



## **Grieving Families Blame Panera's Charged Lemonade for Leaving a Deadly Legacy**

The company has long promoted what it called healthy alternatives to fast food. Now it's being sued for its foray into energy drinks.

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It was around 7 o'clock on a Saturday night, and Victoria Conroy was still in her pajamas. The University of Pennsylvania junior had recently awakened from an afternoon nap after staying up late the evening before at a party for her cappella club. Now some of her friends were waiting in the living room of her apartment. They'd tried to persuade Conroy to go out with them, but she was too tired.

Just then, everyone's phones started to ring. Something terrible had happened to one of Conroy's roommates, Sarah Katz, who'd left the apartment 20 minutes earlier to go to a birthday party in the bar downstairs in their building. Katz had arrived, hugged everybody and collapsed. "She's having a seizure!" Conroy remembers a caller telling her. "You need to come down here! Like, get down here right now!"

Conroy threw on shoes and, with her friends, took the elevator downstairs. There, they found Katz, a 21-year-old with curly brown hair, on the floor of the outdoor balcony. She was surrounded by paramedics. They started barking questions at the young women, who were now weeping. What was Katz's date of birth? What medications was she on?

Conroy and her friends pulled themselves together enough to answer that Katz had a heart condition known as long QT syndrome. The disorder can cause fast, chaotic heartbeats, but Katz was careful. She took a daily beta blocker, avoided strenuous exercise and was stringent about her caffeine intake. While her friends downed vodka and Red Bull, Katz opted for vodka and soda. These precautions seemed sufficient. Katz had traveled abroad, and at Penn she was chair of her sorority's social committee.

Yet something went awry the evening of Sept. 10, 2022. Paramedics rushed Katz to Penn Presbyterian Medical Center a short distance away. Conroy returned to her apartment to

wait for news. It wasn't long before she learned that Katz had gone into cardiac arrest and died.

As Conroy sat sobbing with her friends, she noticed a large plastic cup on the kitchen counter adorned with an exclamation point. It was from Panera, and it contained the remnants of an orange-colored liquid. She took a whiff and knew immediately that it was a mango yuzu citrus Charged lemonade. She'd had a different flavor before and was struck by how it lived up to its name. "I was, like, buzzing almost," she says. "And I drink caffeine pretty frequently."

Conroy knew the cup wasn't hers. She asked her other roommate, Samantha Simon, if it belonged to her. "No," Simon said. "It was Sarah's."

Until fairly recently, what passed for excitement at Panera Bread was decidedly low-level: customer complaints about whether it was overstating the amount of blueberry in its blueberry bagels; a new Thai chicken soup and citrus Asian crunch salad that the company promised would ignite the menu; the unveiling of a grilled mac-and-cheese sandwich that Panera described as a "hunger-busting lunch or dinner option" (indeed, at 860 calories, though it's no longer available).

Even an effort to take Panera public was a yawn. JAB Holding Co., the Luxembourg-based investment firm that bought the chain for \$7.2 billion in 2017, combined it with two other holdings, Caribou Coffee and Einstein Bros. Bagels. In November 2021 the new entity, Panera Brands Inc., announced plans for an initial public offering via a special purpose acquisition company run by Shake Shack Inc. founder Danny Meyer. But the two sides called it off in July 2022, citing "unfavorable capital market conditions."

It couldn't have helped that Panera, a pioneer in the fast-casual space, wasn't keeping up with competitors. For years its sales were the largest of any fast-casual chain in America, but in 2020 it was overtaken by Chipotle Mexican Grill Inc.; last year, Chipotle's US sales were nearly \$10 billion, a 15% annual increase, while Panera's were \$6.5 billion, a roughly 3% increase, according to industry data provider Technomic. (The average for the top 500 restaurant chains was about 8%.) "They've hit a wall," says Jonathan Maze, editor-in-chief of Restaurant Business, a trade publication.

