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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

LINDSEY CHAPMAN, JUSTIN MEIR,
and JARED PITTS,

Plaintiffs,

v.

JUUL LABS, INC. and DOES 1-100,

Defendants.

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San Francisco County Superior Court

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Case No. **CGC-19-577789**

COMPLAINT

- (1) Strict Products Liability – Design Defect (Consumer Expectations Test)
- (2) Strict Products Liability – Design Defect (Risk-Utility Test)
- (3) Strict Products Liability – Failure to Warn
- (4) Negligence and/or Gross Negligence
- (5) Negligent Failure to Recall
- (6) Fraudulent Concealment
- (7) Conspiracy to Commit Fraudulent Concealment
- (8) Intentional Misrepresentation
- (9) Intentional Infliction of Emotional Distress
- (10) Violations of the Unfair Competition Law

DEMAND FOR JURY TRIAL

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1 Plaintiffs, Lindsey Chapman, Justin Meir, and Jared Pitts, by and through their undersigned
2 counsel, bring this complaint against Defendants JUUL Labs, Inc. and Does 1-100 and allege as
3 follows:

4 **I. INTRODUCTION**

5 1. Ms. Chapman is bright, social 20-year-old who has developed a severe nicotine
6 addiction as a result of Defendants' orchestrated efforts to addict a new generation of teenagers to
7 nicotine. She continues to be addicted to nicotine, and this addiction will burden her the remainder
8 of her life. Defendant's wrongful conduct in marketing, promoting, manufacturing, designing, and
9 selling JUUL substantially contributed to Ms. Chapman's injuries and will affect her the rest of her
10 life.

11 2. Mr. Meir is a young, bright 18-year-old who has developed a severe nicotine
12 addiction as a result of Defendants' orchestrated efforts to addict a new generation of teenagers to
13 nicotine. He continues to be addicted to nicotine, and this addiction will burden him the remainder
14 of his life. Defendant's wrongful conduct in marketing, promoting, manufacturing, designing, and
15 selling JUUL substantially contributed to Mr. Meir's injuries and will affect him the rest of his life.

16 3. Mr. Pitts is 19-years-old but developed severe nicotine addiction when he was an
17 18-year-old high school student as a result of Defendants' orchestrated efforts to addict a new
18 generation of teenagers to nicotine. He continues to be addicted to nicotine, and this addiction will
19 burden him the remainder of his life. Defendants' wrongful conduct in marketing, promoting,
20 manufacturing, designing, and selling JUUL substantially contributed to Mr. Pitts' injuries and will
21 affect him the rest of his life.

22 4. In 2015, JUUL set out to recapture the magic of the most successful product ever
23 made—the cigarette. Due to regulations and court orders preventing the major cigarette
24 manufacturers from marketing to young people, youth smoking had decreased to its lowest levels
25 in decades. While the public health community celebrated this decline as a victory, JUUL saw an
26 opportunity. Seizing on regulatory inaction and loopholes for e-cigarettes, JUUL set out to develop
27 and market a highly addictive product that could be packaged and sold to young people. Youth is
28

1 and has always been the most sought-after market for cigarette companies, because they are the
2 most vulnerable to nicotine addiction and are most likely to become customers for life.

3 5. JUUL was designed perfectly for teenagers. It doesn't look or smell like a cigarette.
4 It is a sleek, high-tech youth-friendly battery-powered device that looks like a USB drive. The
5 JUUL device heats a nicotine-filled liquid JUULpod, sold separately in fun flavors like mango and
6 cool mint, delivering powerfully potent doses of nicotine, along with aerosol and other toxic
7 chemicals into the lungs, body and brain. Unlike noxious cigarette smoke, when a JUUL user
8 exhales, the smoke is undetectable. JUUL is small, easily concealable and can be used practically
9 anywhere without parents or teachers knowing; Googling "hiding JUUL in school" or "how to
10 ghost rip JUUL" returns hundreds of videos on how to JUUL anywhere without detection. This is
11 part of the appeal, fostered and bolstered by JUUL's viral marketing campaigns using young
12 models to make the products look cool and stylish.

13 6. Defendant designed JUUL to addict young people. Nicotine is one of the most
14 addictive chemicals in the world. By studying cigarette industry archives, JUUL learned how to
15 manipulate the nicotine in its products to maximize addictiveness, particularly among new users
16 and young people, and thereby increase sales. JUUL designed its products to have maximum
17 inhalability, without any "throat hit" or irritation that would serve as a natural deterrent to new
18 users. The sole purpose of this design element was to initiate new smokers, since those who already
19 smoke cigarettes are tolerant to the throat hit sensation and associate it with smoking and nicotine
20 satisfaction. At the same time, JUUL designed its device to deliver substantially higher
21 concentrations of nicotine per puff than traditional cigarettes and most other e-cigarettes. This
22 combination of ease of inhalation and high nicotine delivery makes JUUL both powerfully
23 addictive and dangerous.

24 7. Nicotine is dangerous, particularly to young people whose brains are still developing
25 through age 25. Nicotine is not only addictive, but also permanently alters the structure of the brain
26 and causes permanent mood changes and other cognitive disorders.
27
28

1 8. Nicotine addiction causes repeated exposure to the toxins and aerosols contained in
2 JUUL's vapor.

3 9. Several studies, including one recently released by the American Stroke
4 Association, have shown that e-cigarettes increase the risk of stroke, heart attack and coronary
5 artery disease.¹

6 10. Other studies have shown that e-cigarettes containing nicotine significantly increase
7 blood pressure, heart rate and arterial stiffness, and also cause vascular damage, which can lead to
8 strokes and other cardiovascular injuries.

9 11. These studies build on the well-established research that nicotine increases blood
10 pressure.

11 12. The United States Surgeon General has concluded that e-cigarettes, including
12 JUUL, are not safe for anyone under age 26.²

13 13. Even though e-cigarettes are unsafe for anyone under 26, JUUL heavily promoted
14 its products to young people. Following the wildly successful playbook laid out in historic cigarette
15 industry documents, Defendant leveraged social media and utilized other marketing and promotion
16 tactics, long outlawed for cigarette companies, to capture the highly-lucrative youth market. JUUL
17 preyed on youth using media and themes that exploit teenagers' vulnerabilities to create and sustain
18 nicotine addiction, all for financial gain, and without giving kids any warnings about the serious
19 risks of addiction, stroke, and other permanent injuries.

20 14. At the time Plaintiffs used JUUL, none of JUUL's advertising, marketing,
21 promotion, packaging or website disclosed any of the health effects and risks that JUUL knew or
22 should have known would occur from use of its products. These risks include nicotine addiction,
23 significant increases in blood pressure, vascular damage, increased risk of stroke, heart attacks and
24

25 ¹ *E-cigarettes linked to higher risk of stroke, heart attack, diseased arteries* (Jan. 30, 2019)
26 American Stroke Association News Release, Abstract 9, Session A2,
27 [https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries)
28 [diseased-arteries](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries) (as of July 5, 2019).

² U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on
Smoking and Health, *Know The Risks: E-cigarettes and Young People* (2019) [https://e-](https://e-cigarettes.surgeongeneral.gov/)
[cigarettes.surgeongeneral.gov/](https://e-cigarettes.surgeongeneral.gov/) (as of July 5th, 2019).

1 other cardiovascular injuries, permanent brain changes, mood disorders, heightened risk of cancer,
2 and other harms. JUUL never disclosed that its products were unsafe for anyone under age 26.
3 Instead, the imaging, advertising, promotion, packaging and overall marketing represented the
4 product as safe, fun, and not harmful. As one of the JUUL founders has said: "We don't think a lot
5 about addiction here because we're not trying to design a cessation product at all...anything about
6 health is not on our mind".³

7 15. Since 2015 when JUUL hit the market, JUUL has become pervasive in schools
8 across the country and adolescent use is rampant. JUUL not only dominates the multi-billion dollar
9 e-cigarette market, but has expanded the size of that market significantly—mostly via young non-
10 smokers. The cigarette company Altria (formerly known as Philip Morris) acquired a 35% stake
11 in JUUL for \$12.8 billion, giving Altria access to the new generation of customers JUUL has
12 groomed.

13 16. JUUL has created an epidemic. According to Alex Azar, the Secretary of the U.S.
14 Department of Health and Human Services, "We have never seen use of any substance by
15 America's young people rise as rapidly as e-cigarette use is rising."⁴ JUUL's conduct has led to a
16 surge in teen e-cigarette use, creating the "largest ever recorded [increase in substance abuse] in
17 the past 43 years for any adolescent substance use outcome in the U.S."⁵ In a mere two years,
18 Defendant undid more than a decade of progress in reducing teen smoking, thereby increasing
19 nicotine use among teenagers to levels not seen since the early 2000s. Plaintiffs were a target and
20 a victim of JUUL's conduct.

21 17. As a result of Defendant's conduct, Plaintiffs have suffered life-altering personal
22 injuries and seek all appropriate remedies and relief.

23
24 ³ Tiku, *Startup behind the Lambo of vaporizers just launched an intelligent e-cigarette: Surprise, it's a rectangle*, The Verge (April 21, 2015) www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul (as of July 5, 2019).

25
26 ⁴ *Surgeon General releases advisory on E-cigarette epidemic among youth*, U.S. Department of Health & Human Services (Dec 18, 2018) www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html (as of July 5, 2019).

27
28 ⁵ Boyles, *Surgeon General Calls for New E-Cig Restrictions: 'I am officially declaring e-cigarette use among youth an epidemic* (Dec 28, 2018) www.medpagetoday.com/primarycare/smoking/77000 (as of July 5, 2019).

1 **II. JURISDICTION AND VENUE**

2 18. This Court has personal jurisdiction over the Defendants, because JUUL is a
3 resident and/or does business in the State of California. JUUL and Does 1-100 purposely availed
4 themselves of the benefits, protections and privileges of the laws of the State of California in
5 conducting their business, and have purposely directed their activities in this State. JUUL and
6 Does 1-100 have sufficient minimum contacts with this State to render the exercise of jurisdiction
7 by this Court permissible.

8 19. Venue is proper in this Court because Defendant JUUL's principal place of
9 business is in the City and County of San Francisco, and much of the wrongful conduct alleged
10 herein took place in this City and County.

11 **III. THE PLAINTIFFS**

12 **1. Plaintiff Lindsey Chapman**

13 20. Plaintiff Lindsey Chapman is 20 years old and a resident of Los Angeles County,
14 California.

15 21. Beginning in the fall of 2016, a 16-year-old high school student, Ms. Chapman was
16 exposed to JUUL's advertising and promotional efforts via many sources, including social media
17 and at vape shops where she purchased JUUL products near her home and school.

18 22. Ms. Chapman has regularly purchased and consumed JUUL products, including
19 JUUL devices and JUULpods since October 2016, primarily in Los Angeles County, California
20 and Fulton County, Georgia.

21 23. Ms. Chapman was initially attracted to JUUL's flavors and sleek, discreet design.
22 She started with mint and mango flavors and tried a number of others.

23 24. Ms. Chapman was unaware when she first started using JUUL that it was unsafe for
24 anyone under age 26, was manipulated to addict her to nicotine, and could cause permanent brain
25 and cardiovascular injuries, mood disorders, or other injuries. Had she known these things, she
26 would not have started using JUUL.

27 25. Within a few weeks, Ms. Chapman became powerfully addicted to JUUL, causing
28 her to increase her use over time and her reliance on the device and the nicotine it provided. By

1 2018, Ms. Chapman could not go even a short period of time without nicotine. Ms. Chapman is
2 still addicted to nicotine will either fight or sustain this addiction for the rest of her life.

3 26. JUUL was a substantial factor in Ms. Chapman's life-altering injuries.

4 **2. Plaintiff Justin Meir**

5 27. Plaintiff Justin Meir is 18 years old and a resident of Broward County, Florida.

6 28. Beginning in 2016, a 15-year-old grade school student, Mr. Meir was exposed to
7 JUUL's advertising and promotional efforts via many sources, including social media and at vape
8 shops where he purchased JUUL products near his home and school. Mr. Meir was likewise
9 exposed to JUUL at his school, where it was rampant among his age group.

10 29. Mr. Meir regularly purchased and consumed JUUL products, including JUUL
11 devices and JUULpods starting in 2016, primarily in Broward County, Florida.

12 30. Mr. Meir was initially attracted to JUUL's flavors and sleek, discreet design. He
13 started with mango flavor and eventually tried others.

14 31. Mr. Meir was unaware when he first started using JUUL that it was unsafe for
15 anyone under age 26, was manipulated to addict him to nicotine, and could cause permanent brain
16 and cardiovascular injuries, mood disorders, or other injuries. Had he known these things, he would
17 not have started using JUUL.

18 32. After trying JUUL only a few times, Mr. Meir became powerfully addicted to JUUL,
19 causing him to increase his use over time and his reliance on the device and the nicotine it provided.
20 By 2017, Mr. Meir could not go even a short period of time without nicotine, and was using up to
21 four packs of pods a week. Mr. Meir still struggles with this addiction and will either fight or sustain
22 this addiction every day for the rest of his life.

23 33. JUUL was a substantial factor in Mr. Meir's life-altering injuries.

24 **3. Plaintiff Jared Pitts**

25 34. Plaintiff, Jared Pitts is 19 years old and a resident of Spartanburg County, South
26 Carolina.

1 35. Beginning in 2017, when he was approximately 17 years old and in high school, Mr.
2 Pitts was exposed to JUUL's advertising and promotional efforts via many sources, including social
3 media, online advertisements, YouTube and at gas stations where he purchased JUUL products
4 near his home and school.

5 36. Mr. Pitts regularly purchased and consumed JUUL products, including JUUL
6 devices and JUULpods, between December 2017 through January 2019, primarily in Newport
7 News, Virginia and Spartanburg County, South Carolina when he moved there at the beginning of
8 this year.

9 37. Mr. Pitts was initially attracted to JUUL's flavors and sleek, discreet design. He
10 started with fruit and mango flavors and tried a number of others, including mint.

11 38. Mr. Pitts was unaware when he first starting using JUUL that it was unsafe for
12 anyone under age 26, was manipulated to addict him to nicotine, and could cause mood disorders
13 such as anxiety and depression, decreased breathing capacity, strokes, and other cardiovascular
14 injuries. Had he known these things, he would not have started using JUUL.

15 39. Within just a few days, Mr. Pitts became powerfully addicted to JUUL, causing him
16 to increase his use over time. By 2018, Mr. Pitts was consuming over seven pods in one week,
17 taking puffs consistently throughout each day.

18 40. In May of this year, Mr. Pitts was diagnosed with anxiety and depression, both
19 mental disorders he never exhibited any signs or symptoms of prior to using the JUUL.

20 41. JUUL was a substantial factor in Mr. Pitts' injuries.

21 **IV. THE DEFENDANTS**

22 **A. JUUL Labs, Inc.**

23 42. Defendant JUUL Labs, Inc. ("JUUL") is a Delaware corporation, having its
24 principal place of business in San Francisco, California.

25 43. JUUL originally operated under the name PAX Labs, Inc. In 2017, it was renamed
26 JUUL Labs, Inc.

1 44. JUUL manufactures, designs, sells, markets, promotes and distributes JUUL e-
2 cigarettes.

3 45. JUUL ratified each and every act or omission alleged herein in proximately causing
4 the injuries and damages alleged herein.

5 **B. Does 1-25**

6 46. Upon information and belief, Defendants Does 1 through 25 are individuals and
7 corporations with their primary place of business or residence in California, or who directed their
8 activities toward the state of California and/or have minimum contacts in this State.

9 47. Upon information and belief, Defendants Does 1 through 25 provided scientific
10 research and development services to Defendant JUUL, enabling and in furtherance of JUUL's
11 manufacturing, design, sale, marketing, promotion, and distribution of JUUL e-cigarettes.

12 **C. Does 26-50**

13 48. Upon information and belief, Defendants Does 26 through 50 are individuals and
14 corporations with their primary place of business or residence in California, or who directed their
15 activities toward the state of California and/or have minimum contacts in this State.

16 49. Upon information and belief, Defendants Does 26 through 50 provided marketing
17 services, including, but not limited to, market analyses, advertising consultations, advertisement
18 design, marketing tools and techniques, marketing strategies, data on potential target consumer
19 populations, and other services enabling and in furtherance of JUUL's manufacturing, design, sale,
20 marketing, promotion, and distribution of JUUL e-cigarettes.

21 **D. Does 51-100**

22 50. Upon information and belief, Defendants Does 51 through 100 are individuals and
23 corporations with their primary place of business or residence in California, or who directed their
24 activities toward the state of California and/or have minimum contacts in this State.

25 51. Upon information and belief, Defendants Does 51 through 100 are members of the
26 e-cigarette industry that conspired with JUUL to fraudulently conceal and downplay the risks of e-
27

1 cigarettes, engage in a campaign of doubt and confusion, and overstate the benefits of e-cigarettes
2 and nicotine.

3
4 **V. FACTUAL ALLEGATIONS**

5 **A. JUUL Seeks to Re-create the “Magic” of the Cigarette, the “Most Successful
6 Consumer Product of All Time”, using the Cigarette Industry’s Playbook.**

7 52. JUUL’s founder James Monsees has described the cigarette as “the most successful
8 consumer product of all time an amazing product.”⁶ Because of “some problems” inherent in
9 the cigarette, JUUL’s founders set out to “deliver[] solutions that refresh the magic and luxury of
10 the tobacco category.”⁷

11 53. Monsees saw “a huge opportunity for products that speak directly to those
12 consumers who aren’t perfectly aligned with traditional tobacco products.”⁸ With a focus on
13 recreating the “ritual and elegance that smoking once exemplified,”⁹ Monsees and Adam Bowen
14 set out to “meet the needs of people who want to enjoy tobacco but don’t self-identify with — or
15 don’t necessarily want to be associated with — cigarettes.”¹⁰

16 54. JUUL used the cigarette industry’s prior practices as a playbook. Monsees has
17 publicly admitted that JUUL built its e-cigarette business by first consulting cigarette industry
18 documents, including board meeting minutes, made public under the Master Settlement Agreement
19 that had been reached between the cigarette industry, governmental officials, and injured smokers.
20 “[Industry documents] became a very intriguing space for us to investigate because we had so much
21

22
23 ⁶ Chaykowski, *Billionaires-to-be: Cigarette breakers - James Monsees and Adam Bowen have*
24 *cornered the US e-cigarette market with Juul. Up next: The world*, FORBES Magazine (Sep 27,
2018), www.forbesindia.com/article/leaderboard/billionairestobe-cigarette-breakers/51425/1 (as
of July 5, 2019).

25 ⁷ Mings, *Ploom model Two Slays Smoking with Slick Design and Heated Tobacco Pods*, Solid
26 Smack (Apr 23, 2014), www.solidsmack.com/design/ploom-modeltwo-slick-design-tobacco-pods/
(as of July 5, 2019).

27 ⁸ *Id.*

28 ⁹ *James Monsees – Co-founder and CEO of Ploom*, IDEAMENSCH (Apr 11, 2014),
<https://ideamensch.com/james-monsees/> (as of July 5, 2019).

¹⁰ *Id.*

1 information that you wouldn't normally be able to get in most industries. And we were able to catch
2 up, right, to a huge, huge industry in no time. And then we started building prototypes."¹¹

3 55. JUUL researched how cigarette companies had chemically manipulated nicotine
4 content to maximize delivery: "We started looking at patent literature. We are pretty fluent in
5 'Patentese.' And we were able to deduce what had happened historically in the tobacco industry."¹²
6 Among the documents JUUL would have found were those documenting how to manipulate
7 nicotine pH to maximize the delivery of nicotine in a youth-friendly vapor that delivers minimal
8 "throat hit"—a combination that creates unprecedented risks of nicotine abuse and addiction, as
9 detailed further below.

10 56. JUUL also engaged former cigarette industry researchers to consult on the design of
11 their product. JUUL's founder James Monsees noted in *Wired* magazine that "people who
12 understood the science and were listed on previous patents from tobacco companies aren't at those
13 companies anymore. If you go to Altria's R&D facility, it's empty." The *Wired* article stated that
14 "some of those people are now on Pax's team of advisers, helping develop JUUL."¹³

15 57. JUUL also used cigarette industry advertisements—which were created to lure
16 nonsmoking youth—as a blueprint for JUUL's advertising campaigns. In a 2018 interview,
17 "Monsees indicated that the design of JUUL's advertising had been informed by traditional tobacco
18 advertisements and that [the Stanford Research into Impact of Tobacco Advertising] had been quite
19 useful to them."¹⁴
20
21
22

23 ¹¹ Montoya, *Pax Labs: Origins With James Monsees*, Social Underground,
24 <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/> (as of July 5,
25 2019).

26 ¹² *Id.*

27 ¹³ Pierce, *This Might Just Be The First Great E-Cig*, *WIRED*, (Apr 21, 2015),
28 www.wired.com/2015/04/pax-juul-ecig/ (as of July 5, 2019).

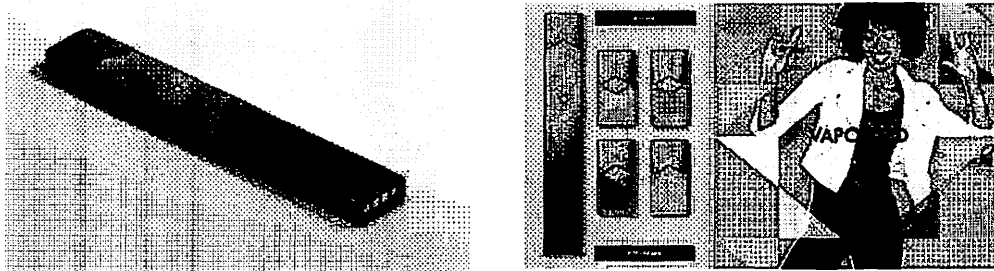
¹⁴ Jackler et al., *JUUL Advertising Over its First Three Years on the Market*, *Stanford Research into the Impact of Tobacco Advertising*, Stanford University School of Medicine (Jan 31, 2019),
http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (as of July 5, 2019).

1 58. JUUL achieved its vision. Since its launch in 2015, JUUL has become the dominant
2 e-cigarette manufacturer in the United States. Its revenues grew by 700% in 2017. According to a
3 recent Wells-Fargo report, JUUL owns three-quarters of the e-cigarette market.¹⁵

4 **B. JUUL is a Sleek, Easy to Conceal Nicotine Delivery Device with Kid-Friendly**
5 **Flavors.**

6 59. The JUUL e-cigarette looks sleek and high-tech. JUUL looks like a USB flash drive,
7 and it actually charges in a computer's USB drive. It is about the size and shape of a pack of
8 chewing gum; it is small enough to fit in a closed hand. JUUL is easy to conceal from parents and
9 teachers. The odor emitted from JUUL is a reduced aerosol without much scent – unlike the distinct
10 smell of conventional cigarettes.

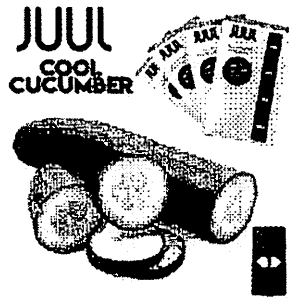
11 60. The thin, rectangular JUUL e-cigarette device consists of an aluminum shell, a
12 battery, a magnet (for the USB-charger), a circuit board, an LED light, and a pressure sensor. Each
13 JUULpod is a plastic enclosure containing 0.7 milliliters of JUUL's patented nicotine liquid and a
14 coil heater. When a sensor in the JUUL e-cigarette detects the movement of air caused by suction
15 on the JUULpod, the battery in the JUUL device activates the heating element, which in turn
16 converts the nicotine solution in the JUULpod into a vapor consisting principally of nicotine,
17 benzoic acid, glycerin, and propylene glycol. A light embedded in the JUUL device serves as a
18 battery level indicator and lights up in a "party mode" display of rainbow of colors when the device
19 is waved around.



