate of Phillip Ward, Deceased, having been issued Letters of Administration by the Clerk of Superior Court for Pitt County, North Carolina, *IN THE MATTER OF THE ESTATE OF PHILLIP WARD*, File No.25 001874-730. As such, he has the legal capacity to bring this wrongful death action on behalf of the Estate.

3. Decedent, Phillip Ward, was a citizen and resident of Pitt County, North Carolina, at the time of his death. His claims are brought through his father as his successor in interest within two years of this death October 29, 2023.

4. Plaintiff is informed and believes, and thereon allege, that Defendant MINDBLOOM, INC. ("MINDBLOOM") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Florida.

5. Plaintiff is informed and believes, and thereon alleges, that Defendant ENOVEX PHARMACY, LLC ("ENOVEX") is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Glendale, Los Angeles County, California.

6. Plaintiff is informed and believes and thereon allege, that Defendant ELLIOT SEBASTIAN SKWERER, P.A. ("SKWERER") is a citizen and resident of the State of North Carolina. Defendant Skwerer is a licensed Physician Assistant who, at all relevant times, acted as an agent, ostensible agent, and/or employee of Defendant MINDBLOOM. Defendant Skwerer

was the clinician who prescribed the fatal dose of ketamine to Phillip Ward and was directly responsible for his medical management.

7. Plaintiff is informed and believes, and thereon allege, that Defendant IJAZ RASUL, M.D. ("RASUL") is a citizen and resident of the State of North Carolina, with a place of business in Cary, Wake County, North Carolina. At all relevant times, Defendant Rasul was the designated supervising physician for Defendant Skwerer. As the supervising physician, Defendant Rasul was legally responsible for the medical services provided by Defendant Skwerer, including the assessment of patients and the prescribing of controlled substances. Upon information and belief, Defendant Rasul also acted as an agent, ostensible agent, and/or employee of Defendant MINDBLOOM

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action, and the amount in controversy exceeds $25,000.00. 33. Venue is proper in Pitt County pursuant to N.C.G.S. § 1-82, as the Decedent resided in Pitt County at the time of his death, and a substantial part of the events and omissions giving rise to these claims occurred in this county.

CERTIFICATION OF EXPERT REVIEW (N.C.G.S. § 1A-1, Rule 9(j))

9. The medical treatment and care and all medical records pertaining to the alleged negligence that are available to the Plaintiff after reasonable inquiry have been reviewed by persons who are reasonably expected to qualify as expert witnesses under Rule 702 of the North Carolina Rules of Evidence and who are willing to testify that the medical care and treatment rendered to Plaintiff did not comply with the applicable standard of care. In addition, in the event the defense has objections to the qualifications of the Plaintiff's 9(j) experts, the Plaintiff will seek to have the experts qualified as expert witnesses by motion under Rule 702(e) of the North

Carolina Rules of Evidence, and Plaintiff moves the court (as provided in Rule 9(j) of the North Carolina Rules of Civil Procedure) that such person be qualified as an expert witness under Rule 702(e). The said experts are willing to testify that the medical care and treatment provided to Plaintiff by the Defendants did not comply with the applicable standard of care.

OBJECTION TO N.C.G.S. N.C.G.S §90-21.19

10. Plaintiff objects to N.C.G.S §90-21.19 (cap on non-economic damages) as unconstitutional. The cap on non-economic damages denies plaintiff, including Plaintiff herein, the right to a jury trial, due process of law, equal protection under the law, and the right to open courts, violates the separation of powers, and confers an exclusive emolument on health care providers in violation of the United States and North Carolina Constitutions. The cap on non-economic damages violates the Seventh and Fourteenth Amendments of the United States Constitution and Article IV, §§1 and 13 of the North Carolina Constitution.

FACTUAL ALLEGATIONS

11. Defendant MINDBLOOM operates a nationwide telehealth business, aggressively marketing at-home ketamine therapy for conditions like depression and anxiety. For a subscription fee, MINDBLOOM connects patients with clinicians who prescribe ketamine, often in the form of sublingual troches, which are then shipped to the patient's home from a partner compounding pharmacy.

12. These acts are a direct and dangerous circumvention of established FDA safety protocols. Ketamine is a class III controlled substance regulated by the FDA and DEA. Ketamine was originally approved by the FDA in the early 1970's as an injectable anesthetic to be used for surgeries and monitored in a clinical setting.