Companies do unusual things when they try to go public. Highly caffeinated, neon-colored drinks had been proliferating at chain restaurants for years. You could visit Dutch Bros Coffee, for example, and order a Rebel energy drink; a large serving of its iced Electric Berry flavor has 151 milligrams of caffeine. Starbucks had begun selling cans of Baya Energy mango guava, which had 160mg per 12 ounces, equivalent to the jolt you'd get in a 16-oz Monster Energy "OG" drink. (The company has since retired Baya.) Not to be outdone,

Panera joined in with its Charged lemonades, a 30-oz serving of which contained a whopping 390mg. The US Food and Drug Administration has designated the upper limit for healthy adults at 400mg a day.

Unlike the competition, though, Panera was offering its veritable mini-trough in bottomless quantities as part of an Unlimited Sip Club that cost \$10.99 a month when it started. As a result, says **Philadelphia attorney Elizabeth Crawford**, customers gulped them down without fear of consequence. “When you go into Panera, you get a soup, a salad, something like that,” she says. “You’re not assuming anything in that store could be potentially dangerous to your health. Honestly, it makes absolutely zero sense.” She’s now representing plaintiffs in four Charged-lemonade-related cases against Panera. The company, which declined to comment for this story, finally removed the product from menus in May.

For years, Panera has flogged items such as broccoli cheddar soup and steel-cut oatmeal with strawberries, pecans and cinnamon crunch topping as healthier alternatives to those offered at, say, McDonald’s. The company labels certain dishes as low carbon, meaning that its Fuji apple salad isn’t just good for customers but good for the planet, too. In stores, it promoted its Charged lemonades as “plant-based and clean.”

The person who originally positioned Panera as more than just the usual fast-food fare was its founder. Ron Shaich, who’d acquired Au Bon Pain, sold it in 1999 to focus on another of his company’s holdings, Saint Louis Bread Co., which he rechristened Panera. It’s “a made-up word, a mash-up of Latin and Spanish that we translated roughly into ‘time of bread,’” he explained in his memoir, *Know What Matters: Lessons From a Lifetime of Transformations*.

Shaich has been widely credited—and he’s happy to give himself credit—for being an early proponent of free Wi-Fi in stores, digital ordering and the idea that restaurants can serve as a so-called third place for customers to hang out and conduct business. In 2015, after Shaich was diagnosed as being close to prediabetic, Panera said it was purging its menu of what it called “no-no” ingredients, such as artificial sweeteners, colors and preservatives. Two years later, the chain became one of the first to specify the amounts of added sugar in its food.

Soon after, Shaich challenged McDonald’s Corp.’s then-Chief Executive Officer Steve Easterbrook to eat nothing but Happy Meals for a week to learn what his company was doing to children. “I’d like to see what he has to say about a week eating Chicken McNuggets, dipping them in that sauce,” Shaich told Bloomberg News in 2017. “And he has to add fries and a sugary drink with every meal. We’ll see what his blood sugar is.”

(McDonald's responded that it was proud of its offerings.) Such trash-talking got Shaich attention, and it was apparently good for business, too. The same year, he engineered the sale of Panera to JAB, pocketing more than \$300 million. He left the company to bankroll other successful fast-casual chains such as Cava, a Mediterranean bowl spot, as part of what he modestly referred to as his "[Warren] Buffett approach" to the restaurant business.

JAB, controlled by Germany's wealthy Reimann family, has a portfolio of brands that includes Pret A Manger and Krispy Kreme. In 2019 it picked Niren Chaudhary, who'd previously been chief operating officer of Krispy Kreme—and, before that, global president of KFC for Yum! Brands Inc.—to be Panera's CEO. Chaudhary was a philosophical chief executive, holding forth in serene tones about the importance of love in business. "I believe that my job, and our job as leaders, is to love our people," he said last year on the hospitality-focused Distinguished podcast. "If we love our people, they delight our guests. If they delight our guests, that's how we'll create sustainable enterprise value."

Chaudhary often talks about how he's been inspired by his daughter Aisha, who was born with an immune deficiency disorder. Aisha gave TED Talks and published an e-book about the importance of living life fully before she died at age 18 in 2015. Her fearlessness, Chaudhary has said, helped him become a compassionate leader, whether he was selling doughnuts, fried chicken or toasted Frontega chicken sandwiches. He's attested to eating Panera every day, and he likes to sing original odes to products he's launched. (Sample lyric: "Ingredients that are fresh / Messy abundance crafted by a chef / Chicken cheese margherita / Panera's got for you ... flatbread pizza.")

