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9 Cynthia Lee Siciliano and
10 Sienna Angelina Siciliano,
11 a minor, by her guardian
12 ad litem, _____

13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF SONOMA

15 CYNTHIA LEE SICILIANO and
16 SIENNA ANGELINA SICILIANO,
17 a minor, by her guardian ad litem,
18 _____

19 Plaintiffs,

20 vs.

21 JODIE GRAHAM- POTTS and
22 DOE1 through DOE 20, inclusive,
23 _____

24 Defendants.

Case No. _____

COMPLAINT FOR DAMAGES
(Health & Safety Cd.
§§ 11700-11717)

[Unlimited Civil Case]

25 Plaintiffs allege:

Introduction—the Drug Dealer Liability Act

26 1. Plaintiffs, and each of them, bring this action against defendants
27 pursuant to the Drug Dealer Liability Act (Health & Safety Cd. sections
28 11700-11717). The purposes of the Act, as stated in Health & Safety Cd.
§11701, are:

a) To provide a civil remedy for damages to persons in a
community injured as a result of the use of an illegal controlled substance—the
Act establishes a cause of action in persons injured as a result of the

1 marketing of illegal controlled substances, and enables them to recover
2 damages from persons who do the marketing.

3 b) To shift the cost of the damage caused by the existence of the
4 market for illegal drugs to those who illegally profit from that market—the Act
5 enables injured plaintiffs to recover damages from persons who do the
6 marketing.

7 c) To establish the prospect of substantial monetary loss as a
8 deterrent to those who have not yet entered into the distribution market for
9 illegal drugs.

10 2. By enacting the Drug Dealer Liability Act the California Legislature
11 determined that the civil justice system should be joined with the criminal
12 justice system in an effort to deter illegal drug dealing. (Health & Safety Cd.
13 §11702(a)). The Legislature declared that the threat of liability under the Drug
14 Dealer Liability Act serves as a deterrent to a recognizable segment of the
15 network for illegal drugs—a person who has assets unrelated to the sale of
16 illegal drugs, who markets such drugs at the workplace, who encourages
17 friends to become users, is likely to decide that the added cost of entering the
18 market is not worth the benefit. The Act also provides a mechanism for the
19 cost of the injury caused by the use of illegal drugs to be borne by those who
20 benefit from the illegal drug dealing. (Health & Safety Cd. §11702(b)). The Act
21 imposes liability against all participants in the marketing of illegal drugs,
22 including small dealers, who are not usually the focus of criminal investigation.
23 (Health & Safety Cd. §11702(c)).

24 3. A child or spouse of an individual controlled substance user
25 may sue for relief under the Drug Dealer Liability Act. (Health & Safety Cd.
26 §11705(a)(1)).

27 4. Such child or spouse of an individual controlled substance user
28 may seek damages from a person who sold, administered, or furnished an

1 illegal controlled substance to the individual user. (Health & Safety Cd.
2 §11705(b)(1)).

3 **Definitions**

4 5. "Marketing of illegal controlled substances" means the possession
5 for sale, sale, or distribution of a specified illegal controlled substance, and
6 includes in said definition, all aspects of making a controlled substance
7 available, including, but not limited to, its manufacture. (Health & Safety Cd.
8 §11703(a)).

9 6. "Individual user of an illegal controlled substance" means the
10 individual whose use of a specified illegal controlled substance is the basis of
11 an action brought under the Drug Dealer Liability Act. (Health & Safety Cd.
12 §11703(b)).

13 7. "Participate in the marketing of illegal controlled substances"
14 means to transport, import into this state, sell, possess with intent to sell,
15 furnish, administer, or give away, or offer to transport, import into this state,
16 sell, furnish, administer, or give away a specified illegal controlled substance,
17 and includes in said definition, the manufacturing of an illegal controlled
18 substance. (Health & Safety Cd. §11703(g)).

19 8. "Person" means an individual, governmental entity, corporation,
20 firm, trust, partnership, or incorporated or unincorporated association, existing
21 under or authorized by the laws of this state, another, state, or a foreign
22 country. (Health & Safety Cd. §11703(h)).