13. The only FDA-approved ketamine-based product for treatment resistant depression, Spravato, is restricted under a strict Risk Evaluation and Mitigation Strategy (REMS) program due to its significant risks. The REMS program mandates that Spravato be administered by a healthcare provider in a certified setting, requires patient monitoring for at least two hours after use, and explicitly prohibits dispensing the drug directly to patients for at-home use.

14. MINDBLOOM's compounded ketamine troches are not approved by the FDA and have not undergone scientific trials to prove their benefits outweigh their risks. By cloaking an unapproved drug in a deceptive appearance of medical legitimacy, MINDBLOOM targets and exploits vulnerable individuals, offering an illusion of safety where none exists. The product also fails to properly instruct and warn the recipient of the risks associated with its use.

15. Defendant ENOVEX, a compounding pharmacy, manufactured the ketamine troches marketed and sold by MINDBLOOM that led to Phillip Ward's death. ENOVEX entered into a direct agreement with Phillip Ward on April 7, 2023, when he signed its "PATIENT AUTHORIZATION AND PLAN OF CARE." Under this authorization, ENOVEX was directly responsible for compounding and shipping the fatal dose of ketamine.

16. Upon information and belief, Defendants MINDBLOOM and ENOVEX entered into an express and/or implied agreement to form a joint venture for the common purpose of designing, manufacturing, marketing, selling, and distributing an integrated at-home ketamine therapy product and service for profit.

17. This joint venture combined MINDBLOOM's telehealth platform, marketing infrastructure, and network of prescribers with ENOVEX's expertise as a compounding pharmacy responsible for manufacturing and shipping the ketamine troches. The success and profitability of the enterprise depended on their combined efforts to attract patients and fulfill

subscriptions. MINDBLOOM controlled patient acquisition and the clinical interface, while ENOVEX controlled the formulation and distribution of the physical product, creating a single, seamless, and profitable delivery system for an unapproved and dangerous drug product.

18. Each member of the joint venture acted as an agent for the other. As a direct result of this joint venture, MINDBLOOM and ENOVEX are jointly and severally liable for the negligent acts and omissions of each other undertaken in furtherance of their common purpose, including the defective design, manufacturing, inadequate warnings and inadequate monitoring associated with the ketamine troches that proximately caused Phillip Ward's death.

19. Defendant ELLIOT SKWERER, P.A., operated under the required legal supervision of Defendant IJAZ RASUL, M.D. Upon information and belief, both Defendant Skwerer and Defendant Rasul were acting as agents and/or employees of Defendant MINDBLOOM, carrying out its for-profit, at-home ketamine protocol.

20. In March 2023, Phillip Ward, a 27-year-old resident of Greenville, North Carolina, signed up for MINDBLOOM's services. He disclosed that he was a current ketamine patient, having recently moved from Florida where he was undergoing medically supervised Spravato treatments twice a week.

21. Phillip's medical history, which was available to the defendants, included depression, hypertension, tachycardia and substance abuse. Despite these critical risk factors that should have immediately disqualified him from unsupervised, at-home anesthetic use, MINDBLOOM proceeded with his onboarding.

22. Following an initial video consultation on April 4, 2023, MINDBLOOM'S own clinician recognized the danger and requested that Phillip "will need therapist before approval" and must obtain a letter from his prior Spravato provider confirming his treatment had ended.

Upon information and belief, Defendants never confirmed that these crucial safety conditions were met before proceeding with treatment.

23. Defendants consciously disregarded critical safety protocols by continuing to supply Phillip Ward with ketamine troches, despite being fully aware that he was missing mandatory medical appointments required for his treatment.

24. Despite being aware of Phillip's prior ketamine treatment, MINDBLOOM failed to conduct a proper medical, physical, and psychiatric history, and failed to adequately screen for, or recklessly disregarded, Phillip's documented history of hypertension, tachycardia, and substance abuse. These conditions were critical risk factors that should have disqualified him from receiving a dangerous anesthetic for unsupervised, at-home use.

25. MINDBLOOM provided Phillip with a "Bloombox" containing a blood pressure monitor, a purported safeguard. However, at no point did any MINDBLOOM clinician ever ask for or require Phillip to submit his blood pressure readings. Upon his death, the blood pressure cuff was found unused in its original packaging.