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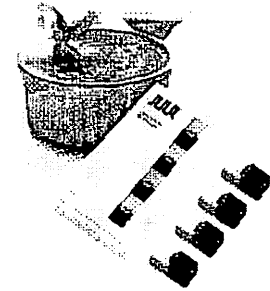
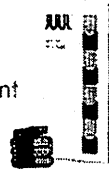
¹⁵ Durbin et al., Letter from United States Senators to Kevin Burns CEO JUUL Labs Inc. (Apr 8, 2019), www.durbin.senate.gov/imo/media/doc/FINAL%20JUUL%20Letter%204.8.19.pdf (as of July 5, 2019).

61. JUUL manufactures and distributes its nicotine formulation as JUULpods, which contain JUUL's nicotine liquid. JUUL exclusively sells its pods in four-packs, in a variety of flavors, many of which have no combustible cigarette analog, including mango, "cool" cucumber, fruit medley, "cool" mint, and crème brulee. According to a recent survey of more than 1,000 12 to 17 year-olds, 6.5% admitted to using a JUUL e-cigarette. Of those, 86% of users most recently used fruit medley, mango, cool mint, or crème brulee.¹⁶



Beat The
August Heat
With Cool Mint

Cool peppermint flavor with
a pleasant tartness



62. The physical design of the JUUL device (including its circuit board) and JUULpod determines the amount of aerosolized nicotine the JUUL emits. By altering the temperature, maximum puff duration, or airflow, among other things, Defendant can finely tune the amount of nicotine vapor the JUUL delivers.¹⁷

C. **E-Cigarettes Containing Nicotine are Addictive, Increase the Risk for Strokes, and are Unsafe for Anyone under Age 26.**

63. All leading health authorities support the three major conclusions of a 1988 report by the Surgeon General of the United States regarding nicotine and tobacco:

- a. Cigarettes and other forms of tobacco are addictive;
- b. Nicotine is the drug in tobacco that causes addiction;
- c. The physiological and behavioral processes that determine tobacco addiction are similar to those that determine heroin and cocaine addiction.

¹⁶ Willett, *JUUL: Recognition, use and perceptions* (Apr 26, 2018), www.publichealthlawcenter.org/sites/default/files/JUUL-Webinar-Slides-Apr262018.pdf (as of July 5, 2019).

¹⁷ Talih *et al.*, Characteristics and toxicant emissions of JUUL electronic cigarette (Feb 11, 2019) Tob Control. 054616 www.ncbi.nlm.nih.gov/pubmed/30745326/ (as of July 5, 2019).

1 64. Nicotine fosters addiction through the brain's "reward" pathway. A stimulant and a
2 relaxant, nicotine affects the central nervous system; increases in blood pressure, pulse, and
3 metabolic rate; constricts blood vessels of the heart and skin, and causes muscle relaxation. When
4 nicotine is inhaled it enters the bloodstream through membranes in the mouth and upper respiratory
5 tract and through the lungs. Once nicotine in the bloodstream reaches the brain, it binds to receptors,
6 triggering a series of physiologic effects in the user that are perceived as a "buzz" that includes
7 pleasure, happiness, arousal, and relaxation of stress and anxiety. These effects are caused by the
8 release of dopamine, acetylcholine, epinephrine, norepinephrine, vasopressin, serotonin, and beta
9 endorphin. With regular nicotine use, however, these feelings diminish and the user must consume
10 increasing amounts of nicotine to achieve the same pleasurable effects.¹⁸

11 65. The neurological changes caused by nicotine create addiction. Repeated exposure
12 to nicotine causes neurons in the brain to adapt to the action of the drug and return brain function
13 to normal. This process, called neuroadaptation, leads to the development of tolerance in which a
14 given level of nicotine begins to have less of an effect on the user.¹⁹

15 66. Once a brain is addicted to nicotine, the absence of nicotine causes compulsive drug-
16 seeking behavior, which, if not satisfied, results in withdrawal symptoms including anxiety,
17 tension, depression, irritability, difficulty in concentrating, disorientation, increased eating,
18 restlessness, headaches, sweating, insomnia, heart palpitations and tremors – and intense cravings
19 for nicotine. Though smokers commonly report pleasure and reduced anger, tension, depression
20 and stress after smoking a cigarette, many of these effects are actually due to the relief of unpleasant
21 withdrawal symptoms that occur when a person stops smoking and deprives the brain and body of
22 nicotine. Studies have found that most smokers do not like smoking most of the time but do so to
23 avoid withdrawal symptoms.²⁰

24
25 ¹⁸ Neal L. Benowitz, Pharmacology of Nicotine: Addiction, Smoking-Induced Disease, and
26 Therapeutics (Sep 27, 2009) *Annu Rev Pharmacol Toxicol* 49: 57–71
www.ncbi.nlm.nih.gov/pmc/articles/PMC2946180/ (as of July 5th, 2019).

27 ¹⁹ *Id.*

28 ²⁰ Rigotti, Strategies to help a smoker who is struggling to quit (Oct 17, 2012) *JAMA* 308 (15):
1573–1580, www.ncbi.nlm.nih.gov/pmc/articles/PMC4562427/ (as of July 5, 2019); Paolini &
De Biasi, Mechanistic insights into nicotine withdrawal (Oct. 15, 2011) *Biochem Pharmacol*
82(8): 996–1007, www.ncbi.nlm.nih.gov/pmc/articles/PMC3312005/ (as of July 5, 2019).

1 67. Nicotine causes permanent brain changes and damage. The effects of nicotine
2 exposure on the brain of youth and young adults include addiction, priming for use of other
3 addictive substances, reduced impulse control, deficits in attention and cognition, and mood
4 disorders.²¹

5 68. Nicotine is also associated with cardiovascular, reproductive, and
6 immunosuppressive problems, and is also a carcinogen.²² Nicotine adversely affects the heart,
7 eyes, reproductive system, lung, and kidneys. It is well-established that nicotine increases blood
8 pressure. Exposure to nicotine from sources such as nicotine gum still produces an increased risk
9 of coronary vascular disease (CVD) by producing acute myocardial ischemia, as well as an
10 increased risk of peripheral arterial disorders. Aside from its use as a stimulant, the only other
11 known use of nicotine is as an insecticide.²³

12 69. Several studies have shown that e-cigarettes increase the risk of strokes and heart
13 attacks.²⁴

14 70. Research has also demonstrated that e-cigarettes significantly increase blood
15 pressure and arterial stiffness, which increases the risk for strokes and heart attacks.²⁵

16
17 ²¹ Yuan *et al.*, Nicotine and the adolescent brain (May 27, 2015) *The Journal of Physiology*
18 593(Pt 16): 3397–3412, www.ncbi.nlm.nih.gov/pmc/articles/PMC4560573/ (as of July 5, 2019);
19 U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on
20 Smoking and Health, *Know The Risks: E-cigarettes and Young People* (2019) [https://e-](https://e-cigarettes.surgeongeneral.gov/)
21 [cigarettes.surgeongeneral.gov/](https://e-cigarettes.surgeongeneral.gov/) (as of July 5th, 2019).

22 ²² Mishra *et al.*, Harmful Effects of Nicotine (2015) *Indian J. Med. Paediatr. Oncol.*, 36(1): 24–31
23 (Jan- Mar 2015), www.ncbi.nlm.nih.gov/pmc/articles/PMC4363846/ (as of July 5, 2019).

24 ²³ *Id.*

25 ²⁴ E-cigarettes linked to higher risk of stroke, heart attack, diseased arteries (Jan 30, 2019)
26 American Stroke Association *News Release*, Abstract 9, Session A2,
27 [https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries)
28 [diseased-arteries](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries) (as of July 5, 2019); Vindhyal *et al.*, Impact on cardiovascular outcomes among
e-cigarette users: a review from National Health Interview Surveys (Mar 2019) *Journal of the*
American College of Cardiology, Vol. 73, Iss. 9, Suppl. 2,
www.onlinejacc.org/content/73/9_Supplement_2/11(as of July 5, 2019); Ndunda & Muutu,
Electronic cigarette use is associated with a higher risk of stroke (Jan 30, 2019) *International*
Stroke Conference 2019 Oral Abstracts. Community/risk factors, Vol. 50, Suppl. 1, Abst. 9,
www.ahajournals.org/doi/10.1161/str.50.suppl_1.9 (as of July 5, 2019); Bhatta & Glantz,
Electronic Cigarette Use and Myocardial Infarction Among Adults in the US Population
Assessment of Tobacco and Health (Jun 18, 2019) *Journal of the American Heart Association*,
Vol. 8, Iss. 12, www.ahajournals.org/doi/10.1161/JAHA.119.012317 (as of July 5 2019).

²⁵ Vlachopoulos *et al.*, Electronic cigarette smoking increases aortic stiffness and blood pressure
in young smokers (Sep 10, 2017) *J. Am. Col.l Cardiol.* 67:2802–2803,

1 71. Further, scientists have found that e-cigarettes also cause oxidative stress, which
2 leads to vascular disease and damage, known risk factors for strokes.²⁶

3 72. With respect to JUUL products in particular, one recent study found that “the
4 concentrations of nicotine and some flavor chemicals (e.g. ethyl maltol) are high enough to be
5 cytotoxic in acute in vitro assays”.²⁷

6 73. Nicotine affects neurological development in adolescents, and exposure to nicotine
7 during adolescence produces an increased vulnerability to nicotine addiction.²⁸ Adolescent nicotine
8 addiction causes “substantial neural remodeling” including those parts of the brain governed by
9 dopamine or acetylcholine, which play central roles in reward functioning and cognitive function,
10 including executive function mediated by the prefrontal cortex. A “clear-cut relationship” between
11 adolescent smokers and diminished neural responses has been observed such that addicts exhibit
12 diminished sensitivity to non-drug rewards (e.g., financial rewards). This relationship becomes
13 even more severe in adolescents who smoke more than 5 cigarettes a day. In sum, “the use of
14 extremely rewarding drugs, such as nicotine, may decrease the pleasure obtained from non-drug
15 rewards.” *Id.* These changes occur in “early phases of smoking.” *Id.* Other brain changes from
16 nicotine include increased sensitivity to other drugs and heightened impulsivity.²⁹ “Brain imaging
17 on adolescents suggest that those who begin smoking regularly at a young age have markedly
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19
20
21 www.sciencedaily.com/releases/2017/09/170910232512.htm (as of July 5, 2019)

22 ²⁶ Thompson, Vaping May Hurt the Lining of Your Blood Vessels (May 28, 2019) WebMD
23 HealthDay Reporter [www.webmd.com/mental-health/addiction/news/20190528/vaping-may-hurt-](http://www.webmd.com/mental-health/addiction/news/20190528/vaping-may-hurt-the-lining-of-your-blood-vessels#1)
24 [the-lining-of-your-blood-vessels#1](http://www.webmd.com/mental-health/addiction/news/20190528/vaping-may-hurt-the-lining-of-your-blood-vessels#1) (as of July 5th, 2019). JUUL e-cigarettes and JUULpods
25 deliver dangerous toxins and carcinogens to users. The ingredients in JUULpods include glycerol,
26 propylene glycol, nicotine, benzoic acid, and flavoring chemicals.
27 www.juul.com/learn/pods (as of July 5, 2019).

28 ²⁷ Omaiye *et al.*, High-Nicotine Electronic Cigarette Products: Toxicity of JUUL Fluids and
Aerosols Correlates Strongly with Nicotine and Some Flavor Chemical Concentrations (Apr 17,
2019) *Chem Res Toxicol* 17;32(6):1058-1069 www.ncbi.nlm.nih.gov/pubmed/30896936 (as of
July 5, 2019).

²⁸ Arain *et al.*, Maturation Of The Adolescent Brain (Apr 25, 2013), *Neuropsychiatric Disease and Treatment*, 9:449–461 <http://doi.org/10.2147/NDT.S39776> (as of July 5, 2019).

²⁹ University of Warwick, “Different brain areas linked to smoking and drinking” (Jan 8, 2019) ScienceDaily, www.sciencedaily.com/releases/2019/01/190108095119.htm (as of July 5, 2019).

1 reduced activity in the prefrontal cortex and perform less well on tasks related to memory and
2 attention compared to people who don't smoke."³⁰

3 74. Public health authorities have concluded that e-cigarettes are unsafe for anyone
4 under age 26.³¹

5 **D. JUUL Designed its E-Cigarettes to Make them Easy for Young People to Inhale**
6 **and to Deliver Substantially Higher Doses of Nicotine than Cigarettes.**

7 75. According to the National Institutes of Health, the "amount and speed of nicotine
8 delivery . . . plays a critical role in the potential for abuse of tobacco products."³² The cigarette
9 industry has long known that "nicotine is the addicting agent in cigarettes"³³ and that "nicotine
10 satisfaction is the dominant desire" of nicotine addicts.³⁴

11 76. For this reason, cigarette companies spent decades manipulating nicotine in order to
12 foster and maintain addiction in their customers. For example, R.J. Reynolds Tobacco Company
13 ("RJR") developed and patented nicotine salt additives such as nicotine benzoate to increase
14 nicotine delivery in cigarette smoke. As detailed in an RJR memorandum titled "Cigarette concept
15 to assure RJR a larger segment of the youth market," manipulating the pH of nicotine was expected
16 to give cigarettes an "additional nicotine 'kick'."³⁵ This kick was attributed to increased nicotine
17 absorption associated with lower pH.³⁶

18
19 ³⁰ Brodwin, *An e-cigarette with twice the nicotine of comparable devices is taking over high*
20 *schools - and scientists are sounding the alarm* (Apr 30, 2018) Business Insider,
www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3 (as of July 5, 2019).

21 ³¹ U.S. Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on
22 Smoking and Health, *Know The Risks: E-cigarettes and Young People* (2019) *https://e-*
cigarettes.surgeongeneral.gov/ (as of July 5th, 2019).

23 ³² How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-
24 Attributable Disease: A Report of the Surgeon General, Chapter 4, Nicotine Addiction: Past and
Present (2010), *www.ncbi.nlm.nih.gov/books/NBK53017/* (as of July 5th, 2019).

25 ³³ Brown & Williamson official A.J. Mellman, (1983) Tobacco Industry Quotes on Nicotine
26 Addiction, *www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes*
%20on%20Nicotine%20Addiction.pdf (as of July 5, 2019).

27 ³⁴ *Id.*, R.J. Reynolds Tobacco Co. marketing memo, 1972.

28 ³⁵ *Id.*, 1973 R.J. Reynolds Tobacco Co. memo titled, "Cigarette concept to assure RJR a larger
segment of the youth market."

³⁶ Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine

1 77. JUUL knowingly used the RJR research and conclusions to produce a similar
2 nicotine kick, and thereby promoting increased use and sales of JUUL e-cigarettes. In U.S. patent
3 No. 9,215,895 (“the ‘895 patent”), assigned to “Pax Labs, Inc.” and listing JUUL executive Adam
4 Bowen as an inventor, JUUL describes a process for combining benzoic acids with nicotine to
5 produce nicotine salts, a formulation that mimics the nicotine salt additive developed by RJR
6 decades earlier.

7 78. In a 2015 interview, Ari Atkins, a JUUL research & development engineer and one
8 of the inventors of the JUUL device said this about the role of acids: “In the tobacco plant, there
9 are these organic acids that naturally occur. And they help stabilize the nicotine in such a way that
10 makes it ...” He pauses. “I’ve got to choose the words carefully here: Appropriate for inhalation.”³⁷

11 79. JUUL’s manipulation of nicotine pH directly affects the palatability of nicotine
12 inhalation by reducing the “throat hit” users experience when vaping. Benzoic acid reduces the pH
13 of solutions of nicotine, an alkali with a pH of 8.0 in its unadulterated, freebase form. This reduction
14 in pH converts naturally-occurring unprotonated nicotine, which causes irritation in the throat and
15 respiratory tract, to protonated nicotine, which is not be absorbed in the throat or upper respiratory
16 tract and, therefore, does not irritate the throat. A recent study found that JUUL’s e-liquid had a pH
17 of under 6.0, suggesting that the JUUL contains almost no freebase (i.e., non-salt form) nicotine.³⁸

18 80. The vapor from JUUL’s e-liquid contains about the same ratio of free-base
19 nicotine—and hence causes the same amount of irritation—as a nearly nicotine-free 3 mg/mL e-
20 liquid.³⁹

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23 Psychopharmacology (Oct. 13, 2010), Handb Exp Pharmacol 192:29–60,
www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/ (as of July 5, 2019).

24 ³⁷ Pierce, *This Might Just Be The First Great E-Cig* (Apr 21, 2015) WIRED,
www.wired.com/2015/04/pax-juul-ecig/ (as of July 5, 2019).

25 ³⁸ Lauterbach, One More Time Unprotonated Nicotine in E-Cigarette Aerosols: Is It Really
26 There? (2018) www.coresta.org/sites/default/files/abstracts/2018_TSRC83_Lauterbach.pdf (as of
27 July 5, 2019); Other studies have confirmed the low ratio of freebase nicotine in JUUL products.
See Duell *et al.*, Free-Base Nicotine Determination in Electronic Cigarette Liquids by 1H NMR
Spectroscopy (Jun 18, 2018) 31 Chem. Res. Toxicol. 431-434,
28 www.ncbi.nlm.nih.gov/pmc/articles/PMC6008736/ (as of July 5th, 2019).

³⁹ *Id.*, Duell Study, Fig. 3.

1 81. The same chart further shows that the Duell Study authors found that the low
2 freebase fraction in its aerosols suggested a “decrease in the perceived harshness of the aerosol to
3 the user and thus a greater abuse liability.” *Id.* At 431-434.

4 82. The authors noted that “tobacco company documents suggest that products [like
5 JUUL] with high nicotine levels but a low [percentage of freebase nicotine] will yield vape aerosols
6 of much reduced harshness as compared to products with even only moderate nicotine levels” but
7 high percentages of freebase nicotine. *Id.*

8 83. JUUL’s creation of a product with low levels of harshness and minimal throat “hit”
9 is consistent with the goal of producing a product for young non-smokers. The non-irritating vapor
10 product is easier for non-smokers to consume without negative side effects like coughing or
11 irritation. The design also shows that JUUL’s intention was to recruit nonsmokers, not existing
12 smokers, because smokers are already tolerant of the throat hit and have even been habituated into
13 associating the “throat hit” with getting their nicotine fix. Minimizing the throat “hit” of JUUL e-
14 cigarettes is therefore unnecessary to providing an alternative for adult smokers, but is crucial to
15 luring a new generation of users.

16 84. The Duell study concluded that JUUL’s use of nicotine salts “may well contribute
17 to the current use prevalence of JUUL products among youth.”⁴⁰

18 85. JUUL’s lack of throat hit increases the risk of using the product, because it masks
19 the amount of nicotine being delivered, by eliminating the throat sensory feedback normally
20 associated with a large dose of nicotine. The “throat hit” is part of the body’s alert system, letting
21 a person know he is inhaling something harmful. Eventually, the irritation to the throat will cause
22 even the most compulsive addict to wait before the next inhalation. Reducing or removing this
23 feedback impairs the user’s ability to ascertain that he is consuming a toxin. As a result, the cravings
24 for nicotine can be satisfied nonstop, fostering addiction or aggravating an existing addiction, and
25 repeatedly exposing the user to the health risks associated with the product, such as significantly
26 increased blood pressure.

27
28 ⁴⁰ *Id.*, Duell Study (citing Willett, *et al.*, Recognition, use and perceptions of JUUL among youth
and young adults, Tobacco, Tob Control. 2019 Jan;28(1):115-116.)

1 86. JUUL sells products that contain relatively low amounts of throat-irritating freebase
2 nicotine, yet contain and deliver far higher concentrations of nicotine than cigarettes or other
3 electronic nicotine delivery systems (“ENDS”) containing freebase nicotine.

4 87. Blood plasma studies in the ‘895 patent⁴¹ show that vaping nicotine benzoate
5 increases nicotine delivery compared to cigarettes or vaporized solutions of freebase nicotine. In
6 fact, nicotine uptake was up to four times higher for nicotine salt formulations than traditional
7 cigarettes (approximately 4 ng/mL/min compared to approximately 1 ng/mL/min). JUUL’s data
8 also indicates that nicotine salt solutions produce a higher heart rate in a shorter amount of time (a
9 50 beats/minute increase within 2 minutes for nicotine salt, versus a 40 beats/minute increase in 2.5
10 minutes for a Pall Mall cigarette). Nicotine salts also cause a faster and more significant rise in
11 heart rate than placebo or vaporized freebase nicotine.

12 88. JUUL’s ‘895 patent shows that a 4% solution of benzoic acid nicotine salt causes a
13 peak nicotine-blood concentration (“Cmax”) of approximately 15 ng/mL, compared to a Cmax of
14 11 ng/mL for a Pall Mall cigarette.⁴²

15 89. As high as the reported nicotine dose reported for JUULpods is, the actual dose is
16 likely higher. Though the strongest benzoic acid concentration mentioned in the ‘895 patent is 4%
17 (i.e., 40 mg/mL of benzoic acid), one study tested four flavors of JUULpods and found a 4.5%
18 benzoic acid (44.8 ± 0.6) solution.⁴³ That study found that JUULpods contained a concentration of
19 6.2% nicotine salt (about 60 mg/mL), rather than the 5% nicotine (about 50 mg/mL) advertised.
20 JUULpods containing an absolute nicotine concentration 1.2% higher than the stated 5% on the
21 label (a relative increase of over 20%) coupled with more benzoic acid than listed in the ‘895 patent
22 produce higher nicotine absorption than expected for the advertised formulation.

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27 ⁴¹ See U.S. Patent No. 9, 215, 895.

28 ⁴² ‘895 Patent, at col. 26, ll. 33-50.

⁴³ Pankow *et al.*, Benzene formation in electronic cigarettes (Mar 8, 2017) PLoS One. 2017;
12(3): e0173055 www.ncbi.nlm.nih.gov/pmc/articles/PMC5342216/ (as of July 5, 2019).

1 90. Other studies have reported even higher actual concentrations of nicotine in
2 JUULpods. Some experts estimate that JUULpods deliver the same nicotine as two packs of
3 cigarettes.⁴⁴

4 91. In any event, JUUL is delivering doses of nicotine that are materially higher than
5 delivered by combustible cigarettes. As a paper published by the European Union citing the United
6 Kingdom Medicines and Healthcare Products Regulatory Agency notes, “an e-cigarette with a
7 concentration of 20 mg/ml delivers approximately 1 milligram of nicotine in 5 minutes (the time
8 needed to smoke a traditional cigarette, for which the maximum allowable delivery is 1 mg of
9 nicotine).”⁴⁵ With at least 59 mg/mL of nicotine delivered in a salt form that increases the rate and
10 efficiency of uptake (and even with a lower mg/mL amount), a JUULpod will easily exceed the
11 nicotine dose of a traditional cigarette. Not surprisingly, the European Union has banned all e-
12 cigarette products with a nicotine concentration of more than 20 mg/ml nicotine, and Israel is
13 seeking to do the same.⁴⁶ As Israel’s Deputy Health Minister has noted, “a product that contains a
14 concentration of nicotine that is almost three times the level permitted in the European Union
15 constitutes a danger to public health and justifies immediate and authoritative steps to prevent it
16 from entering the Israeli market.”⁴⁷

17 92. Comparison of available data regarding per puff nicotine intake corroborates the
18 other JUUL studies (mentioned above), indicating that JUUL delivers about 30% more nicotine per
19 puff. Specifically, a recent study of JUULpods found that “[t]he nicotine levels delivered by the
20 JUUL are similar to or even higher than those delivered by cigarettes.”⁴⁸ The Reilly study tested
21

22 ⁴⁴ 6 important facts about JUUL, Truth Initiative, [https://truthinitiative.org/research-](https://truthinitiative.org/research-resources/emerging-tobacco-products/6-important-facts-about-juul)
23 [resources/emerging-tobacco-products/6-important-facts-about-juul](https://truthinitiative.org/research-resources/emerging-tobacco-products/6-important-facts-about-juul) (as of July 5, 2019)

24 ⁴⁵ “E-Cigarettes” https://ec.europa.eu/health/sites/health/files/tobacco/docs/fs_ecigarettes_en.pdf
25 (as of July 5, 2019) (citing United Kingdom Medicines and Healthcare Products Regulatory
26 Agency and industry reports).