He also unveiled what the company called "industry-disrupting" subscription services, like one that let customers drink all the coffee they could stomach. It smoothed the way for the April 2022 start of the Sip Club, which included the premiere of Charged lemonades in mango citrus yuzu, Fuji apple cranberry and strawberry lemon mint. Panera's chief concept officer extolled them in a press release as "an alternative to traditional energy drinks" and "great examples of our culinary principle." Panera even offered customers a limited-edition cup that doubled as a portable phone charger.

Jill and Michael Katz didn't know their eldest daughter had a heart condition until she was 4½ years old and had a seizure during a swimming lesson near their home in Jersey City. The diagnosis of long QT syndrome meant her heart needed more time to reset between beats. So she had to be careful about activities that might get it racing, like strenuous exercise. The fear was that such activities could lengthen the interval between beats, putting her at risk of cardiac arrest.

Jill, a trusts and estates attorney who was well versed in issues of mortality, was concerned about Sarah's long-term survival. She didn't want her younger daughter, Dana, to be an only child. If there was a real risk of Sarah dying, Jill said, she would consider having another kid. The cardiologist told her not to worry. "Now that we've caught it, she'll live to 100," Jill remembers him assuring her.

Every morning, Sarah took a beta blocker, a drug used to control heart rhythms, which her parents initially gave her in a bowl of ice cream so she'd swallow it. When girls in her grade joined the basketball team, she couldn't, and when her friend Hannah rode the roller coaster at the local Six Flags amusement park, she had to sit on a bench—and then hear about how much fun it was. It didn't seem fair to Sarah, as she would later write in a high school essay.

After a few years without incident, Jill and Michael felt they could relax a little. And by all accounts, Sarah blossomed, coming to see her condition as a point of pride rather than something that was holding her back. She volunteered for the American Heart Association. As an eighth grader, she agitated successfully for the teachers in her school to be trained in CPR and handling a defibrillator. She made sure her medical alert bracelet had some flair. "If I have to wear this all the time," she told her friend Shay Ember, "I want it to be cute."

Sarah went to high school in Manhattan, where she made friends easily. She avoided drugs and partook of caffeine in moderation. "She and I would go out almost every day and get coffee," says Ember. "She would always order something with very, very low caffeine, like a matcha." (How much caffeine a drink has depends on how strong the brew is, but it's usually accepted that a matcha has less than a coffee.) Marco Perez, an associate professor of cardiovascular medicine at Stanford University, says moderate levels of caffeine are generally low risk for people with long QT. "It doesn't necessarily cause much of a problem," he says. However, higher doses can increase the chance of arrhythmia.

Sarah's condition didn't keep her from seeing the world. Between her sophomore and junior years of high school, she spent six weeks in India studying women's health issues. After graduation, she took a gap year to study Mandarin in Chengdu, China, as part of a US Department of State language immersion program. Her parents worried about her, of course, but no more than they did about Dana. "We're Jewish parents," says Michael, an investment banker. "It's part of our genetic makeup."

At Penn, her dream school, she interned at Children's Hospital of Philadelphia, where she worked on a campaign to get defibrillators in every Pennsylvania school. She served on student government and organized her sorority's date nights and formals. And like most

college students, she was always looking for ways to stretch a buck. Panera's Sip Club must have seemed like a good way to do so, and she signed up on Sept. 1, 2022.

Nine days later, her parents were at dinner with friends in New Jersey when Michael's phone rang. He ignored it. Then it rang again from the same number, so he answered. It was a friend of Sarah's telling them their daughter had collapsed. They left immediately for Philadelphia, speeding down the New Jersey Turnpike while talking to the paramedics. Sarah had gone into cardiac arrest at the bar, but now she was stabilized. Everything would be OK, her parents thought, once they were by Sarah's bedside.

But when Jill and Michael got to the hospital, they knew the situation was dire. Doctors told them that Sarah had suffered a second cardiac arrest there. They couldn't resuscitate her and were waiting for Jill and Michael to decide when to say goodbye. Michael called the family's rabbi, who said a prayer with the couple. Then they went to Sarah's room, hugged and kissed her, and Jill, who says she was in shock, sang a song she'd serenaded Sarah with as a baby.