26. June 28, 2023, Phillip missed a scheduled "Video Consult 1" with his clinician, Elliot Skwerer. Throughout July, August, September, and October 2023, Phillip’s account was plagued by multiple failed subscription payments, further indicating a pattern of disengagement and life instability that should have triggered a clinical review.

27. October 18, 2023, just eleven days before his death, Phillip missed another mandatory video consultation. MINDBLOOM acknowledged the missed appointment and charged him a $150 no-show fee, yet failed to halt his access to the medication.

28. On October 29, 2023, Phillip Ward was found dead in his bedroom. The official cause of death was determined to be "Ketamine Toxicity in the setting of hypertension". A toxicology report confirmed a lethal dose of ketamine (9.3 mg/L) in his blood.

SUMMARY AND INTERPRETATION

The decedent is a 27-year-old male who was found deceased in his bedroom. Several medications are on scene. His medical history includes depression, hypertension, tachycardia, substance abuse, and recent vomiting with alcohol use.

Autopsy examination reveals an enlarged heart and pulmonary edema.

Please see separate report for toxicology details.

Based on the history and autopsy findings, it is my opinion that the cause of death in this case is ketamine toxicity in the setting of hypertension.

29. Defendants failed to adequately screen Phillip Ward to assess the propriety of his use of a ketamine containing product. Further, defendants delivered a defective product unreasonably dangerous to him for consumption in a non-approved manner. Defendant's failure to adequately research, test, instruct and warn of the known risks, including death, was a proximate cause of Phillip Ward's death.

FIRST CAUSE OF ACTION
(Negligence)

30. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs.

31. Defendants owed a duty to Phillip Ward to exercise the degree of care ordinarily exercised by reasonably prudent medical providers, drug manufacturers, and suppliers in the same or similar circumstances.

32. Defendants breached their duty of care to Phillip Ward through numerous negligent acts and omissions. MINDBLOOM is liable for each of the acts and omissions described below, unless otherwise attributed to a different Defendant. The acts and omissions for which Defendants are liable include, but are not limited to:

a. Prescribing a dangerous and potent controlled substance for at-home use without adequate medical supervision;

b. Failing to conduct a thorough medical and psychiatric evaluation to determine if Phillip was a suitable candidate for at-home ketamine therapy;

c. Failing to implement adequate safeguards and monitoring protocols, especially given Phillip's known history of hypertension;

d. Continuing to prescribe and dispense ketamine to Phillip despite numerous red flags indicating instability and non-compliance;

e. Failing to properly warn of the specific, heightened risk of a fatal overdose associated with unsupervised at-home use of an oral troche, especially for a patient with pre-existing cardiovascular conditions, rendering any consent obtained from Phillip invalid.

f. (As to ENOVEX) Compounding and dispensing a Schedule III controlled substance in an untested and unapproved delivery format (sublingual lozenges, also known as troches) for unsupervised at-home use, without any reasonable assurance of consistent dosage delivery, thereby creating a foreseeable and substantial risk of overdose and death;

g. (As to ENOVEX) Failing to exercise its independent professional judgment as a pharmacy to refuse to dispense a prescription that, on its face, was for an inherently dangerous and unpredictable drug product intended for a use that fell far below the accepted standard of medical care;

h. Failing to Adhere to Proper Screening Protocols: As outlined by industry risk management standards, providers of Ketamine Assisted Psychotherapy must have written patient selection criteria to ensure potential benefits outweigh the risks. Defendants failed to adhere to this standard by providing at-home ketamine to Phillip Ward despite his

documented history of hypertension, tachycardia, and substance abuse, conditions that made him an unsuitable candidate for unsupervised administration of a powerful anesthetic.