23 9. "Period of illegal use" means, in relation to the individual user
24 of an illegal controlled substance, the time of the individual's first illegal use of
25 an illegal controlled substance to the accrual of the cause of action. Health &
26 Safety Cd. §11703(l)).

27 10. "Place of illegal activity" means, in relation to the individual
28 user of an illegal controlled substance, each county in which the individual

1 illegally possesses or uses an illegal controlled substance during the period of
2 the individual's use of an illegal controlled substance. (Health & Safety Code
3 §11703(j)).

4 11. "Place of Participation" means, in relation to a defendant in an
5 action brought under the Drug Dealer Liability Act, each county in which the
6 person participates in the marketing of illegal controlled substances during the
7 period of the person's participation in the marketing of illegal controlled
8 substances. (Health & Safety Cd. §11703(k)).

9 12. "Specified illegal controlled substance" means cocaine,
10 phencyclidine, heroin, or methamphetamine and any other illegal controlled
11 substance the manufacture, cultivation, importation into this state,
12 transportation, possession for sale, sale, furnishing, administering, or giving
13 away of which is a violation of Section 11351, 11351.5, 11352, 11358, 11359,
14 11360, 11378.5, 11379.5, or 11383 of the Health & Safety Code. (Health &
15 Safety Cd. §11703(l)).

16 **General Allegations**

17 13. On _____, 2008 _____ was, by order duly
18 made and entered by this Court, appointed guardian ad litem of plaintiff
19 SIENNA ANGELINA SICILIANO, a minor child. The guardian ad litem is the
20 _____ of the minor child.

21 14. At all times mentioned herein plaintiff CYNTHIA LEE SICILIANO
22 was married to Marc Anthony Siciliano. They are the natural parents of
23 plaintiff SIENNA ANGELINA SICILIANO. At all times mentioned herein the
24 Siciliano family lived together and were residents of Marin County.

25 15. At all times mentioned herein defendant JODIE GRAHAM-POTTS
26 was a resident of Sonoma County.

27 16. Defendants DOE 1 through DOE 20 are sued herein under
28 fictitious names. Their true names and capacities are unknown to plaintiffs.

1 When such true names and capacities are ascertained, plaintiffs will amend
2 this complaint by inserting herein the true names and capacities. Plaintiffs are
3 informed and believe and on such information and belief allege that each of
4 the fictitiously named defendants is responsible in some manner for the events
5 described in this complaint, and that plaintiffs' damages were proximately
6 caused by the fictitiously named defendants.

7 17. Plaintiffs CYNTHIA LEE SICILIANO and SIENNA ANGELINA
8 SICILIANO are properly joined as plaintiffs in this action under the provisions
9 of Health & Safety Cd. §11709 in that their respective actions have at least
10 one market for illegal controlled substances in common and a portion of the
11 period of use of an illegal controlled substance overlaps with the period of use
12 of an illegal controlled substance for every other plaintiff. (Health & Safety Cd.
13 §11709(a)).

14 18. The events on which this action is based occurred in Sonoma
15 County.

16 **First Cause of Action**
17 (by plaintiff Cynthia Lee Siciliano for damages from
18 defendant Jodie Graham-Potts under
the Drug Dealer Liability Act)

19 19. Plaintiff CYNTHIA LEE SICILIANO hereby incorporates by this
20 reference the allegations of paragraphs 1 through 18 of this complaint.

21 20. Less than one year before this action was brought, at the
22 residence of defendant JODIE GRAHAM-POTTS located in Sonoma County at
23 348 King Road, Petaluma, California, defendant furnished and/or administered
24 to plaintiff's spouse, Marc Anthony Siciliano, a specified illegal controlled
25 substance.

