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By: ALAN M. FELDMAN/DANIEL J. MANN/EDWARD S. GOLDIS

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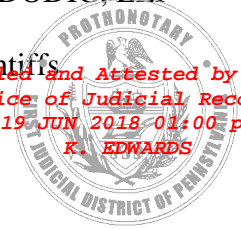
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K. EDWARDS



JAYMI NICOLE MOSS and :  
DUSTIN JOEL MOSS, Individually and as :  
Co-Administrators of the Estate of  
LYLA NICOLE MOSS, deceased  
217 North View Road  
Fleetwood, PA 19522

Plaintiffs

v.

IKEA U.S. RETAIL, LLC  
420 Alan Wood Road  
Conshohocken, PA 19428  
and  
IKEA OF SWEDEN AB  
343 34 Älmholt, Sweden

Defendants

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

DECEMBER TERM, 2017

No. 4142

Jury Trial Demanded

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION  
LAWYER REFERRAL AND INFORMATION SERVICE  
One Reading Center  
Philadelphia, Pennsylvania 19107  
Telephone: 215-238-6333 TTY: 215-451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR RAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELFA  
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## CIVIL ACTION COMPLAINT

Plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, by and through their undersigned counsel, Feldman Shepherd Wohlgernter Tanner Weinstock & Dodig, LLP, file this Complaint and aver as follows:

### **I. PARTIES**

1. Plaintiffs Jaymi Nicole Moss and Dustin Joel Moss are the Co-Administrators of the Estate of their daughter, Lyla Nicole Moss, deceased, having been so appointed by the Register of Wills for Berks County, Pennsylvania.

2. Plaintiffs Jaymi Nicole Moss and Dustin Joel Moss reside at 217 North View Road, Fleetwood, PA 19522.

3. Defendant IKEA U.S. Retail, LLC is a Virginia Limited Liability Company with a principal place of business located at 420 Alan Wood Road, Conshohocken, PA 19428.

4. Defendant IKEA of Sweden AB is a company with an address for service of process at 343 34 Älmholt, Sweden.

5. Defendants IKEA U.S. Retail, LLC and IKEA of Sweden AB shall hereinafter be referred to as “IKEA” or the “IKEA defendants”.

6. At all times relevant hereto, all defendants regularly and continuously conducted business in the Commonwealth of Pennsylvania and in the City and County of Philadelphia.

## II. FACTS

7. At all times relevant hereto, the IKEA defendants designed, manufactured, tested, distributed and sold furniture throughout the United States, including at IKEA retail stores in Pennsylvania.

8. Among the items of furniture available for purchase at IKEA retail stores was the STUVA storage combination with doors/drawers (the “STUVA storage unit”).



9. The STUVA storage unit was part of a furniture system (collectively the “STUVA line”) sold by the IKEA defendants, which included storage benches, changing tables, cribs, shelves, beds, wardrobes and dressers.

10. At all times relevant hereto, the IKEA defendants had actual knowledge that STUVA storage units would be used in homes, apartments and other residential environments, including in children's rooms and rooms where children would be playing and sleeping.

11. At all times relevant hereto, the IKEA defendants knew that STUVA storage units would be used in environments in which the furniture would be used by and/or accessible to small children.

12. In fact, the IKEA defendants specifically marketed the STUVA line for use in children's rooms, calling it "[s]torage that sees eye to eye with children."

13. At all times relevant hereto, the IKEA defendants knew or should have known that STUVA storage units, and in particular the design of the drawer fronts, presented an unreasonable hazard and were dangerously unsafe for their intended and/or foreseeable use, particularly in environments in which the furniture was used by and/or accessible to small children.

14. The STUVA line is defective and dangerous in that the drawer fronts were designed in a manner that presented an unreasonable entrapment and suffocation hazard created by a cutout in the drawer front that IKEA knew or should have known could entrap the head and neck of a small child, leading to serious injury and/or death.



15. At all times relevant hereto, the IKEA defendants were aware of an alternative, safer design of the STUVA line that was technologically and economically feasible, which would have prevented the death of Lyla Nicole Moss, but the IKEA defendants elected not to adopt this safer design before the sale of the STUVA storage unit that caused Lyla’s death (the “subject storage unit” or the “subject STUVA storage unit”).

16. At all times relevant hereto, the IKEA defendants failed to warn consumers of the danger of serious injury or death which the IKEA defendants knew could arise from use of the STUVA storage unit in an intended and/or foreseeable manner, particularly in environments in which the furniture was used by and/or accessible to small children.

17. At all times relevant hereto, the STUVA storage units manufactured and sold by the IKEA defendants did not contain any warnings, or contained inadequate warnings, on the product itself or in the assembly instructions with respect to the risk of serious injury or death arising from the entrapment and suffocation hazard created by the design of the drawer front.