i. Failing to Implement a Safe Monitoring and Rescue Plan for Oral Ketamine: The standard of care for administering ketamine, even in its oral form, requires a robust plan to monitor for signs of sedation and dissociation and a "rescue plan" that may include the same emergency protocols as for IV ketamine. Defendants' at-home model lacked any meaningful, real-time monitoring. By providing Phillip Ward with only a blood pressure cuff that they never required him to use, Defendants failed to implement any of the necessary safeguards, demonstrating a reckless disregard for patient safety;

j. Failing to inform Plaintiff and/or decedent of the usual and most frequent risks and hazards inherent in the proposed procedures, plan of care, and/or medications offered to decedent and to subsequently obtain the consent of Plaintiff and/or decedent to such procedures and/or treatments and /or medications in accordance with the standards of practice among other health care providers with similar training and experience situated in the same or similar communications under the same or similar circumstances of acts alleged in this Complaint;

k. Failing to obtain decedent’s informed consent;

l. The actions and/or inactions of defendants were not in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities under the same or similar circumstances at the time of the alleged acts alleged in this Complaint;

m. The actions and/or inactions of defendants were not in accordance with the standards of practice among similar health care providers situated in the same or similar communities under the same or similar circumstances at the time of the acts alleged in this Complaint;

33. (As to Defendant SKWERER) Prescribing a potent, dangerous, and potentially lethal controlled substance to Phillip Ward without conducting an adequate in-person physical or psychiatric examination;

34. (As to Defendant SKWERER) Failing to heed critical red flags in Phillip Ward's medical history—including hypertension, tachycardia, and substance abuse—that made him an unsuitable candidate for unsupervised, at-home ketamine administration;

35. (As to Defendant SKWERER) Continuing to authorize prescriptions for Phillip Ward despite his repeated failure to attend mandatory clinician appointments, demonstrating a reckless disregard for patient monitoring and safety protocols;

36. (As to Defendant RASUL) Negligently supervising the medical practice of Defendant Skwerer by allowing him to prescribe a dangerous anesthetic for at-home use without ensuring proper safeguards, patient screening, and follow-up were in place;

37. (As to Defendant RASUL) Failing to implement or enforce policies and procedures to ensure that his supervisee, Defendant Skwerer, would not prescribe ketamine to high-risk patients like Phillip Ward, thereby breaching his non-delegable duty to protect the patient.

38. Defendants did not develop, implement and/or enforce appropriate policies, procedures, and protocols concerning the prescription, dispensing, and/or administration of ketamine to patients such as Philip Ward.

39. The Defendants were otherwise negligent, reckless, and careless during the acts or omissions alleged in Plaintiff's Complaint; and

40. Defendants' acts or failures, including defendants' agents, servants, or employees, were committed in reckless disregard of the rights of others and such acts proximately caused Plaintiff to suffer permanent injury, pain and suffering, severe emotional distress, and/or death.

41. The negligence of Defendants, and each of them**, proximately caused the death of** Phillip Ward. But for the negligence of the Defendants, Phillip Ward would not have died on October 29, 2023.

42. As a direct and proximate result of Defendants' negligence and the death of his son, Plaintiff JOHN WARD has suffered the loss of his son's love, companionship, comfort, and society, all to general damages in an amount to be proven at trial. Plaintiff has also incurred funeral and burial expenses.

SECOND CAUSE OF ACTION
(Product Liability- Negligent Design)

43. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs.

44. At all relevant times, Defendants were designers, manufacturers, and sellers of the compounded ketamine troches supplied to Phillip Ward. They placed this product into the stream of commerce, making it available to consumers in North Carolina, including the Decedent.

45. Pursuant to N.C. Gen. Stat. § 99B-6, Defendants were negligent and acted unreasonably in designing and formulating the ketamine troche product for unsupervised, at-home use.

46. The Defendants' decision to design the product in this manner was unreasonable when balancing the extreme risks against the product's supposed potential benefits, especially when a safer alternative design was available and feasible.

a) **Risk:** The design presented a grave and foreseeable risk of a fatal overdose. The bioavailability of a sublingual troche is inherently inconsistent and unpredictable, meaning the actual dose of ketamine absorbed could vary dangerously. This was especially dangerous for a patient like Phillip Ward, whose known hypertension magnified the cardiovascular risks of a ketamine overdose.

b) **Utility:** The supposed utility of an at-home model does not outweigh the risk of death. The convenience of the design does not justify using a dangerously unpredictable delivery system for a potent anesthetic without medical supervision.

c) **Safer Alternative Design:** A safer, practical, and feasible alternative was to design the ketamine treatment for administration only in a certified medical setting under direct professional supervision. This model is mandated by the FDA for similar drugs and would have prevented the fatal overdose.