A few weeks after the funeral in New Jersey, Conroy, Sarah's roommate, called to tell them about finding the Charged lemonade in the apartment. She'd been reluctant at first but thought they should know. "I'm not sure if this is anything," Conroy recalls telling Jill, "but I know on the day of her death she was drinking this, and it has a decent amount of caffeine in it."

On Panera's website, Jill learned that Charged lemonade was described as the "ultimate energy drink." But Panera didn't say that in stores. Yes, it disclosed the caffeine amount in displays beside the dispensers, but the company arguably downplayed the danger by saying that Charged lemonade had the same caffeine level as its dark roast coffee. That may have been true milligram to milligram, but aside from its iced cafe blend dark roast, Panera didn't sell coffee in 30-oz cups. Even if it did, people don't generally consume hot coffee at the rate they do cold, fruity beverages. And Jill says nobody in the Katz family drank coffee, so what would her daughter have known?

Others were confused, too. Not long after Sarah's death, Charged lemonade started to get attention on social media. Sarah Baus, a TikToker in Charleston, South Carolina, who has more than 730,000 followers, liked to work remotely from her local Panera. She didn't drink coffee, but she was drinking four or five Charged lemonades a day. She knew they were caffeinated but not to what degree. Her husband, who's diabetic, looked up the ingredients online and was shocked by the sugar and caffeine levels. Even so, on Dec. 8, 2022, she returned to Panera and had a few more before recording a video in her Ford Focus. Speaking quickly and waving around a mostly full cup, Baus said, "I was always like, 'Man,

when I work at Panera, I feel great! I feel awesome! I get so much done! ... I feel like the Hulk!” The video got more than 4,000 comments, including recipes for cutting the beverage with soda or seltzer and “this is so unhinged.”

Closer to the Katz home in New Jersey, Kiran Subramanian, a junior at Rutgers University, was trying to kick his Monster habit. A commuter student, he got up early and didn’t usually have time to brew coffee before heading to school. But he needed caffeine. So he settled on Charged lemonade. Then, as he wrote in a column for the student newspaper headlined “Do not drink Panera Bread’s charged lemonade,” he developed chest pains. He said he was shocked that a single large serving had roughly the same amount of caffeine as two cans of Monster. At Panera, he said he saw students taking cups without paying and loading up on Charged lemonade. And why not? The Panera was staffed with Rutgers students. “There wasn’t really anyone watching,” Subramanian tells Bloomberg Businessweek. “They don’t really give a s--- if someone steals a cup.”

The Katzes weren’t sure they wanted to sue Panera. They didn’t need the money, and no amount would bring their daughter back. Michael believed in the free market and minimal regulation; he was opposed to what he describes as “frivolous lawsuits.” Yet it infuriated him that a multibillion-dollar business such as Panera could have let this happen. It made him lose faith in some of his core beliefs. If he’d remained silent and something similar happened to another family, he wouldn’t have been able to live with himself.

The Katzes filed a wrongful death suit against Panera in October 2023 and are seeking unspecified monetary damages. Meanwhile, others have come forward, too. The first were family members of Dennis Brown, a 46-year-old with high blood pressure and a mild intellectual disability who lived in northern Florida. Brown had eaten at a local Panera many times after finishing his shift at Publix, where he bagged groceries. On Oct. 9, the complaint alleges, he purchased a mango yuzu citrus lemonade, refilled his cup two more times and left the store at around 5:15 p.m. Walking home, he suffered a cardiac arrest and died. In December, Brown’s survivors filed a wrongful death suit against Panera seeking unspecified damages. In a statement, Panera expressed “deep sympathy for Mr. Brown’s family” but said that “based on our investigation, we believe his unfortunate passing was not caused by one of the company’s products.”