18. At all times relevant hereto, the IKEA defendants knew or should have known based on their experience with other IKEA furniture and the STUVA line specifically, that STUVA storage units presented an unreasonable entrapment and suffocation hazard arising from their defective and dangerous design and the IKEA defendant's failure to provide adequate warnings and instructions.

19. At the time it was designed and sold, the IKEA defendants knew that the STUVA line presented an unreasonable entrapment and suffocation hazard because of its defective and dangerous design.

20. Plaintiffs Jaymi Nicole Moss and Dustin Joel Moss received the subject STUVA storage unit as a gift. Upon information and belief, the subject STUVA storage unit was originally purchased at the Conshohocken IKEA store in either 2010 or 2011.

21. On the morning of February 25, 2017, plaintiffs' decedent Lyla Nicole Moss was napping in her room. At approximately 11:00 a.m., plaintiff Dustin Joel Moss went into Lyla's room to check on her.

22. When Dustin Joel Moss entered Lyla's room he found her head stuck in the bottom drawer of the subject STUVA storage unit. Dustin pulled Lyla's head out of the drawer, began to scream and ran into plaintiffs' bedroom with Lyla in his arms. Plaintiffs then brought Lyla downstairs into the living room and began to perform CPR in a frantic effort to save her life.

23. Shortly thereafter, emergency personnel arrived and took over performing CPR and other life saving measures in an attempt to revive Lyla.

24. Lyla was then transported to Penn State St. Joseph's Medical Center where she was pronounced. The cause of Lyla's death was identified as asphyxia as a result of entrapment.

25. In order to prevent or minimize injuries caused by entrapment and suffocation hazards, manufacturers, including the IKEA defendants, are obligated to design furniture which is safe for use by children, and to clearly explain to consumers the risks associated with use of the furniture.

26. The death of Lyla Nicole Moss was a direct and proximate result of the negligence, carelessness, recklessness and intentional misconduct of the IKEA defendants and their sale of a defective product which was not safe for its intended and foreseeable use, for all of the reasons more specifically averred herein.

### **III. CAUSES OF ACTION**

#### **COUNT I – STRICT PRODUCTS LIABILITY**

27. Plaintiffs incorporate by reference all paragraphs of this Complaint as if more fully set forth at length.

28. The fatal injuries sustained by plaintiffs' decedent Lyla Nicole Moss and the injuries sustained by plaintiffs were caused by the IKEA defendants' sale of a defective product which was unreasonably dangerous for its intended and foreseeable use, and which was unreasonably dangerous to the ultimate users and consumers of the product, for which defendants are strictly liable pursuant to the provisions of §402A of the Restatement (Second) of Torts.

29. The defective and dangerous condition of the STUVA storage unit was unknowable and unacceptable to the average or ordinary consumer, and was a condition upon normal use that was dangerous beyond the contemplation of a reasonable consumer.

30. The risk of the defective and dangerous design of the STUVA storage unit outweighed the utility of the design, such that a reasonable person would conclude that the

probability and seriousness of harm arising from the product's design outweighed the burden or cost of taking precautions.

31. The defective and dangerous design and manufacture of the STUVA storage unit resulted in a product that was unsafe for its intended and foreseeable use, including the intended and foreseeable use of the product by plaintiffs and plaintiffs' decedent.

32. The STUVA storage unit was also dangerous and defective by virtue of the failure of the IKEA defendants to furnish the product with adequate warnings and instructions.

33. Before the STUVA storage unit was sold, the IKEA defendants had actual knowledge that the STUVA line was unsafe when used in an intended and/or foreseeable manner, that the STUVA line was sold with grossly inadequate instructions and warnings, and that the STUVA line presented an unreasonable risk of injury or death when used by and/or accessible to small children.

34. Notwithstanding the IKEA defendants' actual knowledge of the dangers and hazards of the STUVA line as described herein, the IKEA defendants intentionally, deliberately and recklessly continued to sell the STUVA line at IKEA retail stores throughout the United States.

35. As a direct and proximate result of the defective and dangerous design and/or manufacture of the STUVA storage unit, the failure to provide the product with adequate warnings and instructions, and the wanton, deliberate, reckless and intentional misconduct of the IKEA defendants, plaintiffs and plaintiffs' decedent Lyla Nicole Moss were caused to suffer the injuries and losses described herein for which they seek compensatory and punitive damages.