47. The Defendants' negligence in designing the ketamine troche was a direct and proximate cause of the injuries and subsequent death of Phillip Ward. The unpredictable dosage absorption, which was a direct result of the negligent design for at-home use, led to his fatal overdose from "Ketamine Toxicity".

48. As a direct and proximate result of the Defendants' negligent design, Plaintiff suffered damages as previously alleged in this Complaint.

THIRD CAUSE OF ACTION
(Product Liability- Failure to Warn)

49. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs.

50. Pursuant to N.C. Gen. Stat. § 99B-5, Defendants, as manufacturers and sellers of the ketamine troche product, had a legal duty to provide reasonable and adequate warnings and instructions to users about the dangers associated with the product.

51. Defendants breached this duty by failing to adequately warn Phillip Ward of the full extent and severity of the risks associated with using their compounded ketamine troches in an unsupervised, at-home setting.

52. Specifically, the warnings provided by Defendants were inadequate and unreasonable because they failed to properly and conspicuously disclose:

a) The true risk of a fatal overdose due to the dangerously inconsistent and unpredictable bioavailability of the sublingual troche format;
b) The specific, magnified cardiovascular risks, including sudden death, for a patient with a known history of hypertension and tachycardia, like Phillip Ward;
c) That the product was not FDA-approved for this use and had not been tested for safety or efficacy in an at-home setting, rendering any claims of a safe treatment protocol misleading;
d) That the lack of real-time medical monitoring created a foreseeable risk that a medical emergency could not be properly managed, turning a treatable adverse reaction into a fatal event.

53. Defendants' failure to provide adequate warnings was a direct and proximate cause of Phillip Ward's death. Had adequate warnings been provided regarding the specific risks he faced, Phillip Ward would have been able to make an informed decision and would not have used the product, thereby avoiding his fatal overdose

54. As a direct and proximate result of the Defendants' failure to warn, Plaintiff suffered damages as previously alleged in this Complaint

FOURTH CAUSE OF ACTION
(Gross Negligence)

55. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

56. Defendants owed a duty to Phillip Ward to exercise the degree of care ordinarily exercised by reasonably prudent medical providers, drug manufacturers, and suppliers in the same or similar circumstances.

57. Defendants, and each of them, breached their duty of care to Phillip Ward through numerous negligent acts and omissions, including but not limited to:

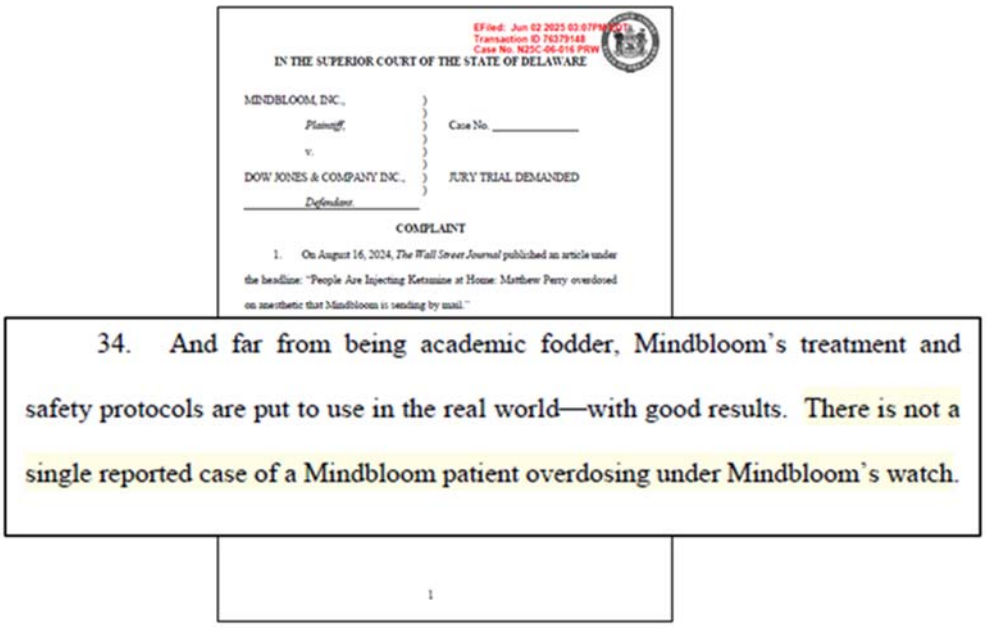
a) Failing to conduct adequate medical and psychiatric screening and recklessly disregarding Phillip's documented history of hypertension, tachycardia, and substance abuse, which were critical risk factors that should have disqualified him from at-home ketamine treatment;