27 ⁴⁶ Belluz, *Juul, the Vape Device Teens are Getting Hooked On, Explained* (Dec 20, 2018) Vox
28 <https://www.vox.com/science-and-health/2018/5/1/17286638/juul-vaping-e-cigarette> (as of July
5, 2019).

⁴⁷ Linder-Ganz, *JUUL Warns It Will Fight Israel Over Its Potential Ban on E-Cigarettes* (Jan 30,
2018), HAARETZ, [www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-](http://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058)
[potential-ban-on-its-e-cigarettes-1.6140058](http://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058) (as of July 5, 2019).

⁴⁸ Reilly *et al.*, Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic
- 20 -

1 JUUL's Tobacco, Crème Brulee, Fruit Punch, and Mint flavors and found that a puff of JUUL
2 delivered 164 ± 41 micrograms of nicotine per puff. By comparison, a 2014 study using larger 100
3 mL puffs found that a Marlboro cigarette delivered 152—193 $\mu\text{g/puff}$.⁴⁹ Correcting to account for
4 the different puff sizes between the Reilly and Schroeder studies, this suggests that, at 75ml/puff,
5 a Marlboro would deliver between 114 and 144 $\mu\text{g/puff}$. In other words, empirical data suggests
6 that JUUL delivers up to 36% more nicotine per puff than a Marlboro.

7 93. Because “nicotine yield is strongly correlated with tobacco consumption,”⁵⁰ a
8 JUULpod with more nicotine will strongly correlate with higher rates of consumption of
9 JUULpods, generating more revenue for JUUL. For example, a historic cigarette industry study
10 looking at smoker employees found that “the number of cigarettes the employees smoked per day
11 was directly correlated to the nicotine levels.”⁵¹ In other words, the more nicotine in the cigarettes,
12 the more cigarettes a person smoked.

13 94. Despite the above data, Defendant has failed to disclose to consumers that the
14 JUULpods' nicotine salt formulation delivers an exceptionally potent dose of nicotine.

15 95. By delivering such potent doses of nicotine, JUUL products magnify the health risks
16 posed by nicotine, significantly increase blood pressure, and place users at heightened risk for
17 stroke, heart attacks and other cardiovascular events.

18 96. Further, because JUUL's nicotine salts actually increase the rate and magnitude of
19 blood plasma nicotine compared to traditional cigarettes, the risk of nicotine addiction and abuse
20 is higher for JUUL e-cigarettes than traditional cigarettes. Thus, JUULpods are foreseeably
21 exceptionally addictive when used by persons without prior exposure to nicotine—a fact not
22 disclosed by Defendant.

23
24 Cigarettes (Oct 20, 2018) Nicotine Tob Res. 3 (the “Reilly study”)
25 <https://www.ncbi.nlm.nih.gov/pubmed/30346584> (as of July 5, 2019).

26 ⁴⁹ Schroeder & Hoffman, Electronic Cigarettes and Nicotine Clinical Pharmacology (May 2014)
27 Tobacco Control 2014: 23:ii30-ii35, www.ncbi.nlm.nih.gov/pmc/articles/PMC3995273/ (as of
28 July 5, 2019).

⁵⁰ Jarvis *et al.*, Nicotine Yield From Machine Smoked Cigarettes and Nicotine Intakes in
Smokers: Evidence From a Representative Population Survey (Jan 2001), JNCI Vol. 93, Issue 2,
134–138 <https://academic.oup.com/jnci/article/93/2/134/2906355> (as of July 6, 2019)

⁵¹ UCSF Library, 1003285443-5443 (US 85421).

1 97. At the same time, as discussed above, the throat “hit” from nicotine salts is much
2 lower than that for combustible tobacco products, making it easier to inhale. According to
3 researchers, the “high total nicotine level (addictive delivery)” of a JUUL coupled with its easily
4 inhalable nicotine vapor is “likely to be particularly problematic for public health.”⁵²

5 98. This powerful combination—highly addictive and easy to inhale—also repeatedly
6 exposes users to the toxic chemicals in the vapor, compounding the health risks to users, as
7 described above.

8 99. In addition to its nicotine content, the “Cool” Mint pods pose additional risks. The
9 FDA’s Tobacco Products Scientific Advisory Committee in March 2011 issued a report on menthol
10 cigarettes, concluding that the minty additive was not just a flavoring agent but had drug-like
11 effects, including “cooling and anesthetic effects that reduce the harshness of cigarette smoke.”⁵³
12 Mint could also “facilitate deeper and more prolonged inhalation,” resulting in “greater smoke
13 intake per cigarette.” *Id.* at 500-501.

14 100. JUUL has fraudulently concealed material information about the addictive and
15 dangerous nature of its e-cigarettes. Defendant necessarily is in possession of all of this information.

16 **E. JUUL’s Design Offers No Benefit for Young People, Only Risk.**

17 101. JUUL’s design offers no benefit to young people like Mr. Meir, who was not
18 addicted to cigarettes or any form of nicotine before he started using JUUL.

19 **F. JUUL Conspired with Others in the Cigarette Industry to Engage Third-Party**
20 **Spokespersons to Downplay the Risks of E-cigarettes, Create Doubt, and**
21 **Misrepresent the Benefits of Nicotine.**

22 102. Because JUUL understood that it could not specifically make health-related claims
23 without drawing the ire of the FDA, JUUL conspired with others, including unnamed Defendants
24 Does 51-100, in the cigarette industry to engage consultants, academics, reporters, and other
25 friendly sources such as the American Enterprise Institute, to serve as spokespersons and
26 cheerleaders for e-cigarette products. Taking yet another page from the cigarette-industry

27 ⁵² Duell Study, 431

28 ⁵³ Proctor, *Golden Holocaust: Origins of the Cigarette Catastrophe and the Case for Abolition*,
500 (1st ed. 2011).

1 playbook, these influencers masked their connection to the e-cigarette industry, while serving as its
2 mouthpiece to cast doubt about risks and overstate benefits.

3 103. For example, just as JUUL launched, cigarette company expert witness Sally Satel
4 published an article in Forbes Magazine touting the benefits of nicotine—claiming it aids in
5 concentration—and stating that it is harmless.⁵⁴ In another article, she lauded efforts by JUUL and
6 others to develop nicotine-related products, and cast any doubters as hysterical and creating a
7 “panic”.⁵⁵

8 104. Numerous other articles, videos, and podcasts—also spread through social media—
9 echoed this same message that the public health community was overreacting to e-cigarettes and in
10 a panic about nothing.

11 105. During each of its multiple fundraising rounds, JUUL assured potential investors
12 that addiction to something that is not harmful is not harmful, suggesting that JUUL was no more
13 harmful than coffee.

14 106. On information and belief, JUUL and its co-conspirators spread this message
15 through hired third-party spokespersons and influencers.

16 107. Furthering their campaign of doubt and confusion, when asked directly about health
17 risks, JUUL’s employees and founders would point reporters to other sources to indicate that its
18 products had been shown to be safe, or not harmful, rather than admit what it knew were the
19 dangers.

20 108. JUUL well-understood from the cigarette industry playbook that sowing doubt and
21 confusion over the benefits and risks of e-cigarettes is key to long-term success. First, by creating
22 a “two-sides-to-every-story” narrative, JUUL reduced the barriers for young people and new users
23 to try the product, and gave addicted users permission to keep using the product and avoid the pain
24

25 ⁵⁴ Satel, *Nicotine Itself Isn't The Real Villain* (Jun 19, 2015), Forbes,
26 www.forbes.com/sites/sallysatel/2015/06/19/nicotine-can-save-lives/#60379f766f43 (as of July 5,
27 2019).

28 ⁵⁵ Satel, *Why The Panic Over JUUL And Teen Vaping May Have Deadly Results* (Apr 11, 2018),
Forbes, www.forbes.com/sites/sallysatel/2018/04/11/why-the-panic-over-juul-and-teen-vaping-may-have-deadly-results/#6b1ec693ea48 (as of July 5, 2019).

1 of withdrawal. Second, by engaging people who looked like independent experts, JUUL staved off
2 regulation and suppressed political opposition, allowing it a long runway to capture market share.
3 Third, by belittling the public health community, JUUL neutered its most vocal threat.

4 109. On information and belief, JUUL conspired with others in the cigarette industry to
5 fraudulently conceal the risks of e-cigarettes, recognizing that a campaign of doubt, misinformation
6 and confusion would benefit all of them and would be the key to the industry's survival.

7 **G. JUUL Intentionally Misrepresents and Grossly Understates the Amount of**
8 **Nicotine in each JUULpod.**

9 110. From JUUL's pre-release announcements to this day, JUUL, along with unnamed
10 Defendants Does 25 through 50 that provided marketing services to JUUL, has continuously falsely
11 represented that each pod contains only as much nicotine as a pack of cigarettes. JUUL repeats
12 these claims widely in advertisements, press releases, on its packaging, and on its web site. For
13 example, some JUUL advertisements and JUUL's website currently provides that each "JUULpod
14 is designed to contain approximately 0.7mL with 5% nicotine by weight at time of manufacture
15 which is approximately equivalent to 1 pack of cigarettes or 200 puffs."

16 111. This statement is false and seriously misleading because, as JUUL knows, it is not
17 just the amount of nicotine, but the efficiency with which the product delivers nicotine into the
18 bloodstream, that determines the product's narcotic effect, risk of addiction, and other health risks.

19 112. Defendant knows that benzoic acid affects pH and "absorption of nicotine across
20 biological membranes."⁵⁶

21 113. Assuming a concentration of 59 mg/mL, JUUL's reported nicotine content
22 corresponds to about 40 mg of nicotine per 0.7 mL JUULpod. If, as JUUL claims, this is equivalent
23 to one pack of cigarette (or 20 cigarettes), that implies 2 mg of nicotine per cigarette.

24 114. JUUL's equivalency claim further assumes 10 puffs per cigarette (i.e., 200 puff per
25 pack), or 0.2 mg (200 µg) of nicotine per puff.

26
27
28 ⁵⁶ Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine
Psychopharmacology (Oct 12, 2010), Handb Exp Pharmacol 192: 29–60
www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/ (as of July 5, 2019).

1 115. Typically, a cigarette that delivers around one milligram of nicotine in smoke retains
2 "about 14-20 milligrams of nicotine in the unsmoked rod," *USA v. Philip Morris, Inc.* (D.D.C.
3 2006) 449 F.Supp.2d 1, 567, for an overall delivery of 5-7% of the cigarette's actual nicotine
4 content. A study by the Center for Disease Control found that in "commercial cigarette brands,
5 nicotine concentrations ranged from 16.2 to 26.3 mg nicotine/g tobacco (mean 19.2 mg/g; median
6 19.4 mg/g)."⁵⁷ Assuming an average of 19 milligrams of nicotine per cigarette, an average pack of
7 cigarettes contains 380 milligrams of nicotine, or six times as much nicotine as the 62 milligrams
8 reported for each JUULpod. Yet the average pack would be expected to deliver only 5-7% (19-27
9 mg) of its nicotine content to the user. In line with this expectation, a study of thousands of smokers
10 found smokers intaking between 1.07 to 1.39 milligrams per cigarette (21.4-27.8 mg per pack).⁵⁸
11 This is less than half of the amount of nicotine contained in a JUULpod (i.e., 2 mg per "cigarette"
12 based on JUUL's stated concentration, or 200 µg per puff assuming 100% delivery). Even with the
13 slightly lower efficiency of delivery demonstrated in studies like Reilly (about 82%, for averages
14 of 164 µg per puff), this amounts to a substantially higher amount of nicotine that a human will
15 absorb from a JUULpod than from smoking a pack of cigarettes.

16 116. JUUL's statement in its advertisements that each JUULpod contains about as much
17 nicotine as a pack of cigarettes is therefore literally false and likely to mislead, because the amount
18 of nicotine contained in the JUULpod is perhaps six times less than in a pack of cigarettes, but the
19 actual amount of nicotine consumed via JUULpod is as much as twice as high as that via cigarettes.
20 This fact is never mentioned by JUUL or Does 1-100.

21 117. Further, while a pack of cigarettes contains 20 cigarettes which each have to be
22 separately lit, the JUUL can be inhaled continuously, and often can be used indoors without
23 detection by others, a feature that JUUL promoted heavily in its advertisements, eliminating the
24

25
26 ⁵⁷ Lawler *et al.*, Surveillance of Nicotine and pH in Cigarette and Cigar Filler (Apr 1, 2018), Tob
27 Regul Sci. 3(Suppl 1): 101-116, www.ncbi.nlm.nih.gov/pmc/articles/PMC5628511/ (as of July 5
28 2019).

⁵⁸ Jarvis *et al.*, Nicotine Yield From Machine-Smoked Cigarettes and Nicotine Intakes in
Smokers: Evidence From a Representative Population Survey (Jan 17, 2001), JNCI, Vol. 93,
2:134-138, www.ncbi.nlm.nih.gov/pubmed/11208883 (as of July 5 2019).

1 need for smoking breaks. Thus, the device design leads users to intake far more nicotine than would
2 occur with cigarettes.

3 118. Finally, the JUUL device does not have a manual or automatic "off" switch. On
4 information and belief, neither the JUULpod nor the programming of the JUUL device's
5 temperature or puff duration settings limit the amount of nicotine JUUL delivers each puff to the
6 upper bound of a cigarette. Thus, in contrast to a traditional cigarette, which self-extinguishes as
7 each cigarette is consumed, the JUUL allows non-stop nicotine consumption, which is limited only
8 by the device's battery. As a result, the JUUL is able to facilitate consumption of extraordinarily
9 high levels of nicotine that a cigarette cannot match. This makes it easier for the user to become
10 addicted to nicotine and poses additional health risks.

11 119. Contrary to Defendant's representations, the above data indicate that each JUULpod
12 delivers significantly more nicotine than a pack of cigarettes, both per pack and per puff. JUUL's
13 products thus have the foreseeable effect of luring youth, who react positively to a strong nicotine
14 "kick," and exacerbating nicotine addiction and adverse health effects associated with nicotine
15 consumption.

16 120. Thus, JUUL is more harmful when compared to cigarettes, in that the extraordinarily
17 high levels of nicotine can cause heightened blood pressure and stroke, and the repetitive exposure
18 to the toxins and chemical in JUUL can also cause vascular damage and stroke.

19 **H. Defendants Never Warned Mr. Meir that JUUL's Products Were Unsafe,**
20 **Addictive, and Dangerous.**

21 121. At no time before Mr. Meir became severely addicted did JUUL, nor any of the
22 other unnamed Defendants involved in the research, development, marketing and distribution of
23 JUUL products provide any warnings about the risks of severe addiction, mood disorders, stroke,
24 or other brain damage or injuries.

25 122. At no time before Mr. Meir became severely addicted did JUUL or any other
26 Defendants warn Mr. Meir that JUUL products were unsafe for him and anyone under age 26, nor
27 instruct him on how much JUUL would be safe to consume.
28

1 123. Despite making numerous revisions to its packaging since 2015, JUUL did not add
2 nicotine warnings until forced to do so in August of 2018, far too late for Plaintiffs. Neither did any
3 of the unnamed Defendants Does 1 through 100 involved in the research, development, marketing
4 of JUUL products and e-cigarettes provide any warnings. The original JUUL product labels had a
5 California Proposition 65 warning indicating that the product contains a substance known to cause
6 cancer, and a warning to keep JUULpods away from children and pets, but contained no warnings
7 specifically about the known effects, or possible long-term effects, of nicotine or vaping/inhaling
8 nicotine salts. Many of JUUL's advertisements, particularly before November 2017, also lacked a
9 nicotine warning.

10 124. Furthermore, JUUL misrepresents the nicotine content of JUULpods by
11 representing it as 5% strength. As discussed above, JUULpods contain more than 5% nicotine by
12 volume, and deliver it in a form that is particularly potent.

13 125. Instead, JUUL marketed its JUUL products as an "alternative to cigarettes," thereby
14 giving the false impression that they are not harmful like traditional cigarettes and safe to use.

15 126. Plaintiffs did not and could have known the risks associated with JUUL, because
16 Defendant had exclusive knowledge about its product, including its design, and concealed that
17 information from them.

18 127. Instead, as a result of JUUL's wildly successful marketing campaign, based on
19 tactics developed by the cigarette industry and amplified in social media, Ms. Chapman, Mr. Meir,
20 and Mr. Pitts reasonably believed that JUUL was safe, harmless, fun, and cool—a thing to do with
21 friends.

22 128. A 2017 study by the Truth Initiative Schroeder Institute® found that 6 percent of
23 youth and 10 percent of young adults have used a JUUL e-cigarette in the last 30 days. The study
24 also found that while many young people are aware of JUUL, many are unaware that the product
25 always contains the addictive chemical nicotine.

26 a. Twenty-five percent of survey respondents aged 15 to 24 recognized a JUUL
27 e-cigarette device when shown a photo of the product.
28

1 b. Among those who recognized JUUL, 25 percent reported that use of this
2 product is called “JUULing,” indicating that this product is so distinctive, it is perceived as its own
3 category.

4 c. Fully sixty-three percent of JUUL users did not know that this product
5 always contains nicotine.

6 I. **Despite knowledge that its products were unsafe for anyone under age 26, JUUL Deployed a Deceptive and Unfair Viral Marketing Campaign to Entice Young People to Start JUULing**

7 129. As described further below, Defendant has used the same strategies perfected by the
8 cigarette industry to sell JUUL products to young people. In particular, JUUL has both exploited
9 regulatory loopholes and relied heavily on social media and other viral advertising tools to hook
10 people, and in particular young persons, on its addictive e-cigarettes.

11 130. To accomplish this, JUUL adopted the same themes used by Philip Morris and other
12 cigarette companies in the industry’s long-standing, extensive advertising campaign to glamorize
13 cigarette smoking while downplaying its addictiveness and deleterious health effects.

14 131. Defendants Does 25 through 50 provided the strategies, analyses, and services to
15 JUUL enabling and in furtherance of JUUL’s deceptive and unfair marketing tactics.

16 1. **Overview of Viral Marketing Campaigns and Online Marketing**

17 132. “Viral marketing” is defined as “marketing techniques that seek to exploit
18 preexisting social networks to produce exponential increases in brand awareness, through processes
19 similar to the spread of an epidemic.”⁵⁹ Viral marketing is a form of word-of-mouth
20 recommendation that harnesses the network effect of the internet to rapidly reach a large number
21 of people. Because the goal in a viral marketing campaign is to turn customers into salespeople
22 who repeat a company’s representations on its behalf, a successful viral marketing campaign may
23 look like millions of disconnected, grassroots communications, when in fact they are the result of
24 carefully orchestrated corporate advertising campaign.

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26
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28 ⁵⁹ Larson, The Rise of Viral Marketing through the New Media of Social Media (2009), Liberty University Pub., https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1009&context=busi_fac_pubs (as of July 5, 2019).

1 133. Companies may use different media to transmit their viral messaging, but generally,
2 all viral marketing campaigns tend to share similar features, including (1) a simple message—
3 typically implied by an image—that elicits an emotional response; (2) the strategic use of marketing
4 platforms, especially social media, to reach and engage the target audience; (3) use of content that
5 invites participation and engagement; and (4) use of third parties to magnify the impact of a
6 message.

7 134. Typically, a viral marketing campaign will begin with a “push” by the company
8 seeking to advertise the product, and since the advent of social media, that push is typically done
9 through the creation of new content on a social media platform, such as Instagram, YouTube,
10 Twitter, Facebook or other similar platform (“Social Media Platforms”).⁶⁰ A company that wants
11 to push an ad on Social Media Platforms has a few options. First, the company can solicit followers
12 to its social media pages, so that when the company posts to its feed, the content would be delivered
13 to those followers and to those who visited the company page. Second, the company can purchase
14 paid advertisements that were delivered to specified target audiences. Then, to amplify a message,
15 companies can utilize other tools, such as paid influencers and strategic use of promotions and
16 hashtags, to blanket the targeted demographic with advertisements across social media.

17 135. Companies seeking to advertise new products or reach a new demographic have
18 discovered the power of the “like” and “share” features on social media, which allow users to
19 promote content to their own audiences. As Mark Zuckerberg, founder and Chief Executive Officer
20 of Facebook explained: “Nothing influences people more than a recommendation from a trusted
21 friend...A trusted referral is the Holy Grail of advertising.”⁶¹
22
23

24 ⁶⁰ Skrob, The viral marketing concept as a model for open source software to reach the critical
25 mass for global brand awareness based on the example of TYPO3 (Aug 2005), University of
26 Applied Science Kufstein, Austria, [http://citeseerx.ist.psu.edu/viewdoc/
download?doi=10.1.1.494.8779&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.494.8779&rep=rep1&type=pdf) (as of July 5, 2019).

27 ⁶¹ <https://www.ft.com/content/01341240-8cbd-11dc-b887-0000779fd2ac> (last accessed Dec. 13,
28 2018). See also Perkins v. LinkedIn Corp. (N.D. Cal. 2014) 53 F.Supp.3d 1190, 1210 (“One of
the principal reasons such viral marketing is superior to other forms of marketing is the source:
viral marketing comes from a friend or contact with whom the recipient is familiar and trusts as
opposed to an unfamiliar or untrusted source.”).

1 136. With the advent of social media, viral marketing campaigns have become a
2 particularly effective way to reach young people, particularly teenagers. Teenagers tend to use
3 social media far more than adults, and tend to be more susceptible to peer pressure. 95% of teens
4 report having use of a smart phone.⁶² 45% report being online "constantly." *Id.* 85% use YouTube.
5 *Id.* 72% use Instagram, and 69% use Snapchat. *Id.* Adolescents also have a far stronger herding
6 instinct than adults. The desire to fit in and look cool means that adolescents drive new trends
7 online. As many businesses know, young people are often skeptical of traditional advertising and
8 the tactics of large corporations. Thus, by pushing a viral marketing campaign, these businesses
9 can reach consumers who might ignore typical advertising and are more likely to respond to an
10 advertisement that does not look or feel like an advertisement, but instead is a message shared by
11 a friend, a peer, or some other person influential to the viewer.

12 137. Companies can also take viral messaging off-line. By running simple, catchy ads
13 with minimal text and graphic visuals, and displaying those ads in various forms, companies
14 generate buzz and discussion, which is reinforced through social media.

15 **2. The Cigarette Industry Has Long Relied on Youth-Focused Viral**
16 **Marketing and Flavors To Hook New Underage Users On Its Products.**

17 138. To remain profitable, the tobacco industry must continue to woo new customers:
18 some existing customers wean themselves from addiction and the others eventually die, so
19 replacement customers are needed. In recent years, tobacco usage in the United States has fallen
20 dramatically, with particularly large decreases in the youth smoking rates, which cigarette
21 companies have been vigorously trying to counteract. The cigarette industry knows that the younger
22 a person starts smoking, the longer they will have a customer. Historically, cigarette companies
23 fought to increase share penetration among the 14-24 age group because "young smokers have been
24 the critical factor in the growth" of tobacco companies, and "the 14-18 year old group is an
25 increasing segment of the smoking population."⁶³ The importance of the youth market was

26 ⁶² Anderson & Jiang, *Teens, Social Media & Technology 2018* (May 31 2018), Pew Research
27 Center, www.pewinternet.org/2018/05/31/teens-social-media-technology-2018/ (as of July 5,
2019).