## **COUNT II – NEGLIGENCE AND RECKLESSNESS**



36. Plaintiffs incorporate by reference all paragraphs of this Complaint as if more fully set forth at length.

37. The fatal injuries sustained by plaintiffs' decedent Lyla Nicole Moss and the injuries sustained by plaintiffs were caused by the negligence, carelessness and recklessness of the IKEA defendants, by and through their authorized agents, servants and/or employees, in the following particular respects:

- (a) failing to properly design the STUVA storage unit in order to prevent or minimize the occurrence of entrapment and suffocation injuries and deaths;
- (b) failing to properly test the STUVA storage unit in order to prevent or minimize the occurrence of entrapment and suffocation injuries and deaths;
- (c) failing to properly manufacture the STUVA storage unit so as to prevent or minimize the occurrence of entrapment and suffocation injuries and deaths;
- (d) intentionally marketing and selling the STUVA line for use in a children's room despite actual knowledge of its unsafe design, which presented a significant risk of injury or death, particularly when used by and/or accessible to small children;
- (e) failing to provide adequate warnings with respect to the significant risk of serious injury or death to small children from the design the STUVA line;
- (f) failing to warn consumers that the STUVA storage unit should never be used in an environment accessible to small children;
- (g) failing to clearly and adequately advise consumers that the STUVA line was unsafe for its intended and/or foreseeable use;
- (h) failing to design, test and manufacture the STUVA line to meet or exceed applicable safety standards and codes in the United States and the rest of the world;
- (i) failing to redesign the STUVA line to eliminate the

entrapment and suffocation hazard created by the design of the drawer front; and

- (j) deliberately and recklessly failing to conduct a hazard analysis despite actual knowledge that the STUVA line would be used by and/or accessible to small children.

38. As a direct and proximate result of the negligence, carelessness and wanton, deliberate and reckless conduct of the IKEA defendants, plaintiffs and plaintiffs' decedent Lyla Nicole Moss were caused to suffer the injuries and losses described herein for which they seek compensatory and punitive damages.

**IV. DAMAGES**

**A. Wrongful Death Action**

39. Plaintiffs incorporate by reference all paragraphs of this Complaint as if more fully set forth at length.

40. This action is brought on behalf of all persons entitled to recover damages for the death of Lyla Nicole Moss, deceased, pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S.A. §8301.

39. The wrongful death beneficiaries are as follows:

<b>Name</b>	<b>Relationship</b>	<b>Address</b>
Jaymi Nicole Moss	Mother	217 North View Road Fleetwood, PA 19522
Dustin Joel Moss	Father	217 North View Road Fleetwood, PA 19522

41. Lyla Nicole Moss did not bring any claim for the matters set forth in this Complaint during her lifetime.

42. Plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Co-Administrators of the Estate of their daughter, Lyla Nicole Moss, deceased, claim all lawful damages for all persons

entitled by law to recover such damages, including but not limited to medical expenses, funeral expenses, expenses of administration, loss of expected pecuniary contributions and loss of the decedent's companionship, guidance and tutelage.

WHEREFORE, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, demand judgment in favor of plaintiffs and against all defendants for compensatory and punitive damages in excess of the jurisdictional limit for arbitration, together with interest and costs.

**B. Survival Action**

43. Plaintiffs incorporate by reference all paragraphs of this Complaint as if more fully set forth at length.

44. Plaintiffs bring this action on behalf of the Estate of Lyla Nicole Moss, deceased, pursuant to the Pennsylvania Survival Act, 42 Pa.C.S.A. §8302, and claim on behalf of the Estate all damages recoverable by law, including but not limited to the decedent's pain and suffering, loss of earnings and earning capacity and the total limitation and deprivation of the decedent's normal activities, pursuits and pleasures.

WHEREFORE, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, demand judgment in favor of plaintiffs and against all defendants for compensatory and punitive damages in excess of the jurisdictional limit for arbitration, together with interest and costs.

**C. Negligent Infliction of Emotional Distress**

45. Plaintiffs incorporate by reference all paragraphs of this Complaint as if more fully set forth at length.

46. As a direct and proximate result of the IKEA defendants' conduct, plaintiffs' decedent Lyla Nicole Moss suffered fatal injuries in the presence of her mother and father, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss.

47. As a direct and proximate result of the IKEA defendants' conduct, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss suffered and continue to suffer from severe emotional distress, harm to their psychological well-being and physical harm.

WHEREFORE, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, demand judgment in favor of plaintiffs and against all defendants for compensatory and punitive damages in excess of the jurisdictional limit for arbitration, together with interest and costs.

**D. Punitive Damages**

48. Plaintiffs incorporate by reference all paragraphs of the Complaint as if more fully set forth at length.

49. The actions of the IKEA defendants as set forth above constitute willful and wanton misconduct in reckless disregard of the rights and safety of plaintiffs and plaintiffs' decedent, and warrant the imposition of punitive damages against the IKEA defendants.

WHEREFORE, plaintiffs Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, demand judgment in favor of plaintiffs and against all defendants for compensatory and punitive damages in excess of the jurisdictional limit for arbitration, together with interest and costs.