In January, Lauren Skerritt, a 28-year-old occupational therapist, and her husband, Christopher, filed a suit accusing Panera of negligence. They said in their complaint, which also seeks unspecified damages, that Lauren had once gone to the gym several times a week, played soccer and competed in high-intensity Spartan obstacle course races. Yet after drinking two-and-a-half Charged lemonades one day in April 2023—the lawsuit doesn’t specify the size—she’d had frequent heart palpitations and developed a tremor in

her left hand. The Skerritts said they'd planned on having children but decided to hold off, fearing her pregnancy would be high risk. (Crawford, the Philadelphia attorney representing the plaintiffs in all three cases, said neither Brown's family nor the Skerritts were available for comment. Panera has denied responsibility for Lauren's health issues in court papers.)

Panera is fighting the Katzes. In an answer to the couple's complaint, it characterized their case as "extremely threadbare" and argued that for all of Sarah's purported carefulness when it came to caffeine, she ignored "prominently displayed" labels in the dispensing area stating the abundant amounts in Charged lemonade. Panera also said Sarah's order history shows "she did not purchase a Charged Lemonade that day, or ever." In legal documents, her family says a friend accompanied Sarah to the local Panera and saw her fill a large cup with mango yuzu citrus and a small amount of green tea.

Not long after the Katzes sued, Panera took measures to better safeguard customers. It put up signs in stores warning that Charged lemonade might not be safe for children, pregnant women and, as the company delicately put it, "people sensitive to caffeine." It moved the drink behind the counter, so customers had to go through the additional step of asking an employee for a refill. Panera also began stating on its menu that a 30-oz mango yuzu citrus had 235mg of caffeine—when poured over ice. But it's difficult to know how much ice people were adding to their drinks.

Still, in March, Luke Adams, a high school student from Monroeville, Pennsylvania, suffered a cardiac arrest at a showing of *Dune: Part Two* after drinking a Charged lemonade beforehand. He had to be rushed to Forbes Hospital, where he spent nearly a week in intensive care, ultimately surviving. Andrew Pogozelski, the cardiologist who treated Adams, says his patient might not have made it had there not been a doctor and two nurses at the movie theater to resuscitate him. "It's as close as it gets," Pogozelski says. "For all intents, he was essentially dead for a few minutes. The bystanders who did CPR and defibrillated Luke brought him back to life." (Adams is suing Panera for negligence. The company hasn't yet responded to the complaint.)

Panera's reluctance to initially jettison Charged lemonades could have something to do with how popular they'd become as part of the Sip Club: Members have accounted for 25% of the chain's total sales. Bloomberg News reported on May 7 that, in a move toward lower-sugar, less-caffeinated fare, Panera was replacing Charged lemonades with a blueberry lavender lemonade, a pomegranate hibiscus tea, a citrus punch and a tropical green smoothie. This was a month after the chain announced "a new era," with a revamped menu "refocusing and enhancing" core items: soups, salads, sandwiches and mac and



cheese. In a statement, José Alberto Dueñas, who replaced Chaudhary last year as CEO of Panera Brands, said: “We are transforming and returning to what our guests love, which will propel Panera into the future as we continue to serve food our guests feel good about eating.” (Chaudhary is now chairman of Panera Brands.)

Dueñas’ appointment was part of an effort, along with trimming 17% of the chain’s corporate staff, to restart the IPO process for Panera Brands. But it’s unclear how successful it will be. “I can’t imagine that an investment banker is going to take a look at a company that has lost that much ground to Chipotle Mexican Grill, just had to overhaul its menu and replace its executive teams and think, ‘Yeah, that’s a company that I want to buy stock in,’” says Maze of Restaurant Business. He points to Panera’s decision during the pandemic to add flatbread pizza to its menu—only to get rid of it earlier this year—as a sign that the chain is struggling with its identity. “They just started messing around with too many things,” he says. “I think Panera really misses Ron Shaich.” (Shaich declined to comment.)

Crawford says Panera’s decision to pull Charged lemonade pleases her clients but the lawsuits will proceed. Meanwhile, just as Chaudhary has said he’s trying to keep Aisha alive by promoting her legacy, the Katzes are trying to preserve the memory of their daughter, fundraising in Sarah’s name to benefit organizations such as the American Heart Association.

Some of Michael’s colleagues also paid for a bench honoring Sarah on the boardwalk in Asbury Park, New Jersey, where the family has a second home. He sits in it from time to time, thinking of her. Jill can’t bring herself to do so. “She wants her daughter,” Michael says. “She doesn’t want a bench.”