b) Failing to implement any meaningful patient monitoring, such as by providing a blood pressure cuff but never requiring Phillip to submit readings, which resulted in the device being found unused in its original packaging after his death;

c) Continuing to authorize and dispense a dangerous controlled substance despite obvious red flags of patient instability, including Phillip having missed multiple mandatory video consultations with his clinician shortly before his death;

d) (As to Defendant ENOVEX) Compounding and dispensing an unapproved ketamine troche with dangerously unpredictable bioavailability for unsupervised at-home use, engaging in what amounted to "pharmacological roulette" with a patient's life;

e) (As to Defendant MINDBLOOM) Demonstrating a pattern of dishonesty and reckless disregard for patient safety by making sworn statements in a separate court proceeding that no patient had ever overdosed "under Mindbloom's watch," a claim that evidences a willful misrepresentation of its safety record.



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Case No. N25C-06-016 PRW

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

MINDBLOOM, INC.,
Plaintiff,
v.
DOW JONES & COMPANY INC.,
Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

1. On August 16, 2024, *The Wall Street Journal* published an article under the headline "People Are Injecting Ketamine at Home: Matthew Perry overdosed on anesthetic that Mindbloom is sending by mail."

34. And far from being academic fodder, Mindbloom's treatment and safety protocols are put to use in the real world—with good results. There is not a single reported case of a Mindbloom patient overdosing under Mindbloom's watch.

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f) (As to Defendant SKWERER) Consciously disregarding his clinical judgment and patient safety standards by prescribing a lethal drug for at-home use to a patient he knew or should have known was a high-risk candidate, and continuing to do so even after the patient repeatedly missed mandatory safety check-ins

g) (As to Defendant RASUL) Exhibiting a willful and wanton disregard for his duties as a supervising physician by failing to provide any meaningful oversight of Defendant Skwerer's prescribing practices, thereby enabling the reckless endangerment of Phillip Ward for financial profit.

h) All Defendants were grossly negligent for distributing this product in troche form notwithstanding the blatant, known risks involved in such a scheme.

58. The foregoing acts and omissions, particularly the decisions to ignore missed safety check-ins and subsequently misrepresent the company's safety record in court, constitute gross negligence. Defendants' conduct demonstrates a willful, wanton, and reckless disregard for the rights and safety of Phillip Ward, undertaken for financial profit, which justifies the imposition of punitive damages.

59. As a direct and proximate result of the negligence and gross negligence of Defendants, and each of them, Phillip Ward suffered a fatal overdose from "Ketamine Toxicity" on October 29, 2023.

60. But for the negligence and gross negligence of Defendants, Phillip Ward would not have died.

61. As a direct result of Defendants' actions and the death of their son, Plaintiff JOHN WARD suffered the loss of his son's love, companionship, comfort, and society, have incurred funeral and burial expenses, and have suffered other damages to be proven at trial.

62. The acts and omissions of the Defendants, as described herein, constitute willful or wanton conduct. This conduct includes, but is not limited to, consciously and intentionally disregarding Phillip Ward's known safety risks for financial gain, creating a business model that circumvents established FDA and medical safety protocols, and continuing to supply him with a lethal substance despite his clear non-compliance with mandatory safety check-ins. Upon information and belief, the officers, directors, or managers of the corporate defendants, MINDBLOOM and ENOVEX, participated in and/or condoned the conduct constituting the aggravating factor giving rise to punitive damages. The for-profit telehealth scheme, the partnership between the corporations, and the policies that prioritized subscription revenue over

patient safety were established, approved, and/or intentionally disregarded at the managerial and executive level of each corporation.

FIFTH CAUSE OF ACTION
(Unfair and Deceptive Trade Practices - N.C. Gen. Stat. § 75-1.1 *et seq)*

63. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein. This cause of action applies to all Defendants.

64. Defendants are persons or entities engaged in business, and the conduct described herein occurred in or affecting commerce within the State of North Carolina.

