

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

NINE2FIVE, LLC (1),
SEBASTIAN GUTHERY (2),

Defendants.

Case No. 3:23-cr-00179-TWR

**MOTION FOR ISSUANCE OF
SUBPOENA DIRECTING THE FDA
TO PRODUCE DOCUMENTS FOR
INSPECTION IN ADVANCE OF THE
EVIDENTIARY HEARING ON
JANUARY 11, 2024**

EXHIBIT 6

Subject: FW: Guthery

From: Pierson, Melanie (USACAS) <Melanie.Pierson@usdoj.gov>

Sent: Friday, December 1, 2023 9:40 AM

To: Young, Andrew <Andrew.Young@btlaw.com>

Cc: Orabona, Joseph (USACAS) <Joseph.Orabona@usdoj.gov>

Subject: [EXTERNAL] Guthery

Caution: This email originated from outside the Firm.

We have been in contact with representatives of the FDA regarding the upcoming sentencing hearing regarding the dangers of kratom. They have refused to provide us with witnesses or documents to support our position, as well as witnesses and documents that might be inconsistent with our position. The reason they gave was that they have not yet made a determination regarding whether kratom is dangerous. We are prepared to withdraw our sentencing memorandum and refile, using supporting materials from independent experts and not the FDA, as we do not believe that the FDA is a part of the prosecution team in this case. If you disagree, please let us know immediately so we can file a motion with the court to resolve this issue in advance of the sentencing hearing.

Respectfully,
AUSA Melanie Pierson

Filed December 6, 2023