28 ⁶³ Memo to: C.A. Tucker from: J.F. Hind Re: "Meet the Turk" (January 23, 1978)
<http://legacy.library.ucsf.edu/tid/lve76b00> (last visited June 5, 2018).

1 illustrated in a 1974 presentation by RJR's Vice-President of Marketing who explained that the
2 "young adult market . . . represent[s] tomorrow's cigarette business. As this 14 24 age group
3 matures, they will account for a key share of the total cigarette volume - for at least the next 25
4 years."⁶⁴

5 139. It is well-established that "marketing is a substantial contributing factor to youth
6 smoking initiation." *USA v. Philip Morris* (D.D.C. 2006) 449 F. Supp.2d 1, 570.

7 140. Because teenagers are at a stage in their psychosocial development when they are
8 struggling to define their own identities, they are particularly vulnerable to image-heavy
9 advertisements providing cues for the "right" way to look and behave amongst peers. *Id.* at 578.
10 Advertisements that map onto adolescent aspirations and vulnerabilities drive adolescent tobacco
11 product initiation. *Id.* at 570, 590. By making smoking a signifier of a passage into adulthood,
12 tobacco companies turned smoking into a way for teenagers to enhance their image in the eyes of
13 their peers. *Id.* at 1072

14 141. The landmark *USA v. Philip Morris* case revealed that tobacco companies targeted
15 adolescents for decades by: "(1) employ[ing] the concept of peers in order to market to teenagers;
16 (2) us[ing] images and themes in their marketing that appeal to teenagers; and (3) employ[ing]
17 advertising and promotion strategies to knowingly reach teenagers." No. 99-cv-2396, ECF 5732,
18 ¶ 2682 (D.D.C. 2008). In terms of images and themes that cater to adolescents, the court found
19 "overwhelming" evidence that tobacco companies intentionally exploited adolescents'
20 vulnerability to imagery by creating advertising emphasizing themes of "independence,
21 adventurousness, sophistication, glamour, athleticism, social inclusion, sexual attractiveness,
22 thinness, popularity, rebelliousness, and being 'cool.'" *Id.* at ¶ 2674.

23 142. Thus, the industry has long used viral marketing campaigns to push its products on
24 children, teens, and young adults. Prior to the advent of the Internet, cigarette companies engaged
25 in "viral advertising" or "influential seeding" by paying "cool people" to smoke in select bars and
26 clubs, with the "idea being that people will copy this fashion, which would then spread as if by
27

28 ⁶⁴ Mr. C.A. Tucker Presentation to RJRI BOFD - 9/30/74 (740930), "Marketing Plan" (1974),
www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=ympmw0091 (as of July 5, 2019)

1 infection.”⁶⁵ By simply paying some attractive, stylish third parties to use the product in trendy
2 public places, tobacco companies were able to create buzz and intrigue. As word spread, the public
3 would develop a strong association that smoking was what young, cool adults were doing.

4 143. Today, cigarette manufacturers like Altria are limited in their ability to advertise in
5 the United States, but actively use viral marketing techniques outside of the United States. For
6 example, Japan Tobacco International, one of JUUL’s early investors, launched social media
7 campaigns including a “Freedom Music Festival” promoting Winston cigarettes in Kazakhstan
8 Kyrgyzstan, and Jordan. Similarly, Phillip Morris International, a spin-off of Altria, JUUL’s largest
9 stakeholder, has used influencer campaigns in multiple countries. A campaign in Indonesia called
10 “I Decide To” has been viewed more than 47 million times online. A hashtag marketing campaign
11 called #NightHunters in Uruguay used paid influencers to pose with menthol cigarettes and was
12 seen by nearly ten percent of Uruguay’s population.⁶⁶

13 144. An influencer paid to promote Philip Morris brands stated that Philip Morris targets
14 a “super young profile” for its influencers . . . the people they selected are always the youngest.
15 They look for young people that have large groups of friends so [the social media promotional
16 message] gets expanded more and more.” *Id.* Another influencer allegedly stated that “we had a
17 training session with the person in charge of marketing in Marlboro, she talked to us about how
18 difficult it was for them to advertise due to all the laws in place. She also talked to us about . . .
19 [linking] the brand to certain colors or situations.” *Id.* (brackets in original).

20 145. A study carried out by the campaign for tobacco-free kids, reported that “tobacco
21 companies are secretly paying social media stars to flood your newsfeed with images of their
22 cigarette brands.” *Id.* In a nutshell, “young social media stars are paid to make smoking look cool.”
23 *Id.* A gallery of influencer posts is available at:
24 <https://www.takeapart.org/wheretheressmoke/gallery/>.

26 ⁶⁵ Golden Holocaust, 119 (citing Ted Bates and Co., Copy of a Study of Cigarette Advertising
27 Made by J.W. Burgard; 1953, (Lorillard), n.d., Bates 04238374-8433.

28 ⁶⁶ *New Investigation Exposes How Tobacco Companies Market Cigarettes on Social Media in the
U.S. and Around the World* (Aug 27, 2019) Campaign For Tobacco-Free Kids
www.tobaccofreekids.org/press-releases/2018_08_27_fic (as of July 5, 2019).

1 146. Similarly, in 1988 the R.J. Reynolds Tobacco Company introduced the infamous
2 Joe Camel cartoon campaign, which faced instant criticism due to how appealing the cartoon animal
3 was to children and teens. Joe Camel was drawn as sleek, metropolitan figure, typically wearing
4 sunglasses or a tuxedo, or was depicted driving convertibles, gambling, or playing pool. The ads
5 often used the phrase "Smooth Character," which to teenagers, meant he had a slick, cool
6 personality. That in turn led to an association between smoking and coolness in the minds of young
7 people. To ensure that message stuck, R.J. Reynolds put up billboards featuring Joe Camel near
8 schools, and printed Joe Camel shirts, hats, and other paraphernalia, ensuring the campaign would
9 be carried far and wide, and that kids would constantly be exposed to it. Only three years after the
10 campaign began, in 1991, the Journal of the American Medical Association published a study
11 showing that by age six nearly as many children could correctly respond that "Joe Camel" was
12 associated with cigarettes as could respond that the Disney Channel logo was associated with
13 Mickey Mouse, and it alleged that the "Joe Camel" campaign was targeting children, despite R. J.
14 Reynolds' claim (similar to the claim of Defendants here) that the campaign was directed only to
15 adults who were already smokers of other brands.⁶⁷ At that time researchers estimated that 32.8%
16 of all cigarettes sold illegally to underage buyers were Camels.⁶⁸ The Joe Camel campaign ended
17 under the pressure of an impending civil trial brought by the City Attorney in San Francisco,
18 Congressional investigation, and public pressure.⁶⁹

19 147. Cigarette companies have also known for decades that flavored products are key to
20 nicotine adoption by youth. A 1972 Brown & Williamson internal memorandum titled "Youth
21 Cigarette – New Concepts," observed that "it's a well known fact that teenagers like sweet
22 products."⁷⁰ A 1979 Lorillard memorandum found "younger" customers would be "attracted to
23

24 ⁶⁷ Fischer *et al.*, Brand Logo Recognition by Children Aged 3 to 6 Years (Dec 11, 1991), JAMA
25 266(22):3145-8, www.ncbi.nlm.nih.gov/pubmed/1956101 (as of July 5, 2019).

26 ⁶⁸ DiFranza *et al.*, RJR Nabisco's cartoon camel promotes camel cigarettes to children (Dec 11,
27 1991) JAMA 266(22):3149-53, www.ncbi.nlm.nih.gov/pubmed/1956102 (as of July 5, 2019).
(The JUULs represent an even higher percentage of all cigarettes and e-cigarettes sold to minors.)

28 ⁶⁹ Joe Camel, Wikipedia https://en.wikipedia.org/wiki/Joe_Camel#cite_note-8 (as of July 5, 2019).

⁷⁰ Brown & Williamson official A.J. Mellman, (1983) Tobacco Industry Quotes on Nicotine
Addiction, www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf (as of July 5, 2019).

1 products with 'less tobacco taste,'" and suggested investigating the "possibility of borrowing
2 switching study data from the company which produces 'Life Savers' as a basis for determining
3 which flavors enjoy the widest appeal" among youth.⁷¹ A 2008 study found that 17-year-old
4 smokers were more than three times as likely as those over the age of 25 to smoke flavored
5 cigarettes, and they viewed flavored cigarettes as safer.⁷² Cigarette companies also used
6 advertisements that paired cigarettes with foods, to make it seem like cigarettes were part of a
7 healthy meal.

8
9 **J. Because Advertising Fuels Youth Smoking, Tobacco Companies are Prohibited
from Viral Marketing Practices and Use of Flavors**

10 148. Most of the activities described in the section above are now recognized as against
11 public policy, and thus forbidden for cigarette companies.

12 149. Under the Tobacco Master Settlement Agreement ("MSA"), reached in 1998,
13 participating manufacturers agreed not to "take any action, directly or indirectly, to target Youth
14 within any Settling State in the advertising, promotion or marketing of Tobacco Products, or take
15 any action the primary purpose of which is to initiate, maintain or increase the incidence of Youth
16 smoking within any Settling State." MSA, § III(a). They are also prohibited from

- 17 a. using outdoor advertising such as billboards,
18 b. sponsoring events,
19 c. giving free samples,
20 d. paying any person "to use, display, make reference to or use as a prop any
21 Tobacco Product, Tobacco Product package . . . in any "Media," which includes "any motion
22 picture, television show, theatrical production or other live performance," and any "commercial
23 film or video,"; and
24

25 ⁷¹ Flavored Tobacco FAQs, Students Working Against Tobacco, (citing, Sedgefield Idea Sessions
26 790606-790607. June 8, 1979. Bates No. 81513681/3691)
27 <http://swatflorida.com/uploads/fightresource/Flavored%20Tobacco%20Industry%20Quotes%20and%20Facts.pdf> (as of July 5, 2019)

28 ⁷² Klein *et al.*, Use of flavored cigarettes among older adolescent and adult smokers: United States, 2004-2005. (Jul 2008) Nicotine Tob Res. 10(7):1209-14, <https://www.ncbi.nlm.nih.gov/pubmed/18629731> (as of July 5, 2019).

1 e. paying any third party to conduct any activity which the tobacco
2 manufacturer is prohibited from doing.

3 150. In 2009, the FDA banned flavored cigarettes pursuant to its authority under the
4 Family Smoking Prevention and Tobacco Control Act of 2009. Then-FDA commissioner
5 Dr. Margaret A. Hamburg announced the ban because “flavored cigarettes are a gateway for many
6 children and young adults to become regular smokers.”⁷³

7 151. The Tobacco Control Act of 2009 also prohibited sales of cigarettes to minors,
8 tobacco-brand sponsorships of sports and entertainment events or other social or cultural events,
9 and free giveaways of sample cigarettes and brand-name non-tobacco promotional items.

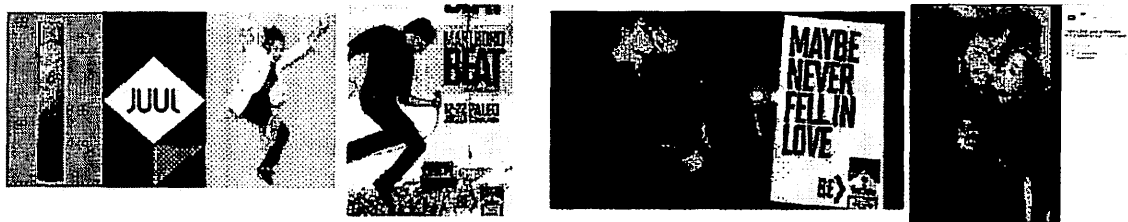
10 152. A study of the cigarette flavor ban in 2017 found that the flavor ban was effective
11 in lowering the number of smokers and the amount smoked by smokers, but also was associated
12 with an increased use of menthol cigarettes.⁷⁴ The same study reported that 85% of adolescents
13 who use e-cigarettes use flavored varieties.

14 1. **JUUL’s Marketing Leveraged Banned Strategies Perfected by**
15 **Cigarette Companies to Induce Minors and Young Non-Smokers to**
16 **Purchase JUUL Products**

17 153. Following the successful model of its predecessors, since 2015, JUUL, in
18 conjunction and in concert with unnamed Defendants Does 25 through 50 involved in providing
19 marketing services to JUUL, has been operating a long-term viral marketing campaign aimed at
20 teenagers and young adults. This campaign extends and expands upon deceptive advertising tropes
21 used by tobacco companies to exploit the psychological needs of consumers—especially youth—
22 to convert them into smokers.

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26 ⁷³ Harris, *Flavors Banned From Cigarettes to Deter Youth* (Sep 22, 2009), The New York Times,
27 www.nytimes.com/2009/09/23/health/policy/23fda.html (as of July 5, 2019).

28 ⁷⁴ Courtemanche *et al.*, Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use
(May 2017), Am J Prev Med 52(5):e139-e146, www.ncbi.nlm.nih.gov/pubmed/28081999 (as of
July 5, 2019)



154. JUUL's admitted reliance on tobacco industry documents is apparent in a collection of JUUL advertisements compared to historical cigarette advertisements on Stanford's Research into Impact of Tobacco Advertising ("SRITA") website. The side-by-side comparison of numerous JUUL advertisements shows that its imagery directly parallels that adopted by cigarette manufacturers, including imagery relating to attractiveness, stylishness, sex appeal, fun, "belonging," relaxation, and sensory pleasure, including taste.

155. Because of social media, JUUL has been able to operate an even more pervasive, insidious, and successful viral marketing campaign than its predecessors in this industry. As set forth below, JUUL developed and oversaw a long-term viral marketing campaign with the intent to convince young people to purchase its products. JUUL's advertisements presented images depicting an idealized future self that adolescents could achieve by taking up JUUL products.

156. JUUL carried this campaign out by: (i) intentionally designing a campaign that was simple and would trigger an emotional response, particularly with young people; (ii) intentionally designing flavored products that would appeal to teenagers and young adults; (iii) directing its advertising to teenagers and young adults on social media; (iv) utilizing third party influencers to amplify its message around the internet; (v) utilizing other social media tools, such as hashtags, to encourage participation and word-of-mouth messaging by its customers; (vi) amplifying the message through off-line advertising; and (vii) using a pricing and distribution model designed to put the product within reach of youth.

157. JUUL's advertisements consistently withheld material information about the dangers of the product. Through this long-term advertising campaign, JUUL was able to persuade consumers, and in particular teenagers and young adults that its product was cool, while hiding from them the dangers associated with using the product. And because of the viral nature of JUUL's

1 marketing, JUUL promotions continue to reach youth, despite JUUL's deactivation of its social
2 media accounts.

3 **2. JUUL Advertising Used Imagery that Exploited Young People's**
4 **Psychological Vulnerabilities.**

5 158. Throughout the relevant period, JUUL ran a consistent, simple message on social
6 media that communicated to people, and in particular, teenagers and young adults that JUUL's
7 products were used by popular, attractive, and stylish young adults (i.e., an idealized version of an
8 adolescent's future self) while failing to adequately and conspicuously disclose the nature or risks
9 of the products.

10 159. In designing the campaign, JUUL knew that to increase the chances that content
11 goes viral amongst the teen demographic, it needed to design a campaign that was simple, would
12 generate an emotional response that would resonate with teenagers, and obscure the fact that the
13 product was unsafe and addictive.

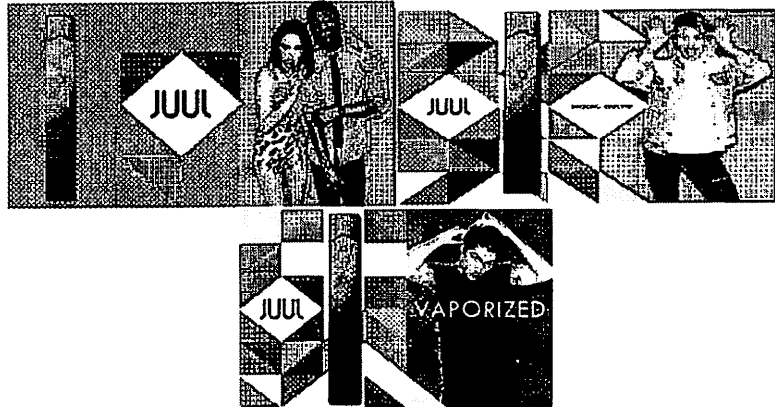
14 160. To help it design these ads, JUUL relied on various social media marketing
15 companies. In 2015, JUUL worked with Cult Collective, instructing Cult Collective to design an
16 ad campaign that would catch fire and reach customers who had "heard it all before." At the time,
17 JUUL was a young company, competing with bigger, more established companies with large
18 advertising budgets and high brand loyalty. The solution JUUL and Cult Collective reached was to
19 position JUUL as a modern product that represented a better way of life for young people. That
20 campaign was highly effective.

21 **3. JUUL's Launch Campaign Was Targeted to Create Buzz Among Young**
22 **Consumers.**

23 161. To announce the JUUL's release in June 2015, JUUL launched the "Vaporized"
24 advertising campaign that was aimed at a youth audience.⁷⁵ The campaign used young, stylish
25

26
27 ⁷⁵ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with 'Vaporized' Campaign* (Jun 23, 2015)
28 ADAGE, <http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/> (as of July 5, 2019).

1 models, bold colors, and memorable imagery. The models were often using hand gestures or poses
2 that mimicked teenagers.



10 162. JUUL's advertisements presented images depicting an idealized future self that
11 adolescents could achieve by taking up JUUL products.

12 163. The Vaporized campaign advertisements featured young, stylish models and images
13 of attendees at JUUL's launch parties and highlighted themes of sexual attractiveness, thinness,
14 independence, rebelliousness and being "cool." This Vaporized campaign targeted youth using the
15 exact template established by the cigarette companies decades earlier.

16 164. Often the Vaporized ads contained the phrase "Smoking Evolved," so that
17 consumers, and in particular youth, would associate JUUL with high tech and the latest generation
18 of cool products, like iPhones and MacBooks.

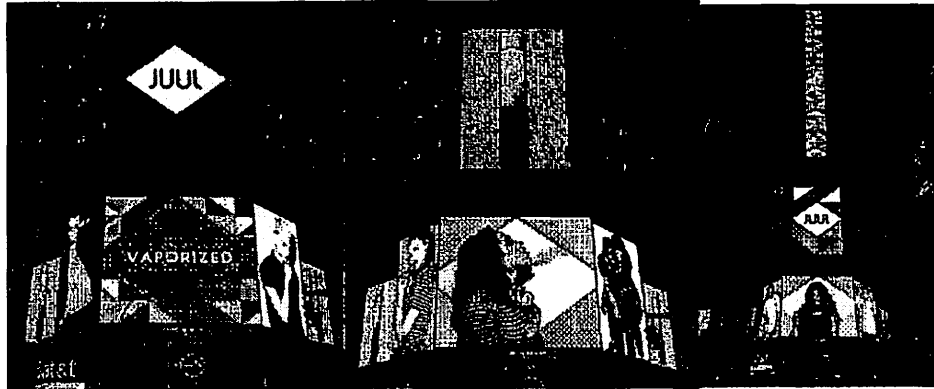
19 165. The color scheme chosen was similar to colors used by Natural Americans Spirit
20 Cigarettes, a leading brand of cigarettes among teenagers.

21 166. Nowhere in the Vaporized ads did JUUL include any visible or prominent
22 disclaimers about the dangers of nicotine or e-cigarettes as described above or state that JUUL was
23 unsafe for anyone under age 26.

24 167. As the Cult Collective creative director explained, "We created ridiculous
25 enthusiasm for the hashtag 'Vaporized,' and deployed rich experiential activations and a brand
26 sponsorship strategy that aligned perfectly with those we knew would be our best customers."⁷⁶

27
28 ⁷⁶ Jackler *et al.*, JUUL Advertising Over its First Three Years on the Market (Jan 31, 2019)
Stanford Research into the Impact of Tobacco Advertising, Stanford University School of
Medicine, http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf
- 38 -

1 168. As part of the Vaporized campaign, JUUL advertised on a 12-panel display over
2 Times Square.



10 169. Billboard advertising of cigarettes has for years been unlawful under the Master
11 Settlement Agreement reached between 46 states' attorneys general and cigarette companies, but
12 JUUL took advantage of that agreement's failure to foresee the rise of vaping products to advertise
13 its nicotine products in a manner that had already been deemed against public policy for other
14 nicotine products.

15 170. To ensure that its message would spread, JUUL utilized several other tools to put its
16 product in front of young people. First, it ran the Vaporized campaign in the front spread of Vice
17 magazine's cover issue. Notably, Vice bills itself as the "#1 youth media brand" in the world and
18 is known for running edgy content that appeal to youth. JUUL also implemented a series of pop-up
19 "JUUL bars" in Los Angeles, New York, and the Hamptons, imitating pop-up restaurants and bars
20 typically aimed at attracting young, hip urban consumers. Again, this is an activity which would
21 have been prohibited by law for a cigarette company on the ground that it was against public policy.

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28 (as of July 5, 2019). (Citing, Cult Creative JUUL case study. <http://cultideas.com/case-study/juul>
(last accessed September 21, 2018)). (emphasis added)



171. JUUL's chief marketing officer, Richard Mumby said "while other campaigns tend to be 'overtly reliant on just the product,' [JUUL's] effort features diverse 20-to-30-year-olds using the product."⁷⁷ This reliance on images of young, diverse users was specifically aimed at convincing young people who were not previously addicted cigarette smokers to purchase JUUL products, to make the use of JUUL appear fun and without long-term negative consequences, to position the JUUL e-cigarette as the e-cigarette of choice for young adults, and to introduce youth to the "illicit pleasure" of using the JUUL products.⁷⁸

172. JUUL promoted the Vaporized campaign on Facebook, Instagram, and Twitter. The Vaporized campaign included the largest ENDS smartphone campaign of 2015, which accounted for 74% of all such smartphone advertising that year and generated over 400 unique promotions.

173. JUUL also sponsored at least 25 live social events for its products in California, Florida, New York and Nevada. The invitations to JUUL's events did not indicate that the JUUL was intended for cigarette smokers, was unsafe for anyone under 26, contained nicotine, carried significant health risks or was addictive. Instead, the promised attendees "free #JUUL starter kit[s]," live music, or slumber parties. Photographs from these events indicate that they drew a youthful crowd. Use of sponsored events was a long-standing practice for tobacco companies, but is now forbidden.

⁷⁷ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with 'Vaporized' Campaign* (June 23, 2015), AdAge, <http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/> (as of July 5, 2019)

⁷⁸ Additional images and videos are available at http://tobacco.stanford.edu/tobacco_main/subtheme_pods.php?token=fm_pods_mt068.php (as of July 5, 2019).

1 174. John Schachter, director of state communications for Campaign for Tobacco-Free
2 Kids, expressed “concern about the JUUL campaign because of the youth of the men and women
3 depicted in the campaign, especially when adjoined with the design.” Mr. Schachter said “the
4 organization has noticed obvious trends that appeal to adolescents in e-cigarette campaigns such as
5 celebrity endorsements, sponsorships and various flavors.”⁷⁹

6 175. To the extent that the Vaporized advertisements disclosed that JUUL products
7 contained nicotine, the warnings were in small print against low-contrast backgrounds, making
8 them easy to overlook. By way of comparison, if the same ads had been touting cigarettes, they
9 would have been required to display a health warning in high contrast black and white in a box
10 comprising 30% of the image.