65. Defendants' conduct, as alleged throughout this Complaint, constitutes unfair and deceptive trade practices in violation of N.C. Gen. Stat. § 75-1.1. These acts and practices were immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

66. The unfair and deceptive acts and practices committed by the Defendants include, but are not limited to, the following:

a) Deceptively marketing, promoting, and selling an unapproved, compounded ketamine product for unsupervised, at-home use by creating the false and misleading impression that it was a safe and medically-sanctioned therapy, when in fact it had not been proven safe or effective and circumvented established FDA safety protocols;

b) Engaging in the unfair practice of targeting vulnerable individuals suffering from depression and anxiety with a for-profit telehealth scheme that prioritized subscription revenue over patient safety;

c) Creating a deceptive appearance of safety by providing a "Bloombox" with a blood pressure monitor, misleading patients into believing their vitals were being monitored,

when Defendants had no protocol to collect or review these readings, and in Phillip Ward's case, never did;

d) Failing to disclose and actively concealing material facts, including the dangerously unpredictable bioavailability of the sublingual troches and the magnified risk of fatal overdose for individuals with pre-existing hypertension;

e) Representing to the public and the courts, as alleged in a separate legal proceeding, that no patient had ever overdosed "under Mindbloom's watch," a statement that was deceptive and misleading in its representation of the company's safety record and protocols; and

f) Establishing a business model that, by its very design, was intended to and did circumvent established public policy and law designed to protect the public from the dangers of improperly prescribed and monitored controlled substances.

67. These unfair and deceptive acts and practices were a direct and proximate cause of Phillip Ward's death and the resulting injuries and damages suffered by the Plaintiff, as described herein.

68. The Defendants' actions were willful, and Plaintiff is therefore entitled to have any actual damages trebled and to recover their reasonable attorneys' fees, pursuant to N.C. Gen. Stat. §§ 75-16 and 75-16.1.

DAMAGES

69. Plaintiff re-alleges and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

70. Pursuant to N.C. Gen. Stat. § 28A-18-1, Plaintiff as Administrator of the Estate of Phillip Ward, brings this survival action to recover for the pre-death injuries, losses, and

suffering sustained by the Decedent, Phillip Ward, as a direct and proximate result of the negligence and gross negligence of the Defendants.

71. Defendants' negligent and grossly negligent acts and omissions, as alleged herein, directly and proximately caused Phillip Ward to suffer a fatal overdose from "Ketamine Toxicity in the setting of hypertension". The autopsy also revealed an enlarged heart and pulmonary edema. Defendant's acts and omissions cited herein were a proximate and producing cause of his death.

72. As a direct and proximate result of Defendants' conduct, the Decedent, Phillip Ward, suffered conscious pain, suffering, fear, and other physical and emotional distress during the period in which he experienced the toxic effects of the ketamine prior to his death on October 29, 2023.

73. But for the negligence and gross negligence of Defendants, Phillip Ward would not have suffered these injuries.

74. The Estate of Phillip Ward is entitled to recover damages for the conscious pain and suffering endured by the Decedent before his death. These damages are separate and distinct from the wrongful death damages suffered by his heirs.

75. The Estate of Phillip Ward is entitled to recover punitive or exemplary damages to deter such conduct in the future and compensate the estate for the gross negligence due to the defendants for their willful, wanton, and reckless disregard for Phillip Ward's well-being and life.

JURY DEMAND

Plaintiff respectfully requests a trial by jury of any and all claims so triable, pursuant to Rule 38 of the North Carolina Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court award and enter judgments as follows:

a. That Plaintiff be granted a trial by jury;

b. That Plaintiff recovers from Defendants compensatory damages;

c. That Plaintiff recovers from Defendants Wrongful Death and Survival Damages;

d. That Plaintiff recovers the costs and expenses incurred in prosecuting this action, all allowable pre-judgment and post-judgment interest as provided by law, and any other allowable costs, expenses and attorneys' fees to the extent provided for by law;

e. That Plaintiff recovers from Defendants punitive damages to the extent the evidence may show, under N.C.G.S. § 1D-1, *et seq.*; and

f. That the Court award such other and further relief as it deems just and proper.

Dated: October 21, 2025

Respectfully submitted,

By: */s/ Philip R. Miller, III*

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