FELDMAN SHEPHERD WOHLGELERNTER  
TANNER WEINSTOCK & DODIG, LLP

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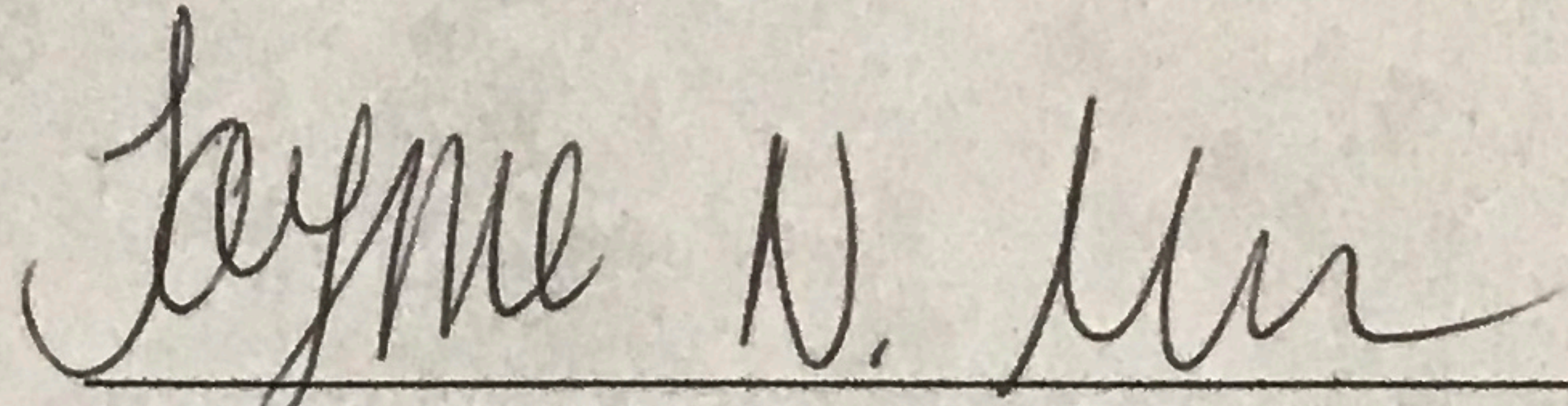
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Attorneys for Plaintiffs

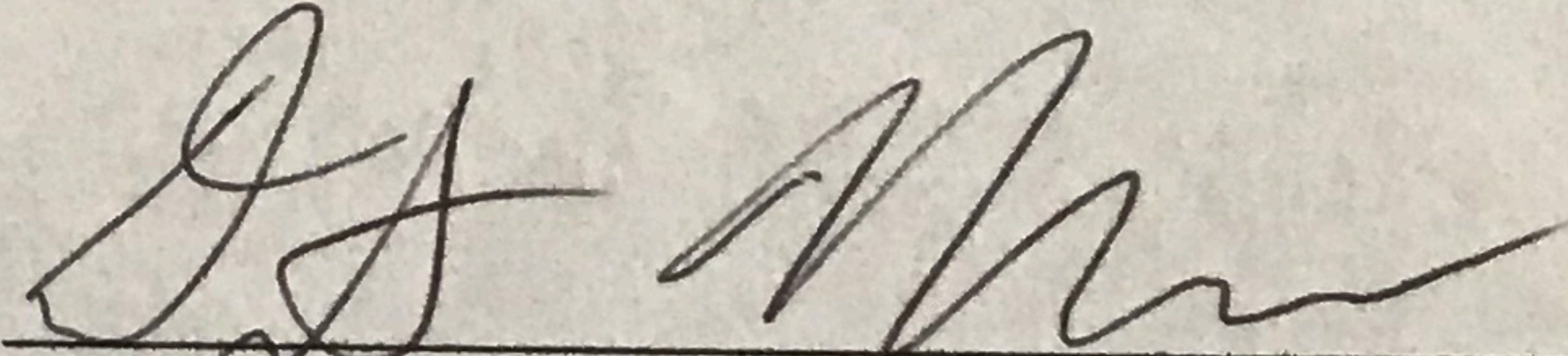


**VERIFICATION**

We, Jaymi Nicole Moss and Dustin Joel Moss, Individually and as Co-Administrators of the Estate of Lyla Nicole Moss, deceased, plaintiffs in the foregoing pleading, state that the facts set forth are true and correct to the best of our knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa.C.S. §4904, which relates to unsworn falsification to authorities.



JAYMI NICOLE MOSS, Individually and  
as Co-Administrator of the Estate of  
Lyla Nicole Moss, deceased



DUSTIN JOEL MOSS, Individually and as  
Co-Administrator of the Estate of  
Lyla Nicole Moss, deceased