11 **4. JUUL Gave Away Free Products to Get New Consumers Hooked**

12 176. JUUL distributed free starter packs at the live social events described above in
13 paragraph 125—conduct forbidden for a cigarette company under the Tobacco Master
14 Settlement Agreement, because it lured young people into nicotine addiction and related harms.
15 BeCore, one of the firms responsible for designing and implementing JUUL’s live events reported
16 that “on average, BeCore exceeded the sampling goals set by JUUL . . . average number of
17 samples/event distributed equals 5,000+.”⁸⁰ At these events, BeCore distributed the appropriately-
18 named JUUL “Starter Kits,” which contain a JUUL and 4 JUULpods of varying flavors. If BeCore
19 indeed gave away 5,000 Starter Kits per event, JUUL effectively distributed the nicotine equivalent
20 of 20,000 packs of cigarettes at each of the 25 events described above—or the equivalent of 500,000
21 packs of cigarettes at all 25 events.

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25 ⁷⁹ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with ‘Vaporized’ Campaign* (June 23, 2015),
26 AdAge, [http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-](http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/)
[campaign/299142/](http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/) (as of July 5, 2019)

27 ⁸⁰ Jackler *et al.*, *JUUL Advertising Over its First Three Years on the Market*, Stanford Research
28 into the Impact of Tobacco Advertising, Stanford University School of Medicine (Jan 31, 2019),
http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (as of
July 5, 2019).



JUUL shared an event.
June 16, 2015

Hey Brooklyn. We will be in Industry City this Friday at Rooftop Films Inc.'s screening, and we have FREE tickets just for you. All attendees will receive a complimentary #JUUL starter kit. Please PM us for the code.



FRI, JUN 19, 2015
Rooftop Films Presents: New York Non-Fiction
Industry City · Brooklyn, New York
1,377 people want

★ Interested

Like

Comment

Write a comment...

177. Though JUUL publicly acknowledged in October 2017 that it is unlawful to free samples of its products at live events, JUUL continued to do so, sometimes through \$1 “demo events.” Notably, promotions of this kind are prohibited for cigarette companies by the MSA.

178. The effect—and purpose—of JUUL’s Vaporized giveaways was to flood major cities with free product which by its addictive nature would hook tens or hundreds of thousands of new users, and to generate buzz for the brand among urban trendsetters who would then spread JUUL’s message to their friends via word of mouth and social media. Similar campaigns have long been used by drug cartels. This campaign unconscionably flooded cities with free samples of an addictive product, with distribution focusing on the youth market. As a foreseeable result, JUUL

1 products ended up in the hands of non-smokers and youth, like Plaintiffs, who used the products,
2 became addicted to nicotine and suffered severe health consequences.

3 **5. JUUL Portrayed Its Products as Status Symbols.**

4 179. As tobacco companies have long known, young people—and adolescents in
5 particular—find security and a sense of identity in status symbols. Even after the “Vaporized”
6 campaign, JUUL’s later advertisements mimicked the look and feel of the “Vaporized” ads to foster
7 the image of JUUL e-cigarettes and JUULpods as sleek, stylish, status symbol. For example, JUUL
8 developed and ran a series of advertisements that were simple images of stylish young people using
9 JUUL.

10 180. All of these ads communicated to teenagers that JUUL was a product being used by
11 cool, modern young people, which JUUL, like all cigarette companies, knows is a powerful
12 message. None of these ads prominently disclosed the dangers of using JUUL.

13 181. Other JUUL advertisements relied on graphic images with the look and feel of
14 advertisements by Apple, Google, and similar tech companies with progressive and modern
15 reputations. Again, these ads resonated with teenagers as well, as they made JUUL, and especially
16 the flavored pods, look like cool gadgets or software, something akin to an iPhone or a hot new app
17 to download. Like the other ads, none prominently disclosed the dangers of using JUUL.

18 182. JUUL also consistently compared the JUUL to the iPhone through statements like
19 “the iPhone of e-cigarettes,” which JUUL posted on its website, distributed through social media,
20 and disseminated through its email campaign. The iPhone is the most popular smartphone among
21 adolescents, with 82% of teenagers preferring Apple’s phone over the competition. JUUL’s
22 advertising images frequently include pictures of iPhones and other Apple devices, including iPads,
23 Beats Headphones, MacBook laptops. Through these images, JUUL presented its image a “must
24 have” technology product and status symbol, instead of a nicotine delivery system.

25 183. Beyond triggering an emotional response in teenagers, all of JUUL’s social media
26 advertising had three additional things in common. First, through the use of clean lines, artistic
27 arrangements, minimal text, and eye-catching graphics, JUUL ensured that the advertisements
28

1 would jump out to distracted teenagers who scrolled crowded social media pages on their phones
2 and browsers.

3 184. Second, all of JUUL's advertisements reflect an understanding that social media
4 users in general, and teenagers in particular, do not typically read long blocks of text on social
5 media, and rely more heavily on imagery instead of text to convey a message. Many of the ads did
6 not include any warning about the dangers of JUUL or suggest to teenagers that the product
7 contained nicotine.

8 185. Moreover, where JUUL's advertisements appeared to contain such a disclaimer, this
9 disclaimer was not typically seen when viewing social media due to the way the posts appear in
10 phones and browsers. In particular, Facebook and Instagram typically only present to users the
11 image and a couple lines of text, and viewers who want to see the entire post must click on it to
12 open it up and read the rest.

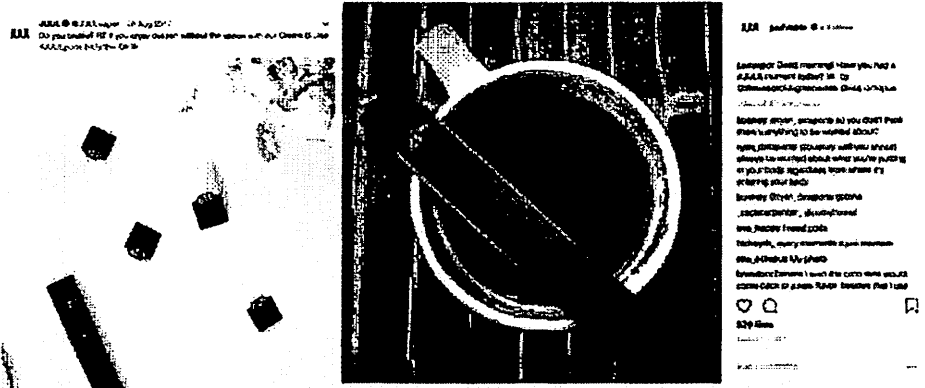
13 186. JUUL's Instagram advertisements obscure those nicotine warnings by placing them
14 in a location that requires the user to open up the post and read it. As can be seen in JUUL's
15 Instagram ads, the company consistently used brief text at the beginning of a post so that it would
16 be a complete sentence with no further content. Thus, the disclaimer was never visible to anyone
17 viewing the posts in their main feed, and it was only seen by a limited number of people who elected
18 to open the post and then read what was there. Notably, on Twitter, a Social Media Platform that is
19 geared towards reading text, and on Facebook, where some users do read text, JUUL typically did
20 not include the disclaimer in its advertisements.

21 187. Third, JUUL's advertisements were typically creative, giving them the look and feel
22 of "art." Thus, teenagers were drawn to the advertisements, holding their gaze on the ads for longer
23 periods of time, and being more inclined to share the advertisement with others in their networks,
24 thus accomplishing JUUL's goal: turning consumers into salespeople.

25 188. Even JUUL's newer "alternative for adult smokers" tagline suggests to adolescents
26 that JUUL-use is a symbol of status as an adult, which happens to be an advertising theme cigarette
27 companies peddled to youth for decades.
28

6. **JUUL Used Flavors and Food Imagery to Attract Teenagers and Downplay Risks**

189. JUUL sells its JUULpods in a variety of sweetened flavors. It even advertised some of its flavors as though they were desserts in themselves. For example, it advertised its crème brulee flavor using tag lines like “save room for JUUL” and “indulge in dessert without the spoon.” JUUL used imagery that looked like ads for a trendy coffee shop or restaurant.



190. Again, none of these advertisements prominently disclosed that JUUL was addictive and unsafe.

191. The tobacco industry has long known that sweetened cigarettes attracted young smokers. As discussed above, the FDA banned flavored cigarettes for that reason.

192. The use of flavors that appeal to youth has a marked effect on e-cigarette adoption by young “vapers.” A national survey found that that 81 percent of youth aged 12-17 who had ever used e-cigarettes had used a flavored e-cigarette the first time they tried the product, and that 85.3 percent of current youth e-cigarette users had used a flavored e-cigarette in the past month.

193. Moreover, 81.5 percent of current youth e-cigarette users said they used e-cigarettes “because they come in flavors I like.”⁸¹ Another peer-reviewed study concluded that “Young adults who use electronic cigarettes are more than four times as likely to begin using regular cigarettes as their nonvaping peers, a new study has found.”⁸²

⁸¹ Ambrose *et al.*, Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014 (Oct 26, 2015), JAMA 314(17):1871-1873
<https://jamanetwork.com/journals/jama/fullarticle/2464690>

⁸² Primack *et al.*, Initiation of Traditional Cigarette Smoking after Electronic Cigarette Use Among Tobacco-Naïve US Young Adults (Apr 2018), Vol. 131, Issue 4, 443.e1–443.e9, [www.amjmed.com/article/S0002-9343\(17\)31185-3/fulltext](http://www.amjmed.com/article/S0002-9343(17)31185-3/fulltext)

1 194. Research also shows that when youth see flavored ENDS liquids advertisements,
2 they believe the advertisements and products are intended for them.⁸³

3 195. The use of attractive flavors foreseeably increases the risk of nicotine addiction, and
4 e-cigarette related injuries, as traditional cigarette product designs aimed at reducing the unpleasant
5 characteristics of cigarette smoke (e.g., addition of menthol to mask unpleasant flavors) have
6 previously been shown to contribute to the risk of addiction.⁸⁴ Worse still, adolescents whose first
7 tobacco product was flavored are more likely to continue using tobacco products than those whose
8 first product was tobacco-flavored.

9 196. JUUL's kid-friendly flavors included Mango, "Cool" Mint, and Menthol. 74% of
10 youth surveyed in a recent study indicated that their first use of a JUUL was of a flavored pod.⁸⁵
11 More than half of teens in a nationwide survey by the Wall Street Journal stated that they use ENDS
12 because they like the flavors.

13 197. When JUUL released what are now the two most popular flavors among youth:
14 Mango and "Cool" Mint ("Cool Mint"), JUUL promoted those flavors on Instagram, Twitter,
15 YouTube and Facebook—all of which are skewed toward young audiences.

16 198. JUUL's Mango pods quickly became the runaway favorite among youth. The
17 Mango pods are so popular that, incredibly, they noticeably increased the use of the word "mango"
18 on the internet as a whole. Starting in early 2017, Google Trends reports a nearly five percent
19 increase in year-over-year use of the word "mango" online.⁸⁶
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24 ⁸³ McKelvey *et al.*, Youth say ads for flavored e-liquids are for them (Aug 29, 2018), *Addict Behav.* 91:164-170, www.ncbi.nlm.nih.gov/pubmed/30314868 (as of July 5, 2019)

25 ⁸⁴ How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-
26 Attributable Disease: A Report of the Surgeon General, Chapter 4, Nicotine Addiction: Past and
Present (2010) www.ncbi.nlm.nih.gov/books/NBK53017/ (as of July 5th, 2019).

27 ⁸⁵ McKelvey *et al.*, Adolescents and young adults use in perceptions of pod-based electronics
cigarettes (Oct 19, 2018), *JAMA Netw Open.* 1(6): e183535
www.ncbi.nlm.nih.gov/pmc/articles/PMC6324423/ (as of July 5, 2019).

28 ⁸⁶ <https://trends.google.com/trends/explore?date=2014-06-01%202018-12-05&geo=US&q=mango>

1 199. “Cool” Mint became youths’ second youth favorite flavor. The 2018 Duell Study
2 found 94 mg/mL nicotine in a JUUL “Cool” Mint pod – nearly double the amount on JUUL’s “5%
3 strength” label would suggest.

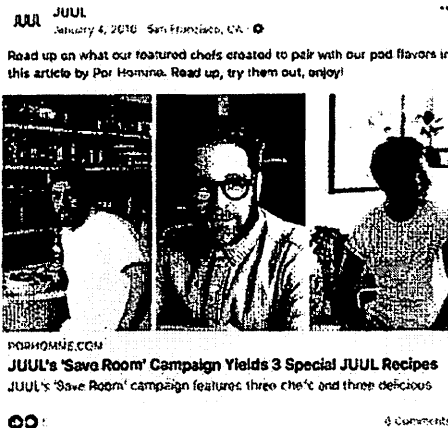
4 200. JUUL’s advertising emphasized the flavors of its sweetened nicotine pods.
5 Leveraging the flavors, JUUL advertised JUULpods as part of a meal, to be paired with other foods.
6 In late 2015, JUUL began a food-based advertising campaign called “Save Room for JUUL.” A
7 play on the expression “save room for dessert,” JUUL’s campaign focused on the JUULpods’ sweet
8 flavors, and pairing them with foods. JUUL described its crème brulee nicotine pods as “the perfect
9 evening treat,” using tag lines like “save room for JUUL” and “indulge in dessert without the
10 spoon.” In one 2016 email, JUUL bluntly suggested that users satisfy their sugar cravings with
11 JUUL’s highly-addictive nicotine vapor: “Have a sweet tooth? Try Brulee.”

12 201. JUUL similarly promoted the Fruit Medley pods using images of ripe berries. JUUL
13 described its “Cool” Mint pods as having a “crisp peppermint taste with a pleasant aftertaste” and
14 encouraged consumers to “Beat The August Heat With Cool Mint,” and in a Facebook
15 advertisement dated July 10, 2017, JUUL urged customers to “start your week with cool mint
16 juulpods.”⁸⁷ Along with the bright green caps of the “Cool” Mint JUULpods, the Facebook ad
17 included an image of a latte and an iPad. *Id.*

18 202. JUUL even hired celebrity chefs to provide pairing suggestions for JUUL flavors.
19 On Instagram and Twitter, JUUL boasted about “featured chef” Bobby Hellen creating a “seasonal
20 recipe to pair with our bruule pod.” On Facebook, JUUL posted a link to an article on
21 porhomme.com about “what our featured chefs created to pair with our pod flavors.”⁸⁸ JUUL
22 tweeted repeatedly about its flavors and encouraged its social media followers to share their
23 preferred pairings.
24
25
26

27 ⁸⁷ <https://airtable.com/tblkPVYIp5AFNLrTy/viwwFFlmOJSzXHskhz/recEYkrXbuSCdZB0h>

28 ⁸⁸ Facebook 10,
<https://airtable.com/tblkPVYIp5AFNLrTy/viwwFFlmOJSzXHskhz/rec0vT9owbjQeVUuY>.



203. In several caffeine-pairing advertisements, JUUL devices or pods sit next to coffee and other caffeinated drinks, sometimes with what appear to be textbooks in the picture. JUUL's coffee-based advertisements suggest that JUUL should be part of a comfortable routine, like a cup of coffee. This comparison to coffee was an intentional effort to downplay and minimize the risks of JUUL, suggesting it was no more risky than coffee.

204. By positioning JUULpods as a delicious treat rather than a system for delivering a highly addictive drug with dangerous side effects, JUUL unfairly led consumers to the conclusion that JUULpods were not only healthy (or at least essentially harmless), but also a pleasure to be enjoyed regularly, without guilt or adverse effect.

205. By modeling its nicotine pods' flavor profiles on sweets, naming its nicotine pods after those sweets, and using images of the sweets in JUULpod advertisements, JUUL conditioned viewers of its advertisements to associate JUUL with those foods. Through this conditioning process, Defendant sought to link the sight or mention of JUUL products to mental images of the fruits and desserts in JUUL's advertising, which would in turn trigger food-based physiological arousal including increased salivation and heart rate. These physiological responses, in turn, would make JUUL use more appealing.

206. By 2017, JUUL knew that the foreseeable risks posed by fruit and candy-flavored e-liquids had materialized. A significant percentage of JUUL's customers included adolescents who overwhelmingly preferred Fruit Medley and Crème Brulee over Tobacco or Menthol.⁸⁹ Instead of

⁸⁹ Truth Initiative, *JUUL fails to remove all of youth's favorite flavors from stores* (Nov 15, 2018), <https://truthinitiative.org/news/juul-fails-remove-all-youths-favorite-flavors-stores> (as of

1 taking corrective action or withdrawing the sweet flavors, JUUL capitalized on youth enthusiasm
2 for its products.

3 207. JUUL disingenuously asserts that it did not intend its flavors to appeal to young
4 people, including Plaintiffs. After 11 senators sent a letter to JUUL questioning its marketing
5 approach and kid-friendly e-cigarette flavors like Fruit Medley, Creme Brulee and Mango, JUUL
6 visited Capitol Hill and told senators that it never intended its products to appeal to kids and did
7 not realize they were using the products, according to a staffer for Sen. Dick Durbin (D-Ill.).
8 JUUL's statements to Congress—which parallel similar protests of innocence by cigarette company
9 executives—were false.

10 208. In November 2018, in response to litigation and other mounting public pressures,
11 JUUL announced that it had “stopped accepting retail orders” for many of its flavored JUULpods,
12 such as mango, crème brulee, and cucumber.⁹⁰ But JUUL's promise is misleading. JUUL has only
13 refused to sell them directly to retailers, but it still manufactures and sells the JUULpods. The pods
14 can still be purchased on its website by persons under age 26. JUUL also continues to sell “Cool”
15 Mint in gas stations knowing that the flavor is incredibly popular with youth and will become the
16 de facto favorite if access to other flavors is removed.

17 209. The only responsible solution to prevent flavored JUULpods from getting into the
18 hands of young people is to stop manufacturing them.

19
20 **7. JUUL Developed Point-of-Sale Advertising That Emphasized the**
Products' Positive Image Without Adequately Disclosing Its Nature and
Risks.

21 210. The cigarette industry spends \$8.6 billion a year in point-of-sale (“POS”)
22 promotions—or almost \$990,000 every hour.⁹¹ In a 2009 study of adult daily smokers, unintended
23 cigarette purchases were made by 22 percent of study participants, and POS displays caused nearly
24

25 July 5, 2019).

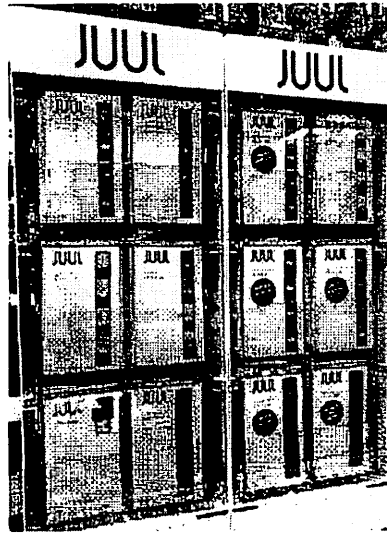
26 ⁹⁰ Kaplan & Hoffman, *Juul Suspends Selling Most E-Cigarette Flavors in Stores* (Nov 13, 2018),
The New York Times, [www.nytimes.com/2018/11/13/health/juul-ecigarettes-vaping-](http://www.nytimes.com/2018/11/13/health/juul-ecigarettes-vaping-teenagers.html)
27 [teenagers.html](http://www.nytimes.com/2018/11/13/health/juul-ecigarettes-vaping-teenagers.html) (as of July 5, 2019).

28 ⁹¹ *The Truth About Tobacco Industry Retail Practices*, Truth Initiative,
https://truthinitiative.org/sites/default/files/media/files/2019/03/Point-of-Sale-2017_0.pdf (as of
July 5, 2019)

1 four times as many unplanned purchases as planned purchases. *Id.* at 4. Younger smokers, in
2 particular, are more likely to make unplanned tobacco purchases in the presence of POS advertising.
3 *Id.*

4 211. Studies show that tobacco use is associated with exposure to retail advertising and
5 relative ease of in-store access to tobacco products. Some studies have shown that youth who were
6 frequently exposed to POS tobacco marketing were twice as likely to try or initiate smoking than
7 those who were not as frequently exposed. Frequent exposure to tobacco product advertising and
8 marketing at retail normalizes tobacco and smoking for youth over time and makes them more
9 likely to smoke. POS marketing is also associated with youth brand preference. Research shows
10 that young adult smokers prefer the tobacco brands marketed most heavily in the convenience store
11 closest to their schools. Before its launch in 2015, JUUL and Cult Collective developed innovative
12 packaging and creative in-store displays that would carry their message through into stores.

13 212. In particular, they designed bright, white packages. The packaging looked similar to
14 iPhone packaging, which JUUL knew would resonate with young people, and because it was solid
15 white, the packaging stood out and caught people's eyes when displayed in store shelves. This
16 packaging buttresses Defendant's online marketing of JUUL e-cigarette as "the i-Phone of Ecigs,"
17 thereby framing them as a cool, fashionable item to own and use. JUUL posters and signs at the
18 point of sale also promoted JUUL's flavors. From 2015 through late 2018, JUUL promoted JUUL
19 products and JUUL flavors at the point of sale without disclosing that the products contained
20 nicotine or warning that the products could lead to addiction. Instead, JUUL's promotions displayed
21 the colorful JUULpod caps and their food-based names while omitting that JUUL delivers nicotine,
22 is addictive, carries risks of stroke and other cardiovascular events, and is unsafe for anyone under
23 age 26.
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213. For many, JUUL's POS materials provided an introduction to the brand. Because JUUL's POS materials omitted the most material features of JUUL's product—that it is a powerfully addictive nicotine delivery system, unsafe for anyone under age 26—adolescents who saw JUUL's POS and were later offered a JUUL would have no reason to think that what they were being offered JUUL contained nicotine, or posed risks of addiction, or was unsafe.

8. **JUUL Used Social Media to Inundate Target Consumers, Particularly Youth, With Messaging Promoting Its Nicotine Products**

214. JUUL not only designed its advertising with an eye to what might be appealing to young people, but set about disseminating those ads to ensure that young people see them. JUUL set out to advertise on at least three major social media platforms: Instagram, Facebook, and Twitter, and disseminated the information in various ways across the platforms.

215. On information and belief, JUUL maintains active accounts on most social media platforms, including Instagram, Facebook, and Twitter, where JUUL tweeted nearly 5,000 times in 2017 alone. As of 2016, 76 percent of American teens age 13-17 used Instagram, 66 percent of teens use Facebook, and 44 percent of teens use Twitter.⁹² While JUUL continues to maintain its

⁹² Snapchat And Instagram Are The Most Popular Social Media Platforms Among American Teens, The Associated Press-NORC Center for Public Affairs Research, <http://apnorc.org/projects/Pages/HTML%20Reports/instagram-and-snapchat-are-most-popular-social-networks-for-teens.aspx> (as of July 5, 2019)

1 Twitter page, it deleted nearly all content from its Instagram and Facebook pages around November
2 of 2018, in response to lawsuits.

3 216. JUUL was able to deliver content directly on social media using two approaches.
4 First, it could post its advertisements directly to its own page, where it would be viewed by those
5 who followed JUUL, and those who shared its posts ("Unpaid Advertising"). And it could engage
6 in paid advertising, whereby it could target specific demographics of people to ensure they received
7 its advertisements ("Paid Advertising").

8 217. With respect to Unpaid Advertising, Instagram was the centerpiece of JUUL's teen-
9 focused advertising blitz. Instagram is used overwhelmingly by teenagers. At least 72% of
10 teenagers in the United States have an Instagram account, and at least 63% of teenagers between
11 the ages of 13 and 17 use Instagram every day.⁹³ While increasingly more adults are using
12 Instagram, this has been a recent development, and thus, advertisers typically only use Instagram
13 if they are interested in marketing to young people, especially teenagers.

14 218. Because of the way Instagram delivers content, Instagram allowed for fast, effective
15 delivery and sharing of its graphic, simple messages. Users would see these images simply by
16 scrolling through their feeds.