26 21. Plaintiff CYNTHIA LEE SICILIANO has standing to bring an action
27 for damages proximately caused by the use of a specified illegal controlled
28 substance by her spouse, Marc Anthony Siciliano, and was injured as a result

1 of her husband's willful, reckless, or negligent actions related to his use of
2 such substance. The injurious actions of plaintiff's spouse include the
3 following:

- 4 a/ Abandonment of plaintiff for days at a time;
- 5 b/ Violent fits of anger, including kicking in doors, putting holes in
6 walls and other destructive acts to property;
- 7 c/ Unavailability during family medical emergencies;
- 8 d/ Refusal to answer telephone calls;
- 9 e/ Sleep for days at a time;
- 10 f/ Inability or refusal to provide financial support to plaintiff;
- 11 g/ Inability to provide care to the minor child on plaintiff's Saturday
12 workday;
- 13 h/ Inability or refusal to maintain residence, requiring the hire of
14 outside help;
- 15 i/ Caused stress-related Shingles to plaintiff requiring her to seek
16 medical care, and caused stress-related insomnia to plaintiff
17 requiring her to take medication.
- 18 j/ Willful and reckless behavior causing plaintiff severe emotional
19 distress.

20 22. Plaintiff CYNTHIA LEE SICILIANO seeks damages from defendant
21 JODIE GRAHAM-POTTS, who at all times herein mentioned was a person
22 who furnished and/or administered a specified illegal controlled substance to
23 plaintiff's spouse, Marc Anthony Siciliano, within one year before
24 commencement of this action, which is brought not more than one year after
25 defendant furnished or administered such substance to plaintiff's spouse.

26 23. Defendant JODIE GRAHAM-POTTS acted with the wrongful
27 intention to injure and damage plaintiff CYNTHIA LEE SICILIANO, and acted
28 with an improper and evil motive amounting to malice and in conscious

1 disregard of plaintiff's rights. Plaintiff is, therefore, entitled to recover damages
2 from defendant for the sake of example and by way of punishing defendant
3 JODIE GRAHAM-POTTS pursuant to Health & Safety Cd. §11705(d)3) in an
4 amount according to proof.

5 24. Plaintiff CYNTHIA LEE SICILIANO has incurred attorney fees in
6 connection with the investigation, preparation and prosecution of this action.
7 Plaintiff is, therefore, entitled to reasonable attorney fees from defendant
8 JODIE GRAHAM-POTTS pursuant to Health & Safety Cd. §11705(d)4).

9 WHEREFORE, plaintiff CYNTHIA LEE SICILIANO requests damages
10 from defendant JODIE GRAHAM-POTTS as hereinafter set forth.

11 **Second Cause of Action**
12 (by plaintiff Sienna Angelina Siciliano for damages
13 from defendant Jodie Graham-Potts under
14 the Drug Dealer Liability Act)

15 25. Plaintiff SIENNA ANGELINA SICILIANO hereby incorporates by
16 this reference the allegations of paragraphs 1 through 24 of this complaint.

17 26. ~~Less than one year before this action was brought,~~ at the
18 residence of defendant JODIE GRAHAM-POTTS located in Sonoma County at
19 348 King Road, Petaluma, California, defendant furnished and/or administered
20 to plaintiff's father, Marc Anthony Siciliano, a specified illegal controlled
21 substance.

22 27. Plaintiff SIENNA ANGELINA SICILIANO has standing to bring an
23 action for damages proximately caused by the use of a specified illegal
24 controlled substance by her father, Marc Anthony Siciliano, and was injured as
25 a result of her father's willful, reckless, or negligent actions related to his use
26 of such substance. The injurious actions and conduct of plaintiff's father
27 include the following:

- 28 a/ Unavailability during plaintiff's medical emergency;
- b/ Refusal to take telephone calls from the hospital;

- 1 c/ Plaintiff observed her father's violent fits of anger, and became
- 2 frightened by his outbursts of yelling;
- 3 d/ Fatigue, exhaustion, and lack of energy with resulting inattention
- 4 to plaintiff and her needs, requiring other family members to act as
- 5 care-givers;
- 6 e/ Inability, refusal, or lack of energy to read and play with plaintiff;
- 7 f/ Abandonment for days at a time causing plaintiff worry and
- 8 extreme emotional distress;
- 9 g/ Willful and reckless behavior causing plaintiff to be frightened;
- 10 h/ Willful and reckless behavior causing plaintiff severe emotional
- 11 distress.

