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Lawsuit against marijuana company over deadly Denver shooting could be first of its kind

Lawsuit alleges marijuana businesses should have warned Richard Kirk that edibles could have severe side effects, including psychotic behavior

by Jordan Steffen | 5.10.16

The three sons of a woman shot to death in 2014 have filed what appears to be the country's first wrongful-death lawsuit against the recreational marijuana industry.

The lawsuit claims that the company that made the marijuana edible and the store that sold the candy to Richard Kirk recklessly and purposefully failed to warn him about the bite-sized candy's potency and possible side effects — including hallucinations and other psychotic behaviors.

Hours after Kirk purchased the marijuana candy April 14, 2014, Kristine Kirk, 44, called 911 terrified of her husband, who was ranting about the end of the world and jumping in and out of windows. All three of the couple's young sons heard the gunshot that killed their mother.

Their youngest son, who was 7 at the time, watched his mother die, according to an amended complaint filed Monday night.

Kirk now faces one count of first-degree murder in his wife's death.

The lawsuit was filed on behalf of the children — now ages 9, 13, and 15 — by Kristine's parents, Wayne and Marti Kohnke, and her sister, Tamara Heman. The trio became the boys' legal guardians after Kristine Kirk's death.

"While nothing can bring their parents back, this lawsuit will seek justice and change in an edible industry that is growing so fast it failed these young kids," the family's attorneys, Greg Gold and David Olivas, said in a statement. "Edibles themselves are not the evil, it is the failure to warn, the failure to properly dose, the failure to tell the consumer how to safely use edibles, that is the evil."

A partially eaten "Karma Kandy Orange Ginger" candy was found at Kirk's Observatory Park home after the shooting. The candy — which was roughly the size of a Tootsie Roll — contained 10 servings of THC, with each serving containing about 10 milligrams.

THC is the major psychoactive ingredient in marijuana.

Gaia's Garden LLC, the company that manufactured the chew, and Nutritional Elements Inc., the store where Kirk bought the candy, are named as defendants in the complaint. According to the lawsuit, the companies failed to include warnings about "known side effects" on the candy's packages.

Those possible side effects include hallucinations, paranoia and psychosis.

The state has since changed the requirements for labels on edibles.

Article here: <http://goo.gl/UUcxcr>

**— The AMA and most major health organizations
oppose the legalization and medicalization of marijuana —**