17 219. JUUL also disseminated Unpaid Advertising across social media through its use of
18 hashtags. Hashtags are simple phrases preceded by a #, and they operate as a way of cataloguing
19 posts. Authors of posts use hashtags if they want their posts to be discovered and seen by people
20 outside of their networks. On most social media platforms, users can find information by doing a
21 search for a hashtag with that key word. Thus, people interested in JUUL, could enter into the
22 search bar on most Social Media Platforms "#JUUL" to find posts that include that hashtag.
23 Instagram takes it one step farther and allows users to set up their accounts so that posts with a
24 certain hashtag are automatically delivered to their feed.

25
26
27 ⁹³ Smith & Anderson, Social Media Use in 2018: A majority of Americans use Facebook and
28 YouTube, but young adults are especially heavy users of Snapchat and Instagram (Mar 1, 2018),
Pew Research Center, www.pewinternet.org/2018/03/01/social-media-use-in-2018/ (as of July 5,
2019).

1 220. JUUL's hashtag marketing played a central role in the viral spread of JUUL between
2 teenagers. The use of hashtags in social media advertisements "can be used to get your content in
3 front of a bigger audience, raise awareness about your brand, target a very specific group of people,
4 boost your SEO, and use hot trends and topics to your advantage."⁹⁴ Hashtags are "the best weapon
5 in your arsenal, aside from influencer marketing" for getting content "in front of its intended
6 audience." *Id.* Through hashtag marketing, brands can join in on trending topics, engaging "an
7 insane amount of readers" by using "hashtags which aren't closely related to your industry" by,
8 e.g., using holiday-related hashtags. *Id.* By using "branded hashtags" that include the company's
9 name or a specific product, advertisers can monitor the performance of specific campaigns. Another
10 advantage of branded hashtags is user-generated content: "Every time a user puts one of your
11 branded hashtags inside one of their posts, they are increasing your presence on social media" by
12 promoting the branded hashtag, and the related content, to the user's followers. *Id.* Through
13 successful hashtag marketing campaign, brands can create communities through which "followers
14 will not only be able to communicate via chat or messages, but also connect with each other by
15 using your hashtag." *Id.*

16 221. From 2015 through 2018, JUUL used hashtag marketing consistently on Twitter,
17 Instagram, and Facebook to promote its products. In various posts, JUUL would slip in hashtags so
18 that their posts would be found by young people. This post is not a paid advertisement, but a post
19 to JUUL's Instagram feed. JUUL used #TBT, which is an acronym for "Throwback Thursday."
20 Throwback Thursday is a popular meme on social media, and teenagers are especially likely to
21 understand it and use it. Thus, any teenager who had elected to follow the hashtag TBT would see
22 this post when they logged into Instagram that day. Moreover, no one would see any warning
23 regarding nicotine unless they actually opened the post. JUUL frequently used other hashtags that
24 would be used by teenagers to push their product to them across social media, such as #icymi ("in
25 case you missed it").

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28 ⁹⁴ Ryan, *Hashtag Marketing: How to Use Hashtags for Better Marketing Campaigns*, Mention,
[https://mention.com/blog/hashtag-marketing-how-to-use-hashtags-for-better-marketing-
campaigns/](https://mention.com/blog/hashtag-marketing-how-to-use-hashtags-for-better-marketing-campaigns/) (as of July 5, 2019).

1 222. JUUL also used hashtags to convert young users into salespersons through unpaid
2 viral marketing.

3 223. In disseminating Paid Advertising, the Social Media Platforms allow companies like
4 JUUL to engage in micro-targeting, i.e., to select precisely what demographics of people should be
5 exposed to its advertising. Social Media Platforms create internal profiles for the consumers that
6 use them, tracking their online activity to determine their likes, habits, and purchasing power. When
7 advertisers pay to disseminate ads, they can choose to target those ads so that they are received only
8 by people whose digital footprint suggests an interest or predisposition to the product. JUUL would
9 have had the option to exclude teenagers. It also could have elected to narrow its target audience to
10 people with an interest in tobacco products, if it wanted to reach and convert non-smokers. Or it
11 could target a broader audience of people whose digital footprints did not reveal that they were
12 smokers.

13 224. While JUUL's precise targeting methods are unknown, on information and belief,
14 young people like Plaintiffs are known to have been exposed to JUUL's Paid Advertising while on
15 social media, suggesting that JUUL did not narrow its target audience to adult smokers

16 225. Moreover, regardless of to whom JUUL targeted paid advertisements, JUUL's use
17 of Paid Advertising was aggressive, and had the inevitable result of reaching teenagers, including
18 Plaintiff. Paid advertising can be shared and liked just as Unpaid Advertising. JUUL relentlessly
19 advertised to its targeted audience, across all Social Media Platforms. Plaintiffs saw JUUL
20 advertising on a near daily basis, regardless of what platform they used. The continual use of Paid
21 Advertising increased the pressure to buy, and it has made it quitting harder due to the fact that they
22 are exposed to the advertising all day long through their phones and other personal electronic
23 devices.

24 **9. JUUL Exploited Social Media to Target Young People**

25 226. To broaden the reach of its campaign, JUUL used "influencers" to push the product
26 to young people. Influencers are "high-social net worth" individuals who have developed large
27 social media followings – i.e., the "cool kids" of the social media world. People follow influencers
28

1 because they tend to deliver lots of high quality, interesting photos and content, and because they
2 are known to be trend-setters.

3 227. Viewed as tastemakers and trendsetters by their followers, influencers are prized
4 sources of brand promotion on social media networks. Companies seeking to market products often
5 will pay influencers to advertise their products, similar to the ways in which they utilize “product
6 placement” in movies. They seek out influencers with large amounts of followers in their target
7 demographic, and will offer these influencers money or other deals to promote their products. The
8 influencer then will create various posts on social media using the product. Typically, these posts
9 are images of them using the product, but sometimes these posts will include videos, longer written
10 reviews, or other information about the product. Influencers often include in these posts company-
11 endorsed hashtags or links to the company’s website to try to direct their followers to learn more.
12 The company gets the benefit of having word-of-mouth advertising, and the influencer is able to
13 attract more followers because those followers want to stay in the loop about new products and
14 deals. While influencers operate on all Social Media Platforms, most of them rely primarily on
15 Instagram.

16 228. JUUL relied on influencers to carry out its viral marketing campaign. JUUL’s
17 reliance on influencers appears to have begun around June 2015, when JUUL listed a position on
18 its website for a three-month Influencer Marketing Intern.⁹⁵ JUUL described the position as
19 follows: “The Influencer Marketing Intern will create and manage blogger, social media and
20 celebrity influencer engagements. . . to build and nurture appropriate relationships with key
21 influencers in order to drive positive commentary and recommendations through word of mouth
22 and social media channels, etc.” (*Id.*). JUUL’s efforts to solicit influencers appears to have been
23 underway for years; until December 2018, JUUL’s website still called for individuals to “Join the
24 JUUL influencers.” Applicants were required to disclose their profile information for Instagram,
25 Twitter, and Facebook, as well as various other blog and vlog platforms, suggesting that JUUL was
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27
28 ⁹⁵<https://www.internships.com/marketing/influencer-marketing-intern-i7391759> (last accessed
Nov 14, 2018).

1 interested in understanding whether the influencers could help JUUL reach its targeted youth
2 demographic.

3 229. JUUL's outreach had its desired impact, as it was able to line up influencers to
4 promote its products to teenagers, while spreading pictures of cool, young people using JUUL. In
5 addition to all the means above, JUUL paid influencers and celebrities to promote JUUL, generating
6 even more attention and exposure to young people, and reinforcing that the products were safe,
7 cool, and fun.

8 230. JUUL used or ratified multiple accounts across many social media sites to reach
9 young people, even encouraging users to JUUL at school.

10 231. JUUL also enjoyed the benefit of third-party promoters who reached hundreds of
11 thousands of young people.

12 232. JUUL allowed third parties, like @JUULnation to use its trademark.
13 @JUULnation's Instagram post included tips on how to conceal JUUL in school supplies and
14 ridiculed efforts to combat JUUL use among young people. JUUL promoted @JUULnation on its
15 own Instagram account.

16 233. Cigarette companies are prohibited from conducting any of the practices described
17 above under the Tobacco Master Settlement Agreement. Activities such as product placement in
18 performances and professional videos have been identified as against public policy for nicotine
19 products.

20 234. One recent study concluded that JUUL was "taking advantage" of the reach and
21 accessibility of multiple social media platforms to "target the youth and young adults . . . because
22 there are no restrictions," on social media advertising.⁹⁶

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28 ⁹⁶ Kelley, *JUUL Sales Among Young People Fueled by Social Media, Says Study* (Jun 4, 2018),
The Washington Times, www.washingtontimes.com/news/2018/jun/4/juul-sales-among-young-people-fueled-by-social-med/ (as of July 5, 2019).

1 **10. JUUL Utilized a Pricing and Distribution Model Designed to Put the**
2 **Product Within Reach of Youth Without Disclosing Harms.**

3 235. Cigarette companies for years sold youth-brand cigarettes at lower prices that young
4 smokers could afford and used discounts and other promotions to ensnare them. JUUL is no
5 different. It not only designed a marketing campaign to reach young people and entice new smokers,
6 but it priced its products in such a way to ensure they would buy them.

7 236. A pack of four JUULpods, which, according to JUUL, is the equivalent of four packs
8 of cigarettes, costs approximately \$13-\$20. JUUL's website charges \$15.99 for a pack of
9 JUULpods, or about \$4 per JUULpod. By contrast, a single pack of cigarettes in Connecticut costs
10 approximately \$9, and \$13 in New York.

11 237. For years, JUUL directed all of its product to gas stations. JUUL knows that
12 teenagers and those new to smoking are likely to frequent gas stations and convenience stores rather
13 than smoke shops. By distributing in those kinds of stores, JUUL would increase the chances that
14 these people would purchase the product.

15 238. To further drive curiosity and interest, and make it so its target audience, and
16 especially teenagers, would purchase JUUL, JUUL instructed retailers to display the product in an
17 unusual fashion. Whereas cigarettes and other tobacco products have long been kept behind the
18 counter, JUUL designed display cases that would sit on store shelves. JUUL intentionally designed
19 the clear display cases so that the bright white, sleek packaging and the flavors would catch
20 consumers' eyes and make them interested in purchasing the product.

21 239. JUUL knew that by asking retailers to display JUUL products separate from other
22 tobacco products, and within arms' reach, it would also suggest to consumers that JUUL was safer
23 than traditional cigarettes and that it was not an addictive drug.

24 **K. JUUL Used Non-Age-Restricted Emails to Promote and Track Its Products**

25 240. Between 2015 and 2018, JUUL sent around 200 email promotions to customers and
26 potential customers. JUUL's email subscription list was not age-restricted and, until recently, users
27 who failed the age verification requirements on JUUL's purchase page were nevertheless added to
28 JUUL's mailing list and emailed a coupon for a discount on a Starter Kit. The JUUL emails

1 promoted retail locations, flavors, discounts, and “refer a smoker” programs. The emails also
2 promoted JUUL’s find-a-store locator.

3 241. JUUL also used emails to distribute surveys. Because JUUL’s emails were not age-
4 restricted, neither were their surveys. On information and belief, JUUL thus collected data from
5 minors. JUUL paid customers, including youth, up to \$30 to complete some surveys.

6 **L. JUUL Knew that its Scheme to Attract Young Smokers Like Plaintiffs had**
7 **Worked**

8 242. Within a few months of the JUUL’s commercial release in June 2015, a former
9 JUUL executive reportedly told the New York Times that JUUL “quickly realized that teenagers
10 were, in fact, using [JUULs] because they posted images of themselves vaping JUULs on social
11 media.”⁹⁷

12 243. JUUL tracked and closely monitored usage among youth through social media,
13 online surveys, Youtube videos, hashtags, likes, email lists, and myriad other sources.

14 244. By the end of 2015, young people had posted tens of thousands of videos on
15 YouTube demonstrating ways to “JUUL in school” and in other locations without teachers, coaches
16 or parents finding out.

17 245. From the outset, JUUL was well-aware that a huge portion of its sales was going to
18 persons like Plaintiffs under age 26, but did nothing to curb, prevent, or mitigate the harms that its
19 products could cause.

20 **M. JUUL Created an Youth Vaping Epidemic and Exposed a New Generation to**
21 **the Dangers of Nicotine Products.**

22 246. JUUL’s marketing and product design efforts have been wildly successful. Since its
23 launch, JUUL is now the fastest growing e-cigarette in the country. Because the JUUL delivers
24 more nicotine in a shorter amount of time than any other product, delivers that nicotine in a
25 sweetened vapor that causes no irritation, and does so through a concealable device that can be
26

27 ⁹⁷ Richtel & Kaplan, *Did Juul Lure Teenagers and Get ‘Customers for Life’?: The e-cigarette*
28 *company says it never sought teenage users, but the F.D.A. is investigating whether Juul*
intentionally marketed its devices to youth (Aug 27, 2018), The New York Times,
www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html (as of July 5, 2019).

1 consumed discretely in class, at home, and in the car, nicotine naïve users like Plaintiffs frequently
2 spiral into patterns of addiction with no historical precedent. It is not uncommon for teenagers, like
3 Plaintiffs, to consume two JUULpods a day, the nicotine equivalent of at least as many—and likely
4 more—packs of cigarettes.

5 247. Because JUUL’s marketing turned the JUUL into a status symbol for teens, the acute
6 nicotine addiction a JUUL fosters is frequently reinforced by the idea—which JUUL spread—that
7 JUUL use is what “cool” popular kids do in high school. As a result, the medical community has
8 found itself ill-equipped to develop a treatment for JUUL-addicted youth, as evidenced by a January
9 2019 FDA-sponsored meeting concerning the role of drug therapies in treating e-cigarette use.

10 248. The vaping epidemic caused by JUUL has swept the entire nation in a short period
11 of time. On December 28, 2018, the University of Michigan’s National Adolescent Drug Trends
12 for 2018 reported that increases in adolescent Electronic Nicotine Delivery System (“ENDS”)
13 vaping from 2017 to 2018 were the “*largest ever recorded in the past 43 years for any adolescent*
14 *substance use outcome in the U.S.*”⁹⁸

15 249. The percentage of 12th grade students who reported vaping nicotine almost doubled
16 between 2017 and 2018, rising from 11% to 21%. The ten-percentage-point increase in 12th grade
17 students who reported vaping nicotine (an indicator of nicotine addiction) is “twice as large as the
18 previous record for largest-ever increase among past 30-day outcomes in 12th grade.” *Id.* “One in
19 five 12th graders vaped nicotine in the last 30 days in 2018.” *Id.* And because JUUL controls over
20 50% of the e-cigarette market, and was released immediately prior to the jump in vaping prevalence
21 from 11% of teens to 21%, the entire increase in vaping prevalence since 2016 is attributable to
22 JUUL.

23 250. FDA Commissioner Dr. Scott Gottlieb has described the increase in e-cigarette
24 consumption as an “almost ubiquitous – and dangerous – trend” that is responsible for an
25 “epidemic” of nicotine use among teenagers.⁹⁹ The rapid –indeed infectious– adoption of e-
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27 ⁹⁸ Prieur, National Adolescent Drug Trends in 2018 (Dec 17, 2018), Institute For Social Research,
28 The University of Michigan, <https://isr.umich.edu/news-events/news-releases/national-adolescent-drug-trends-in-2018/> (as of July 5, 2019).

⁹⁹ FDA launches new, comprehensive campaign to warn kids about the dangers of e-cigarette use
- 59 -

1 cigarettes “reverse[s] years of favorable trends in our nation’s fight to prevent youth addiction to
2 tobacco products.” *Id.* The Commissioner identified the two primary forces driving the epidemic
3 as “youth appeal and youth access to flavored tobacco products.” *Id.*

4 251. Within days of the FDA’s declaration of an epidemic, Surgeon General Dr. Jerome
5 Adams also warned that the “epidemic of youth e-cigarette use” could condemn a generation to “a
6 lifetime of nicotine addiction and associated health risks.”¹⁰⁰

7 252. Even more troubling are the challenges associated with getting kids to quit JUUL
8 once they start. JUUL’s aggressive social media campaign puts JUUL advertisements before them
9 every day, all day. Those that want to stop thinking about it are faced with advertising when
10 engaging in their regular activities. And even while JUUL has purportedly stopped advertising on
11 social media in recent months, its hashtags, imagery, and impact live on, as there remain nearly
12 524,000 posts and counting on Instagram featuring the #juul hashtag as of July 8, 2019.

13 253. Moreover, many medications for breaking nicotine addictions are approved only for
14 adults.

15 254. The inadequacy of quality control and other standards in the manufacture of JUUL
16 raises additional, serious public health concerns regarding youth access and use. For instance, actual
17 nicotine concentrations in JUUL can vary from advertised amounts, sometimes significantly
18 exceeding the advertised concentration of nicotine. Because the concentration of nicotine in JUUL
19 pods is already staggeringly high and potent, concentrations over the advertised amounts can
20 increase the risk that users could become addicted or experience nicotine poisoning, or experience
21 a spike in blood pressure which can result in serious illness or death. A related concern is the lack
22 of full disclosure of all ingredients in e-liquids, some of which can also cause harm when inhaled.
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26 as part of agency’s Youth Tobacco Prevention Plan, amid evidence of sharply rising use among
27 kids, U.S. Food & Drug Administration, (Sep 18, 2018),
www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620788.htm (as of July 5, 2019)

28 ¹⁰⁰ Surgeon General’s Advisory on E-cigarette Use Among Youth (last updated Apr 9, 2019),
CDC, www.cdc.gov/tobacco/basic_information/e-cigarettes/surgeon-general-advisory/index.html
(as of July 5, 2019).

1 N. **JUUL Implemented its Advertising Strategy with the Advice and Services of**
2 **Defendants Does 1-100.**

3 255. In order to implement such a diverse, wide-ranging advertising scheme, designed
4 for the sole purpose of delivering its JUUL e-cigarette products to young consumers, JUUL worked
5 in concert with an array of marketing, research and development, and distribution professionals.

6 256. JUUL's advertising and marketing relied on the ideas, strategies, and advice of
7 marketing and public relations entities.

8 257. These entities, unnamed Defendants Does 25 through 50, willingly and knowingly
9 provided advertising expertise to JUUL, fully aware that JUUL would use these advertisements to
10 target, sell to, and ultimately increase the number of young people consuming nicotine via its
11 products.

12 258. Defendants Does 25 through 50 used their knowledge of how young adults use
13 social media, interact with social media posts, and are influenced by such posts, to create an
14 advertising strategy designed to consistently, relentlessly, and exploitatively induce young adults
15 and teenagers to use JUUL's JUUL e-cigarette products.

16 259. Defendants Does 25 through 50 provided their marketing services knowing that the
17 marketing slogans, advertisements, and advertising methods they created were deceptive, provided
18 no meaningful warning to users, and would necessarily mislead or otherwise falsely suggest that
19 JUUL's JUUL e-cigarette products were not harmful, not addictive, or otherwise safe for use.

20 260. Defendants Does 25 through 50 expended time, money, and effort in order to design,
21 create, and implement and pervasive advertising scheme whose sole purpose was to exploit and
22 influence the minds of young adults into associating social status, popularity, desirability, and
23 success with the purchase and consumption of JUUL's JUUL e-cigarette products.

24 261. Defendants Does 25 through 50 essentially used the playbook of cigarette and
25 tobacco product advertising implemented by companies such as Philip Morris, in order to market
26 JUUL e-cigarette products to young adults.

1 O. **JUUL Unraveled Decades of Progress in Reducing Teen Smoking by Exploiting**
2 **Regulatory Loopholes.**

3 262. The teen vaping epidemic was by design, not by accident.

4 263. When JUUL was first developed, the FDA's regulations on tobacco products were
5 vague as to whether they applied to vaping devices. Because the regulations did not explicitly
6 identify electronic vaping devices that dispensed tobacco and nicotine as a regulated product, JUUL
7 interpreted those regulations to mean that it could sell its dangerous products to anyone, regardless
8 of their age, and that it did not have to comply with the advertising and labeling restrictions that
9 restricted other tobacco companies.

10 264. As other vaping companies began to enter the market, JUUL no doubt knew that
11 this gray area was unlikely to stay gray for long. Knowing that the clock was ticking, JUUL went
12 on a wild spree to get as many young people addicted as possible while it still viewed itself as
13 "unregulated." The aggressive advertising described above was designed not just to sell the
14 products to teenagers, but to sell the product to as many teenagers as possible while it still had a
15 plausible defense to any assertion that it was violating FDA regulations. By hooking teens, JUUL
16 not only ensured it would have loyal consumers for decades, but those teens would influence their
17 friends.

18 265. Moreover, by pumping social media platforms full of images of cool, young people
19 having fun while JUULing, JUUL ensured that everyone from adults to young children, would
20 think JUULing was a cool, fun, and safe activity. Just as RJR Reynolds learned with Joe Camel,
21 even very young children would in turn be more likely to form strong, positive associations with
22 the tobacco product and be more susceptible to trying it in the future.

23 266. In 2017, the FDA announced that it would be taking steps to regulate vaping devices
24 such as JUUL and other ENDS. Regulations were proposed and ultimately went into effect in late
25 2018. But the damage was done, and it was too late for Ms. Chapman, Mr. Meir, and Mr. Pitts.

26 267. In 2018, after the FDA opened an investigation and lawsuits were filed, JUUL set
27 out to rewrite its history. It has removed from its website and much of the internet images of
28 glamorous young models seductively exhaling clouds of vapors. JUUL's website now pictures

1 middle-age adults in non-glamorous settings and suggests that JUUL solely exists for the benefit
2 of adult smokers looking for an alternative. Although JUUL now markets its product as a smoking
3 cessation device ("Switch to JUUL"), it has not received FDA approval as a modified risk tobacco
4 product or as a nicotine replacement therapy, and JUUL's e-cigarette has not participated in any
5 FDA approval process analyzing its risks and benefits. While JUUL has also announced some half-
6 hearted voluntary measures to reduce access to young people, the cat cannot go back in the bag.
7 The viral marketing campaign and images live on, the candy flavors are still available, and the
8 product remains designed to maximize the nicotine delivery for young people, leading to
9 devastating health consequences.

10 268. To this day, JUUL has not disclosed the health risks associated with its products,
11 has not recalled or modified its products despite the known risks, and continues to foster a public
12 health crisis, placing millions of young people in harm's way.

13 **P. JUUL's Conduct Harmed Plaintiffs Lindsey Chapman, Justin Meir, and Jared**
14 **Pitts.**

15 **1. Plaintiff Lindsey Chapman**

16 269. Starting in the fall of 2016, when she was approximately 16 years old, Plaintiff
17 Lindsey Chapman was exposed to advertising and promotions for JUUL on her cell phone through
18 displays at the gas station near her home, and via print and other sources. These ads and promotions
19 made JUULing seem fun, healthy and cool.

20 270. Plaintiff Lindsey Chapman first tried JUUL in or around October 2016, when the
21 device became ubiquitous among her high school friends.

22 271. Lindsey Chapman started using JUUL with her friends, largely because it had a cool
23 design, appealing flavors, and was fun to use. Part of the attraction for Lindsey was the discreet
24 slick design that would avoid detection from teachers, coaches or other authority figures.

25 272. Before Lindsey tried JUUL, she was not addicted to nicotine. Since becoming
26 addicted to nicotine, she has tried various forms of nicotine to satisfy her cravings.

27 273. Lindsey initially was attracted to JUUL's flavors, including mint and mango. She
28 purchased JUUL devices and pods at smoke shops close to her home in Los Angeles, California,

1 as well as at various retail shops in Atlanta, where she is a college student. At various gas stations,
2 Ms. Chapman has been exposed to JUUL's point of sale advertising, promotions and messaging.