12 28. Plaintiff SIENNA ANGELINA SICILIANO seeks damages from
 13 defendant JODIE GRAHAM-POTTS, who at all times herein mentioned was a
 14 person who furnished and/or administered a specified illegal controlled
 15 substance to plaintiff's father, Marc Anthony Siciliano, within one year before
 16 commencement of this action, which is brought not more than one year after
 17 defendant furnished such substance to plaintiff's father.

18 29. Defendant JODIE GRAHAM-POTTS acted with the wrongful
 19 intention to injure and damage plaintiff SIENNA ANGELINA SICILIANO, and
 20 acted with an improper and evil motive amounting to malice and in conscious
 21 disregard of plaintiff's rights. Plaintiff is, therefore, entitled to recover damages
 22 from defendant for the sake of example and by way of punishing defendant
 23 JODIE GRAHAM-POTTS pursuant to Health & Safety Cd. §11705(d)(3) in an
 24 amount according to proof.

25 30. Plaintiff SIENNA ANGELINA SICILIANO has incurred attorney
 26 fees in connection with the investigation, preparation and prosecution of this
 27 action. Plaintiff is, therefore, entitled to reasonable attorney fees from
 28 defendant JODIE GRAHAM-POTTS pursuant to Health & Safety Cd.

1 § 11705(d)(4).

2 WHEREFORE plaintiff SIENNA ANGELINA SICILIANO requests
3 damages from defendant JODIE GRAHAM-POTTS as hereinafter set forth

4
5 **Request for Damages**

6 **First Cause of Action**

7 Plaintiff CYNTHIA LEE SICILIANO requests the following damages from
8 Defendant JODIE GRAHAM-POTTS:

9 1. Economic damages, including, but not limited to, the cost of
10 treatment and rehabilitation, medical expenses, loss of economic or
11 educational potential, loss of productivity, absenteeism, support expenses,
12 accident or injury, and any other pecuniary loss proximately caused by the use
13 of an illegal controlled substance by her spouse.

14 2. Non-economic damages, including, but not limited to, physical and
15 emotional pain, suffering, physical impairment, emotional distress, medical
16 anguish, disfigurement, loss of enjoyment, loss of companionship, services
17 and consortium, and other non-pecuniary losses proximately caused by the
18 use of an illegal controlled substance by her spouse.

19 3. Exemplary damages.

20 4. Reasonable attorney fees.

21 5. Costs of suit, including, but not limited to, reasonable expenses for
22 expert testimony.

23 6. Other and further relief as the court deems proper.

24 **Second Cause of Action**

25 Plaintiff SIENNA ANGELINA SICILIANO requests the following damages
26 from Defendant JODIE GRAHAM-POTTS:

27 1. Economic damages, including, but not limited to, the cost of
28 treatment and rehabilitation, medical expenses, loss of economic or

1 educational potential, loss of productivity, absenteeism, support expenses,
2 accident or injury, and any other pecuniary loss proximately caused by the use
3 of an illegal controlled substance by her father.

4 2. Non-economic damages, including, but not limited to, physical and
5 emotional pain, suffering, physical impairment, emotional distress, medical
6 anguish, disfigurement, loss of enjoyment, loss of companionship, services
7 and consortium, and other non-pecuniary losses proximately caused by the
8 use of an illegal controlled substance by her father.

9 3. Exemplary damages.

10 4. Reasonable attorney fees.

11 5. Costs of suit, including, but not limited to, reasonable expenses for
12 expert testimony.

13 6. Other and further relief as the court deems proper.

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Dated: _____, 2008

CRITCHLOW & DISKINT

By

Richard K. Critchlow
Attorneys for
CYNTHIA LEE SICILIANO and
SIENNA ANGELINA SICILIANO, a
minor