3 274. Like the majority of young people surveyed, Lindsey was not aware when she first
4 began "JUULing" how much nicotine the device contained, or that it carried any health risks.

5 275. Lindsey relied to her detriment on JUUL's representations that the product was safe,
6 not harmful, and fun.

7 276. JUUL never warned Lindsey Chapman that JUUL was addictive, dangerous, could
8 interfere with her ability to focus, or would permanently alter her brain.

9 277. Had Lindsey known that JUUL was overly addictive, carried health risks, and could
10 cause problems in her health and personal life, she never would have tried it.

11 278. JUUL never disclosed that it had manipulated the nicotine in JUUL to deliver
12 massive doses of nicotine that could addict her almost immediately, an addiction that she will now
13 fight for the rest of her life.

14 279. JUUL never informed Lindsey that the product was unsafe for her, nor how much
15 JUUL was safe to consume.

16 280. Had Lindsey known that JUUL was not safe, was addictive, dangerous, could cause
17 mood disorders, cardiovascular issues, could permanently alter her brain and impair her mood and
18 mind, that JUUL had manipulated nicotine to maximize addiction, or that each JUULpod delivered
19 substantially more nicotine than a pack of cigarettes, she would not have used or continued to use
20 JUUL.

21 281. Within a few short weeks of using JUUL, Lindsey became severely addicted to
22 nicotine. The level of nicotine her body required increased over time, and before long she could not
23 function without her JUUL. She would JUUL from the morning until she laid down to go to bed.
24 She struggles to function without nicotine, and when she has tried to quit using the product, she
25 would have mood swings, become antsy and irritable, and find herself unable to study for class.

26 282. Before she started to use JUUL, Lindsey was a healthy, bright and ambitious student.
27 She exhibited no signs or indications that she had an addictive personality. While she has and will
28

1 continue to fight her addiction and to lead as normal a life as possible, Lindsey's brain injuries have
2 caused her to become reliant on nicotine, interfering with her ability to study and socialize without
3 it.

4 283. As a direct and proximate result of JUUL's conduct, Lindsey has suffered life-
5 altering and permanent injuries, including: severe nicotine addiction and permanent brain changes.

6 284. As a result of her injuries caused by JUUL, Lindsey Chapman has incurred and will
7 incur significant medical expenses and other expenses to sustain and/or fight her nicotine addiction
8 for the rest of her life, pain and suffering, and emotional distress.

9 **2. Plaintiff Justin Meir**

10 285. Starting in 2016, when he was approximately 15 years old, Plaintiff Justin Meir was
11 exposed to advertising and promotions for JUUL through social media, displays at the gas station
12 near his home, and via print and other sources. These ads and promotions made JUULing seem fun,
13 healthy and cool.

14 286. Justin first tried JUUL in or around 2016, when the device became ubiquitous among
15 his friends at school.

16 287. Justin started using JUUL with his friends, largely because it had a cool design,
17 appealing flavors, and was fun to use. Part of the attraction for Justin was the discreet slick design
18 that would avoid detection from teachers, coaches or other authority figures.

19 288. Before Justin tried JUUL, he was not addicted to nicotine. He had never even
20 smoked a cigarette or tried any other form of nicotine. Since becoming addicted to nicotine, he has
21 tried various forms of nicotine to satisfy his cravings.

22 289. Justin initially was attracted to JUUL's flavors, including mango. He purchased
23 JUUL devices and pods at smoke shops close to his home in Davies, Florida, where he just
24 graduated high school in May. Justin has been exposed to JUUL's point of sale advertising,
25 promotions and messaging at various gas stations.

26 290. Like the majority of young people surveyed, Justin was not aware when he first
27 began "JUULing" how much nicotine the device contained, or that it carried any health risks.
28

1 291. Justin relied to his detriment on JUUL's representations that the product was safe,
2 not harmful, and fun.

3 292. Since starting JUUL, Justin has experienced numerous health problems. Justin gets
4 sick frequently on the JUUL, and when he stops JUULing for any amount of time he immediately
5 gets ill. He has developed stomach issues and he has trouble sleeping, yet he is always tired. The
6 productivity of his immune system has lowered since starting. In addition, these issues interfere
7 with Justin's social life as an 18 year old. Because of the JUUL and his severe addiction to nicotine
8 it caused, Justin is constantly sick and/or tired and unable to do as much as a normal 18-year-old
9 would.

10 293. JUUL never warned Justin that JUUL was addictive, dangerous, could create mood
11 disorders, could interfere with his ability to live his life normally, lower the productivity of his
12 immune system, interfere with his sleeping, or would permanently alter his brain.

13 294. Had Justin known that JUUL was overly addictive, carried health risks, and could
14 cause problems in his health and would dominate his personal life, he never would have tried it.
15 Had he known how greatly nicotine addiction would interfere with every aspect of his daily life, he
16 never would have tried JUUL.

17 295. JUUL never disclosed that it had manipulated the nicotine in JUUL to deliver
18 massive doses of nicotine that could addict him almost immediately, an addiction that he will now
19 fight for the rest of his life.

20 296. JUUL never informed Justin that the product was unsafe for him, nor how much
21 JUUL was safe to consume.

22 297. Had Justin known that JUUL was not safe, was addictive, dangerous, could cause
23 mood disorders, lower his immune system, cardiovascular issues, could permanently alter his brain
24 and impair his mood and mind, that JUUL had manipulated nicotine to maximize addiction, or that
25 each JUULpod delivered substantially more nicotine than a pack of cigarettes, he would not have
26 used or continued to use JUUL.

1 298. The nature and design of JUUL products demands dependency. After only a couple
2 of times of trying JUUL, Justin became severely dependent on nicotine. The level of nicotine his
3 body required increased over time, and before long he could not function without his JUUL,
4 smoking up to four packs of pods in one week. He would JUUL from the morning until he laid
5 down to go to bed. He still struggles to function without nicotine, and when he has tried to quit
6 using the product, he would have mood swings, become antsy and irritable, and find himself
7 debilitatingly ill. Justin has been prescribed Chantix on two separate occasions to assist him with
8 stopping JUUL. The first time he was prescribed Chantix, the prescription was ineffective, and he
9 went right back to JUULing. His pediatrician prescribed a stronger dose of Chantix shortly after
10 his 18th birthday, and he still was unable to quit due to the addictiveness of JUUL's formula and
11 device design. Justin still struggles with nicotine addiction and has been unable to lower his intake.

12 299. Before he started to use JUUL, Justin was a healthy, bright and kind 15-year-old-
13 boy. He exhibited no signs or indications that he had an addictive personality. While he has and
14 will continue to fight his addiction and to lead as normal a life as possible, Justin's brain injuries
15 have caused him to become reliant on nicotine, causing him to become more withdrawn, interfering
16 with his ability to work, socialize, and just live his life generally without it.

17 300. As a direct and proximate result of JUUL's conduct, Justin has suffered life-altering
18 and permanent injuries, including: severe nicotine addiction and permanent brain changes.

19 301. As a result of his injuries caused by JUUL, Justin Meir has incurred and will incur
20 significant medical expenses and other expenses to sustain and/or fight his nicotine addiction for
21 the rest of his life, pain and suffering, and emotional distress.

22 **3. Plaintiff Jared Pitts**

23 302. Starting in 2017, when he was approximately 17 years old through today, Plaintiff
24 Jared Pitts has been exposed to advertising and promotions for JUUL on his cell phone, his
25 computer, and through displays at gas stations near his home. These ads and promotions made
26 JUUL seem fun, healthy and cool. Particularly, at 17 years old, Jared remembers seeing ads for
27 JUUL on both his Instagram and YouTube accounts, which both held his correct date of birth.
28

1 303. Jared Pitts first tried JUUL in or around 2017, when the device became ubiquitous
2 among his high school friends.

3 304. Jared started using JUUL with his friends in December of 2017, largely because it
4 had a cool design, appealing flavors, and was fun to use and seemed cool to use. Jared was most
5 attracted to how good the flavors tasted, but the discreet, slick design was also appealing in that it
6 avoided detection from teachers, coaches or other authority figures.

7 305. Before Jared Pitts tried JUUL, he was not addicted to nicotine.

8 306. Jared initially was attracted to JUUL's flavors, including fruit medley and mango.
9 He also regularly used mint flavor. He purchased JUUL devices and pods at gas stations close to
10 his home in Newport News, VA, as well as various retail shops in Wellford, South Carolina, where
11 he recently moved with his parents. At the gas station, Jared was exposed to JUUL's point of sale
12 advertising, promotions and messaging.

13 307. Like the majority of young people surveyed, Jared was not aware when he first
14 began "JUULing" just how much nicotine the device contained, that it was highly addictive, or that
15 it carried any health risks.

16 308. Jared relied to his detriment on JUUL's representations that the product was safe,
17 not harmful, and fun.

18 309. JUUL never warned Jared that JUUL was addictive, dangerous, could cause him to
19 develop mood disorders such as anxiety and depression, experience panic attacks, was severely
20 addictive, or would permanently alter his brain.

21 310. Had Jared known that JUUL was addictive or increased his risk for having a stroke,
22 he never would have tried it. Jared feels as though he was lied to by Defendant JUUL.

23 311. JUUL never disclosed that it had manipulated the nicotine in JUUL to deliver
24 massive doses of nicotine that could addict him quickly, spike his blood pressure, could cause
25 strokes or other cardiovascular injuries, could make breathing difficult, and affect the chemical
26 balance in his brain.

1 312. JUUL never informed Jared that the product was unsafe for him, nor how much
2 JUUL was safe to consume.

3 313. Had Jared known that JUUL was not safe, was addictive, dangerous, could cause
4 mood disorders, strokes, make breathing more difficult, could permanently alter his brain and
5 impair his mood and mind, that JUUL had manipulated nicotine to maximize addiction, or that each
6 JUULpod delivered substantially more nicotine than a pack of cigarettes, he would not have used
7 or continued to use JUUL.

8 314. Within a few days of using JUUL, Jared became addicted to nicotine. His use
9 steadily increased, until he began using JUUL immediately upon waking, extensively throughout
10 the day, and then just before going to sleep. He would JUUL during class, before working out, and
11 every chance that he got. He struggled to function without nicotine, and when he tried to quit using
12 the product, he would get debilitating migraines, have mood swings and become antsy and irritable.
13 The withdrawals were so bad he had to pick the JUUL back up. The level of nicotine his body
14 require increased over time, and by 2018, he was spending \$60 - \$100 on JUULpods each week.

15 315. Jared did not have any physical or mental health concerns until he began JUULing.
16 Shortly after starting JUUL, he began having panic attacks. He developed anxiety and depression,
17 and would become especially irritable and feel depressed when he did not have his JUUL. He is
18 now on medication for these injuries. He would have trouble breathing when working out or playing
19 soccer. Working long periods of time became a much more burdensome task because he would get
20 tired and would not be able to hit his JUUL. Jared experienced migraines and irregular heartbeats
21 as well. At the beginning of this year, while working out with some of his friends, Jared experienced
22 concerning irregular heartbeats. He felt as though his heart was straining.

23 316. Jared had never smoked a cigarette prior to using JUUL. Since starting JUUL in
24 2017, Mr. Pitts has now started smoking cigarettes in an effort to satisfy his strong nicotine
25 cravings.

26 317. Before he started to use JUUL, Jared was a healthy, happy, active, and social
27 student. He exhibited no signs or indications that he was at risk for anxiety, depression, or had an
28

1 addictive personality. While he has and will continue to fight this addiction and to lead as normal
2 a life as possible, Jared's brain and other physical injuries have caused him to become reliant on
3 nicotine, causing him to become more withdrawn, interfering with his ability to work, socialize,
4 and just live his life generally without it. Jared cannot escape the temptation.

5 318. As a direct and proximate result of JUUL's conduct, Jared has suffered life-altering
6 and permanent injuries, including: severe nicotine addiction, mood disorders and permanent brain
7 changes.

8 319. As a result of his injuries caused by JUUL, Jared has incurred and will incur
9 significant medical expenses and other expenses to sustain and/or fight his nicotine addiction for
10 the rest of his life, to address his newly developed anxiety and depression, pain and suffering, and
11 emotional distress.

12 **VI. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Strict Products Liability - Design Defect - Consumer Expectations Test**
15 **(against Defendants JUUL and Does 1 through 25)**

16 320. Plaintiffs incorporate the above and below allegations by reference.

17 321. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25,
18 manufactured, distributed, and/or sold the JUUL Devices and Pods ("JUUL Products") that
19 Plaintiffs consumed.

20 322. JUUL Products were defective in design in that they did not perform as safely as
21 an ordinary consumer would have expected them to perform when used in an intended or
22 reasonably foreseeable way.

23 323. JUUL and Does 1 through 25 had constructive notice or knowledge and knew, or
24 in the exercise of reasonable care should have known, that its JUUL Products were dangerous, had
25 risks, and were defective in design, including because delivering high doses of nicotine to a young
26 person could cause addiction to nicotine, permanently alter the structure of the developing brain,
27 significantly increase blood pressure, and repeatedly expose users to toxic chemicals, resulting in
28 permanent, life-altering injuries.

1 324. As a result of JUUL's conduct, Plaintiffs were harmed directly and proximately by
2 Defendants' defectively designed JUUL e-cigarette as described herein. Such harm includes
3 significant exposure to toxic substances, which may cause or contribute to causing disease; mood
4 disorders and severe nicotine addiction, all permanent injuries that Ms. Chapman, Mr. Meir and
5 Mr. Pitts will now struggle with for the rest of their lives; Their exposure to such a high content of
6 nicotine has also affected their brain development at such a crucial age, an injury that cannot be
7 undone; and economic harm in that they would not have purchased JUUL or would have paid less
8 for it if they had known the true facts and that they have paid a premium as a result of Defendants'
9 defective products.

10 325. The defect(s) in JUUL Products was a substantial factor in causing Plaintiffs'
11 harms.

12 **SECOND CAUSE OF ACTION**
13 **Strict Products Liability - Design Defect - Risk-Utility Test**
14 **(against Defendants JUUL and Does 1 through 25)**

15 326. Plaintiffs incorporate the above and below allegations by reference.

16 327. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25
17 manufactured, distributed, and/or sold the JUUL Products that Plaintiffs consumed.

18 328. The benefits of JUUL Products' design are not outweighed by their risks,
19 considering the gravity of the potential harm resulting from the use of the products, the likelihood
20 that the harm would occur, the feasibility and cost of an alternative safer design at the time of
21 manufacture, and the disadvantages of an alternative design. Instead, as described herein,
22 Defendants JUUL and Does 1 through 25 made their products available in youth-friendly colors
23 and flavors. Defendants also designed their products to be more palatable to youth and nonsmokers
24 by increasing JUUL's inhale-ability, and increased the level of nicotine that is absorbed by users,
25 making them even more addictive and dangerous. There were and are alternative designs available
26 to JUUL. For example, Defendants could have designed the product to appeal to adult smokers
27 over age 26 who smoked conventional cigarettes without using the flavors or reduced "harshness"
28 to attract young people and create their addiction to nicotine. Further, Defendants could have

1 significantly lowered the nicotine content, while still delivering sufficient levels to cigarette
2 smokers, to reduce the risks from high exposure to nicotine and repeated exposures to the toxic
3 chemicals in JUUL.

4 329. JUUL and Does 1 through 25 had constructive notice or knowledge and knew, or
5 in the exercise of reasonable care should have known, that its Products were dangerous, had risks,
6 and were defective in design, including because delivering high doses of nicotine to a young person
7 could cause addiction to nicotine, permanently alter the structure of the developing brain,
8 significantly increase blood pressure, repeatedly expose users to toxic chemicals, and cause other
9 cardiovascular injuries resulting in permanent, life-altering injuries.

10 330. As a result of JUUL's conduct, Plaintiffs were harmed directly and proximately by
11 Defendants' defectively designed JUUL e-cigarette as described herein. Such harm includes
12 significant exposure to toxic substances, which may cause or contribute to causing disease; mood
13 disorders and severe nicotine addiction, all permanent injuries that Ms. Chapman, Mr. Meir and
14 Mr. Pitts will now struggle with for the rest of their lives; Their exposure to such a high content of
15 nicotine has also affected their brain development at such a crucial age, an injury that cannot be
16 undone; and economic harm in that they would not have purchased JUUL or would have paid less
17 for it if they had known the true facts and that they have paid a premium as a result of Defendants'
18 defective products.

19 331. The defect(s) in JUUL's Products was a substantial factor in causing Plaintiffs'
20 harms.

21 **THIRD CAUSE OF ACTION**
22 **Strict Products Liability - Failure to Warn**
23 **(against Defendants JUUL and Does 1 through 25)**

24 332. Plaintiffs incorporate the above and below allegations by reference.

25 333. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25
26 manufactured, distributed, and/or sold the JUUL Products that Plaintiffs consumed.
27
28

1 334. The JUUL Products that Plaintiffs consumed had potential risks that were known
2 or knowable in light of the scientific and medical knowledge that was generally accepted in the
3 scientific community at the time of manufacture, distribution, or sale.

4 335. The potential risks presented a substantial danger when the JUUL Products were
5 used or misused in an intended or reasonably foreseeable way.

6 336. The ordinary consumer of JUUL Products would not have recognized the potential
7 for risks.

8 337. JUUL Products were defective and unreasonably dangerous when they left JUUL's
9 possession because they did not contain adequate warnings, including warnings that the products
10 are not safe for anyone under 26 years old, may cause strokes, heart attacks and other cardiovascular
11 injuries, are powerfully addictive, may cause permanent brain changes and mood disorders, may
12 impair learning and cognition. Instead, as described herein, Defendants JUUL and Does 1 through
13 25 made their products available in youth-friendly colors and flavors. Defendant also designed their
14 products to be more palatable to youth and nonsmokers by increasing JUUL's inhale-ability, and
15 increased the level of nicotine that is absorbed by users, making them even more addictive and
16 dangerous.

17 338. JUUL Products were defective and unreasonably dangerous when they left JUUL's
18 possession because they lacked sufficient instructions, including instructions that the products
19 should not be used by anyone under age 26, should not be used concurrently with cigarettes, and
20 instructions regarding how many pods are safe to consume in a day.

21 339. JUUL and Does 1 through 25 had constructive notice or knowledge and knew, or
22 in the exercise of reasonable care should have known, that its Products were dangerous, had risks,
23 and were defective without adequate warnings or instructions, including because delivering high
24 doses of nicotine to a young person could cause addiction to nicotine, permanently alter the
25 structure of the developing brain, and cause cardiovascular issues resulting in permanent, life-
26 altering injuries.

1 340. JUUL and Defendants 1 through 25 failed to adequately warn or instruct concerning
2 the potential risks of the JUUL Products.

3 341. As a result of JUUL's conduct, Plaintiffs were harmed directly and proximately by
4 Defendants' failure to warn/instruct on the use of JUUL e-cigarettes as described herein. Such harm
5 includes significant exposure to toxic substances, which may cause or contribute to causing disease;
6 mood disorders and severe nicotine addiction, all permanent injuries that Ms. Chapman, Mr. Meir
7 and Mr. Pitts will now struggle with for the rest of their lives; Their exposure to such a high content
8 of nicotine has also affected their brain development at such a crucial age, an injury that cannot be
9 undone; and economic harm in that they would not have purchased JUUL or would have paid less
10 for it if they had known the true facts and that they had paid a premium as a result of Defendants'
11 failure to warn/instruct.

12 342. The lack of sufficient instructions and warnings was a substantial factor in causing
13 Plaintiffs' harms.

14 **FOURTH CAUSE OF ACTION**
15 **Negligence and/or Gross Negligence**
16 **(against JUUL and Defendants Does 1 through 50)**

17 343. Plaintiffs incorporate the above and below allegations by reference.

18 344. Defendant JUUL and/or their predecessors-in-interest, in concert with and aided by
19 Does 1 through 50 designed, produced, manufactured, assembled, packaged, labeled, advertised,
20 promoted, marketed, sold, supplied and/or otherwise placed JUUL Products into the stream of
21 commerce, and therefore owed a duty of reasonable care to avoid causing harm to those that
22 consumed it, such as Plaintiffs.

23 345. JUUL's Products were the types of products that could endanger others if
24 negligently made or promoted. Defendants knew the risks that young people would be attracted to
25 their electronic cigarette devices and JUULpods and knew or should have known the importance
26 of ensuring that the products were not sold and/or distributed to anyone under age 26.

1 346. Defendants were negligent in designing, manufacturing, supplying, inspecting,
2 testing (or not testing), marketing, promoting, advertising, packaging, and/or labeling JUUL's
3 Products.

4 347. As a powerfully addictive and dangerous nicotine-delivery device, Defendants
5 knew or should have known that JUUL Products needed to be researched, tested, designed,
6 advertised, marketed, promoted, produced, packaged, labeled, manufactured, inspected, sold and
7 supplied properly, without defects and with due care to avoid needlessly causing harm. Defendants
8 knew or should have known that its JUUL Products could cause serious risk of harm, particularly
9 to young persons like Plaintiffs.

10 348. JUUL and/or their predecessors-in-interest, along with Defendants Does 1 through
11 100, were negligent, reckless and careless and failed to take the care and duty owed to Plaintiffs,
12 thereby causing Plaintiffs to suffer harm.

13 349. The negligence and extreme carelessness of JUUL and/or their predecessors-in-
14 interest, along with Defendants Does 1 through 50 includes, but is not limited to, the following:

15 a. Failure to perform adequate testing of the JUUL Products prior to marketing
16 to ensure safety, including long-term testing of the product, and testing for injury to the brain and
17 cardiovascular systems, respiratory, pulmonary and immune systems, and other related medical
18 conditions, as well as its effect on mental health;

19 b. Failure to take reasonable care in the design of JUUL's Products;

20 c. Failure to use reasonable care in the production of JUUL's Products;

21 d. Failure to use reasonable care in the manufacture of JUUL's Products;

22 e. Failure to use reasonable care in the assembly of JUUL's Products;

23 f. Failure to use reasonable care in supplying JUUL's Products;

24 g. Failure to use reasonable care in advertising, promoting, and marketing
25 JUUL's Products;

26 h. Promotion of JUUL to young people under age 26;
27
28

1 i. Use of flavors and design to appeal to young people under age 26, in that
2 the products smell good, look cool and are easy to conceal from parents and teachers;

3 j. Use of design that maximizes nicotine delivery while minimizing
4 “harshness”, thereby easily creating and sustaining addiction;

5 k. Failure to prevent JUUL from being sold to young people under age 26;

6 l. Failure to prevent JUUL use among young people under age 26;

7 m. Failure to curb JUUL use among young people under age 26;

8 n. Failure to develop tools or support to help people addicted to JUUL cease
9 using the product;

10 o. Failure to reasonably and properly test and properly analyze the testing of
11 JUUL’s Products under reasonably foreseeable circumstances;

12 p. Failure to warn its customers about the dangers associated with use of
13 JUUL’s Products, in that it was unsafe for anyone under age 26, significantly increases blood
14 pressure, causes vascular damage, carries risks of stroke, heart attacks, and cardiovascular events,
15 is powerfully addictive, can cause permanent brain changes, mood disorders, and impairment of
16 thinking and cognition.

17 q. Failure to instruct customers not to use the product if they were under 26,
18 and failing to provide any instructions regarding a safe amount of JUUL pods to consume in a day.

19 r. Failure to warn customers that JUUL had not adequately tested or researched
20 JUUL Products prior to marketing to ensure safety, including long-term testing of the product, and
21 testing for injury to the brain and cardiovascular systems, and other related medical conditions;

22 s. Failure to utilize proper materials and components in the design of JUUL’s
23 Products to ensure they would not deliver unsafe doses of nicotine;

24 t. Failure to use due care under the circumstances;

25 u. Failure to take necessary steps to modify JUUL’s Products to avoid
26 delivering high doses of nicotine to young people and repeatedly exposing them to toxic chemicals;

27 v. Failure to recall JUUL’s Products; and
28

1 w. Failure to inspect JUUL's Products for them to operate properly and avoid
2 delivering unsafe levels of nicotine to young persons.

3 350. Defendants' acts and omissions constitute gross negligence, because they constitute
4 a total lack of care and an extreme departure from what a reasonably careful person would do in
5 the same situation to prevent foreseeable harm to young persons, like Plaintiffs.

6 351. Defendants acted and/or failed to act willfully, and with conscious and reckless
7 disregard for the rights and interests of Plaintiffs. Defendants' acts and omissions had a great
8 probability of causing significant harm and in fact resulted in such harm.

9 352. Based on their strategic and intentional marketing history, Defendants reasonably
10 should have foreseen that young people would try JUUL products and quickly become addicted to
11 JUUL products, resulting in teenagers and young adults developing lifelong addictions. After
12 placing unnecessarily massive amounts of nicotine into their products, Defendants reasonably
13 should have foreseen the emotional distress this would cause on the individuals who would get
14 addicted, as well the stress this would place on their loved ones around them.

15 353. As a result of Defendants' negligence and/or gross negligence, Plaintiffs were
16 harmed directly and proximately as described herein. Such harm includes significant exposure to
17 toxic substances, which may cause or contribute to causing disease; mood disorders and severe
18 nicotine addiction, all permanent injuries that Ms. Chapman, Mr. Meir and Mr. Pitts will now
19 struggle with for the rest of their lives; Their exposure to such a high content of nicotine has also
20 affected their brain development at such a crucial age, an injury that cannot be undone; and
21 economic harm in that they would not have purchased JUUL or would have paid less for it if they
22 had known the true facts and that they have paid a premium as a result of Defendants' negligence
23 and/or gross negligence.

24 354. Defendants' negligence and/or gross negligence were a substantial factor in causing
25 Plaintiffs' harms.

**FIFTH CAUSE OF ACTION
Negligent Failure to Recall
(against Defendant JUUL)**

355. Plaintiffs incorporate the above and below allegations by reference.

356. JUUL acted negligently by failing to recall the JUUL Products prior to Plaintiffs' development of severe addiction.

357. JUUL, in concert with and aided by Defendants Does 1 through 100, designed, manufactured, assembled, produced, distributed, maintained and/or sold the JUUL Products.

358. JUUL knew or reasonably should have known that, when used as intended, the JUUL Products presented or were likely to present a danger to users, including young persons like Plaintiffs. JUUL knew or reasonably should have known that its Products were unsafe for anyone under the age of 26, delivered excessive doses of nicotine, significantly increase blood pressure, cause vascular damage, cause addiction, permanent brain changes, mood disorders, strokes, heart attacks, and other cardiovascular injuries.

359. After JUUL Products were placed on the market in 2015, and before July 8, 2017, JUUL knew or reasonably should have known its Products were being consumed by young people under age 26, that such use was unsafe, that its Products delivered excessive doses of nicotine, significantly increase blood pressure, cause vascular damage, cause addiction, permanent brain changes, mood disorders, strokes, heart attacks, and other cardiovascular injuries. Nevertheless, at no point during this time period did JUUL recall, repair, or warn of the danger posed by Products.

360. A reasonable designer, manufacturer, distributor, or seller facing the same or similar circumstances as JUUL in the exercise of reasonable care, would have recalled JUUL Products to ensure young people including Plaintiffs were not harmed.

361. JUUL's failure to timely recall its Products was a substantial factor in causing harm to Plaintiffs. Had JUUL recalled its Products when it knew or should have known of the risks to young people like Plaintiffs, they would not have used it, and they would not have become so powerfully addicted to the product.

**SIXTH CAUSE OF ACTION
Fraudulent Concealment
(against Defendants JUUL and Does 1 through 50)**

362. Plaintiffs incorporate the above and below allegations by reference.

363. Defendants had a duty to disclose material facts about JUUL to Plaintiffs, as:

a. Defendants disclosed some facts to Plaintiffs about the nature and safety of its products but intentionally failed to disclose other facts, making the disclosures it did make misleading or deceptive; and

b. Defendants intentionally failed to disclose certain facts about the nature and safety of JUUL products that were known only to Defendants and that Defendants knew Plaintiffs could not have known or reasonably discovered.

364. At all times relevant, Defendants fraudulently and deceptively sold or partnered to sell JUUL products to Plaintiffs as safe or not harmful, when Defendants knew it to be untrue.

365. Defendants fraudulently and deceptively downplayed or minimized any risk associated with e-cigarettes generally and JUUL in particular for young persons under age 26. At all relevant times, Defendant JUUL represented its products on its website as a “smarter” choice. Defendant JUUL pitched investors by claiming that the product was not harmful, and therefore any concern about addiction was irrelevant. Defendants and/or others worked together to pitch news stories or other media content designed to downplay the risks of e-cigarettes, suggesting that any concern was overblown, or a panic. These tactics mimic those used by the tobacco industry to sow seeds of doubt and confusion among the public, to initiate new users, to keep customers buying JUUL products, and to avoid regulation or legislative efforts to control sales.

366. Defendants failed to disclose to Plaintiffs that the JUUL is powerfully addictive, significantly increases blood pressure, and other adverse health effects.

367. Defendants failed to disclose that they had not adequately researched or tested JUUL to assess its safety before placing it on the market and promoting it to young people under age 26.

368. At all times relevant to Plaintiffs, Defendants failed to disclose that JUUL was addictive and that its design inherently demanded dependency.

1 369. Defendants also failed to disclose to Plaintiffs that the JUUL nicotine salts
2 purchased were highly addictive in nature, making it extremely difficult for one to cease purchasing
3 JUULpod refills.

4 370. Defendants further failed to disclose to Plaintiffs that JUUL is designed to create
5 and sustain an addiction to nicotine. Defendants also manipulated the formulations of JUUL devices
6 and JUULpods in ways that could and would impact their potency and addictiveness, and
7 Defendants did so without notifying Plaintiffs. Defendants actively concealed the nicotine content
8 and nicotine potency of JUUL e-cigarettes.

9 371. Defendants fraudulently misrepresented to users the amount of nicotine consumed by
10 using JUUL. As previously explained, Defendant JUUL claims that one JUULPod is
11 "approximately equivalent to about 1 pack of cigarettes," but that is false and misleading. The
12 amount of nicotine consumed from one JUULPod is actually equivalent to the amount of nicotine
13 consumed through at least two packs of traditional cigarettes.

14 372. Each of these misrepresentations and omissions were material at the time they were
15 made. In particular, each of the misrepresentations and omissions concerned material facts that
16 were essential to the analysis undertaken by Plaintiffs as to whether to purchase or consume JUUL
17 ENDS or Pods.

18 373. Plaintiffs did not know of the facts that Defendants concealed.

19 374. Defendants intended to deceive Plaintiffs and the public by concealing these facts.

20 375. Defendants had a duty to accurately provide this information to Plaintiffs. In not so
21 informing Plaintiffs, Defendants breached their duty. Defendants also gained financially from, and
22 as a result of their breach.

23 376. Defendants had ample opportunities to disclose these facts to Plaintiffs, through
24 packaging, advertising, retail outlets, on its website, and on social media. Defendants concealed
25 material information at all relevant times, through today. Defendants have yet to disclose the truth
26 about JUUL products.

1 377. Plaintiffs relied to their detriment on Defendants' fraudulent omissions. Had
2 Plaintiffs been adequately informed of the material facts concealed from them regarding the safety
3 of JUUL, and not intentionally deceived by Defendants, they would not have purchased or used
4 JUUL products.

5 378. Defendants' fraudulent concealment was a substantial factor in Plaintiffs' harms as
6 described herein, including: significant exposure to toxic substances, which may cause or contribute
7 to causing disease; mood disorders and severe nicotine addiction, all permanent injuries that Ms.
8 Chapman, Mr. Meir, and Mr. Pitts will now struggle with for the rest of their lives; Their exposure
9 to such a high content of nicotine has also affected their brain development at such a crucial age,
10 an injury that cannot be undone; and economic harm in that they would not have purchased JUUL
11 or would have paid less for it if they had known the true facts and that they had paid a premium as
12 a result of Defendants' fraudulent concealment of facts.

13 379. Defendants' acts and omissions as described herein were committed maliciously,
14 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' rights,
15 interests, and well-being to enrich Defendants. Defendants' conduct warrants an assessment of
16 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to
17 be determined according to proof.

18 **SEVENTH CAUSE OF ACTION**
19 **Conspiracy to Commit Fraudulent Concealment**
20 **(against Defendants JUUL and Does 51 through 100)**

21 380. Plaintiffs incorporate the above and below allegations by reference.

22 381. During all relevant times, including before Plaintiffs consumed JUUL, Defendant
23 JUUL was part of a conspiracy with tobacco and e-cigarette industry players, Does 51 through 100,
24 to fraudulently conceal, misrepresent, and downplay the risks of e-cigarettes to boost profits at the
25 expense of public health. Does 51 through 100, for research and development, marketing, and
26 distribution purposes, engaged consultants, pundits, academics, lobbyists, media personalities,
27 reporters, researchers and other influencers to tout the safety of e-cigarettes, and benefits of
28 nicotine, while minimizing or downplaying the dangers, particularly to those under age 26. These

1 tactics mimic those used by the tobacco industry to sow seeds of doubt and confusion among the
2 public, to initiate new users, to keep customers buying JUUL products, and to avoid regulation or
3 legislative efforts to control sales.

4 382. JUUL was aware that others in the e-cigarette and tobacco industry, Does 51 through
5 100, planned to engage in a campaign of doubt to mislead, downplay, and deflect concerns about
6 the risks of e-cigarettes and nicotine, and to fraudulently conceal material information about the
7 safety of these products and compounds.

8 383. JUUL agreed with others in the e-cigarette and tobacco industry, Does 51 through
9 100, and intended that the conspiracy to commit fraudulent concealment be committed.

10 384. JUUL well-understood and continues to understand that by working in concert with
11 other e-cigarette manufacturers and the tobacco industry, it can more effectively mislead and
12 fraudulently conceal material facts from the public, including Plaintiffs, regarding risks of its
13 products, as described herein.

14 385. JUUL's participation in this conspiracy was a substantial factor in causing Plaintiffs'
15 harms as alleged herein.

16 386. Defendants' acts and omissions as described herein were committed maliciously,
17 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs' rights,
18 interests, and well-being to enrich Defendants. Defendants' conduct warrants an assessment of
19 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to
20 be determined according to proof.

21 **EIGHTH CAUSE OF ACTION**
22 **Intentional Misrepresentation**
23 **(against Defendants JUUL and Does 1 through 50)**

24 387. Plaintiffs incorporate the above and below allegations by reference.

25 388. At all times relevant, Defendants represented to Plaintiffs via the media, advertising,
26 website, social media, packaging, and promotions that:

27 a. JUUL products were safe or not harmful; and
28

1 b. That one JUULPod is “approximately equivalent to about 1 pack of
2 cigarettes”

3 389. These representations were false. JUUL is unsafe for anyone under age 26. The
4 amount of nicotine consumed from one JUULPod is actually equivalent to the amount of nicotine
5 consumed through at least two packs of traditional cigarettes.

6 390. Defendants knew these representations were false, or made them recklessly without
7 regard for their truth. For example, JUUL claims that it did not study the safety of its products,
8 acknowledging that it had a vested interest, and instead left it to others to analyze their risks.

9 391. Defendants intended for Plaintiffs to rely on these representations.

10 392. Each of these misrepresentations were material at the time they were made. In
11 particular, each of the misrepresentations concerned material facts that were essential to the analysis
12 undertaken by Plaintiffs as to whether to purchase or consume JUUL ENDS or Pods.

13 393. Defendants have yet to disclose correct these misrepresentations about JUUL
14 products.

15 394. Plaintiffs reasonably relied on these representations and were harmed as described
16 herein. Plaintiffs’ reliance on Defendants’ representations was a substantial factor in causing their
17 harms, including becoming powerfully addicted to JUUL. Had Defendants told Plaintiffs the truth
18 about the safety and composition of JUUL’s products, they would not have purchased them.

19 395. Defendants’ fraud was a substantial factor in Plaintiffs’ harm as described herein,
20 including significant exposure to toxic substances, which may cause or contribute to causing
21 disease; mood disorders and severe nicotine addiction, all permanent injuries that Ms. Chapman,
22 Mr. Meir, and Mr. Pitts will now struggle with for the rest of their lives; Their exposure to such a
23 high content of nicotine has also affected their brain development at such a crucial age, an injury
24 that cannot be undone; and economic harm in that they would not have purchased JUUL or would
25 have paid less for it they had known the true facts.

26 396. Defendants’ acts and omissions as described herein were committed maliciously,
27 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiffs’ rights,
28

1 interests, and well-being to enrich Defendants. Defendants' conduct warrants an assessment of
2 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to
3 be determined according to proof.

4
5 **NINTH CAUSE OF ACTION**
6 **Intentional Infliction of Emotional Distress (against Defendants JUUL and Does 1-**
7 **100)**

8 397. Plaintiffs incorporate the above and below allegations by reference.

9 398. Defendants' conduct herein, preying on youth and poisoning kids for profit, is so
10 outrageous in character and so extreme in degree as to go beyond all possible bounds of decency.
11 Defendants' conduct is atrocious and utterly intolerable. Defendants' outrageous conduct caused
12 and/or substantially contributed to Plaintiffs' injuries alleged herein.

13 399. Defendants' egregious conduct toward Plaintiffs was both intentional and reckless.
14 Defendants' conduct of intentionally addicting teenagers to nicotine to create lifelong customers
15 was directed primarily at young people like Ms. Chapman, Mr. Meir, and Mr. Pitts, through their
16 manipulation of advertisements, social media, warnings, and even use of social media influencers
17 indirectly to target America's youth.

18 400. Defendant also acted with reckless disregard when they knew that JUUL products
19 were powerfully addictive, contained more nicotine than necessary, and carried serious physical,
20 mental and emotional health risks, especially when used by young people, yet they marketed the
21 products to young people with reckless disregard of young consumers like Plaintiffs and with
22 reckless disregard of the probability that their conduct would cause severe emotional distress to
23 Plaintiffs.

24 401. Defendant's intentional and reckless conduct caused, and continues to cause, severe
25 emotional distress on Ms. Chapman, Mr. Meir, and Mr. Pitts. Defendants interjected their product
26 and themselves into each Plaintiff's personal life, causing severe stress and dependence on their
27 product, and invading their mental and emotional tranquility. Defendant invaded Plaintiffs' peace
28 of mind, without any right or privilege to do so. The severe nicotine addiction caused by
Defendant's product resulted in behavior and symptoms so severe as to interfere with Plaintiffs'

1 everyday life and health, creating even more stress for Plaintiffs. Ms. Chapman can no longer
2 function without her JUUL or she gets angry, irritable and is unable to study, behaviors and
3 emotions that did not exist prior to JUUL. Mr. Meir can no longer function without his JUUL or he
4 gets debilitatingly ill, angry and irritable, behaviors and emotions that did not exist prior to JUUL.
5 Mr. Pitts struggles to function without nicotine. Facing temptation and cravings everyday and
6 fighting his withdrawal symptoms, he now smokes cigarettes in an effort to satisfy his strong
7 nicotine cravings, where he otherwise never would have. Plaintiffs' JUUL usage and addiction has
8 also resulted in a loss of emotional and mental control for an addiction they never intended to
9 develop and that they are now unable to control. Further, as described herein, Plaintiffs' addiction
10 is a physical injury that has damaged and altered their developing brain. Their addiction is no
11 accident; rather, it is the result of Defendant's intentional, calculated behavior to addict young
12 people like Plaintiffs to nicotine to create a life-long customer. Now, for the rest of their lives, Ms.
13 Chapman, Mr. Meir and Mr. Pitts will either fight a nicotine addiction or sustain a nicotine
14 addiction, in addition to other injuries, all because of Defendants' outrageous conduct.

15 402. If it weren't for Defendant's intentional and reckless conduct, Ms. Chapman, Mr.
16 Meir and Mr. Pitts would have never tried JUUL, would not be dependent on nicotine as they are
17 today and would be free to live their life in peace without the stress of having to constantly satisfy
18 an unwanted addiction.

19
20 **TENTH CAUSE OF ACTION**
21 **Violations of the Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200 *et seq.***
22 **(against Defendants JUUL, and Does 26 through 100)**

23 403. Plaintiffs incorporate the above and below allegations by reference.

24 404. The UCL prohibits acts of "unfair competition," including any "unlawful, unfair or
25 fraudulent business act or practice."

26 405. Defendants have engaged in unlawful, unfair and fraudulent business acts and
27 practices in violation of the UCL. Defendants conduct violates the UCL in at least the following
28 ways:

- 1 a. By concealing the health risks associated with JUUL products, including,
2 but not limited to, increased blood pressure, strokes, heart attacks and other cardiovascular events,
3 addiction, permanent brain changes, mood disorders and learning and cognitive impairments;
4
5 b. By concealing that JUUL is unsafe for anyone under age 26;
6
7 c. By downplaying and minimizing the risks of JUUL products and promoting
8 them as safe and not harmful;
9
10 d. By conspiring with others in the tobacco industry to downplay and minimize
11 the risks of e-cigarette products, create confusion and doubt in the public regarding the safety of e-
12 cigarettes, overstate the benefits of nicotine and e-cigarette products, and undermine the public
13 health efforts to prevent and curb use of e-cigarettes by those under age 26;
14
15 e. By misrepresenting the delivery of nicotine as “approximately equivalent to
16 one pack of cigarettes” when in fact, as consumed, JUUL products deliver much higher quantities
17 of nicotine;
18
19 f. By concealing that JUUL is designed to create and sustain addiction among
20 young people rather to transition adult smokers from conventional cigarettes;
21
22 g. By knowingly and intentionally designing the JUUL device and JUUL pods
23 in a way that deliberately appeals to young people:
24
25 i. Making the pods available in flavors that JUUL knew that teens
26 would find irresistible and would not associate with tobacco or smoking;
27
28 ii. Intentionally advertising and marketing its products in ways that
make the device appear deceptively harmless, including concealing that product is highly addictive,
poses long-term risks to developing brains (mood disorders, permanent impairment of impulse
control, concentration and learning), significantly increases blood pressure, causes repeated
exposure to toxic chemicals and can cause cardiovascular events, such as strokes and heart attacks;
iii. Designing the JUUL so that it maximizes nicotine delivery, while
minimizing “harshness”, so as to recruit and retain young people as the next generation of
customers;

1 iv. Designing the JUUL device so that it is small and can easily be
2 concealed;

3 v. Designing the JUUL device so that it resembles a USB flash drive,
4 which can be charged in the USB port of laptop, so that parents and teachers will have trouble
5 identifying when a young person is JUULing;

6 vi. Making the smell emitted when a young person exhales
7 indistinguishable from other common scents, so that parents and teachers will not be any the wiser;
8 and

9 vii. Promoting the JUUL device on social media sites such as Twitter and
10 Instagram in order to appeal to the younger generation.

11 406. Defendants' unfair and fraudulent business acts and practices caused Plaintiffs to
12 purchase the JUUL device and/or JUUL pods.

13 407. Defendants' conduct is unfair because Defendants deceive and mislead consumers
14 by inducing young persons under age 26 to purchase a product that is unsafe for them, delivers high
15 amounts of nicotine, is incredibly addictive, causes repeated exposure to toxic chemicals, carries
16 risks of stroke and other cardiovascular events, and has no benefit to them, while making it appear
17 that the product is harmless. Defendants were and are aware that young persons are unable to
18 appreciate the risk of JUULing to their health and welfare, and that many young people do not even
19 know that the product always contains nicotine, is addictive, or unsafe for them in any amount. In
20 this way, Defendants unfairly target young persons in order to get customers for life.

21 408. Defendants' business practices are also fraudulent because Defendants deceptively
22 sell JUUL products to Plaintiffs as harmless, and a "safer" alternative to cigarettes, while
23 concealing that JUUL is unsafe for anyone under age 26, delivers a more potent dose of nicotine
24 than conventional cigarettes, is highly addictive, significantly increases blood pressure, and can
25 cause strokes, heart attacks and other deleterious effects.

1 409. Defendants' misrepresentations and omissions as alleged herein were consistent
2 with and part of its scheme to lure young persons into becoming customers for life and to maximize
3 profits at the expense of public health.

4 410. Accordingly, Plaintiffs have suffered injury in fact including lost money as a result
5 of Defendants' unlawful, unfair and fraudulent business practices.

6 411. Plaintiffs seek to enjoin further unlawful, unfair and fraudulent acts or practices by
7 Defendants under Bus. & Prof. Code § 17200.

8 412. Plaintiffs request that this Court enter such orders or judgments as may be necessary
9 to enjoin Defendants from continuing their unfair and deceptive practices and to restore to Plaintiffs
10 any money it acquired by unfair competition, including restitution and/or disgorgement, as provided
11 in Bus. & Prof. Code § 17203 and Bus. & Prof. Code § 3345; and for such other relief set forth
12 below.

13 413. Defendants' conduct, as described herein, is unfair because it is immoral, unethical,
14 unscrupulous, oppressive, and substantially injurious. Under the auspices of creating an alternative
15 for adult cigarette smokers, Defendants developed a highly addictive and dangerous product and
16 marketed it to young people as cool, fun, and harmless. Their scheme worked, attracting millions
17 and millions of teens, including Plaintiffs, who have become powerfully addicted to their product
18 and have been exposed to massive amounts of nicotine and other toxic chemicals. As a result of
19 Defendants' conduct, Plaintiffs suffered harms as described herein, and others are at risk of the
20 same or similar injuries. Defendants created this epidemic and bear responsibility for its
21 consequences.

22 414. The gravity of the harm resulting from Defendants' conduct far outweighs any
23 conceivable utility of this conduct. There are reasonably available alternatives that would further
24 Defendants' legitimate business interests in offering an alternative to adult cigarette smokers over
25 age 26, including, but not limited to: using only tobacco flavoring, designing the products to deliver
26 far less nicotine—only as much as would be sufficient to attract a nicotine-addicted cigarette
27 smoker—so as to reduce the nicotine-related harms and reduce the exposure to other toxic
28

1 chemicals, and offering the products “behind the counter” at pharmacies. Instead, Defendants used
2 kid-friendly flavors and design, promoted the products as harmless and cool, conspired with others
3 in the industry to downplay the risks and inflate the benefits, and has done nothing to curb or
4 prevent young people from starting and continuing to use its products, despite the known risks of
5 harm.

6 415. Plaintiffs could not have reasonably avoided injury from Defendants’ unfair
7 conduct. Plaintiffs did not know, and had no reasonable means of learning, that JUUL could harm
8 him as it did. Nor did Plaintiffs know that JUUL had been designed to lure and trap them into
9 becoming a customer for life.

10 416. Plaintiffs were harmed, and Defendants’ misleading statements and omissions were
11 a substantial factor in causing Plaintiffs’ harms.

12 417. The requested injunction under the UCL will primarily benefit the interests of the
13 general public. It will have the primary purpose and effect of prohibiting acts that threaten injury
14 to members of the public who have or will be exposed to JUUL’s conduct.

15 **VII. EQUITABLE TOLLING OF STATUTES OF LIMITATIONS**

16 418. Plaintiffs hereby incorporate by reference all other paragraphs of this Complaint.

17 419. Plaintiffs have suffered permanent and life-altering injuries as a result of
18 Defendants’ conduct.

19 420. Plaintiffs filed this lawsuit within the applicable limitations period of first suspecting
20 that the JUUL Products were the cause of any appreciable harm sustained by Plaintiffs, within the
21 applicable limitations period of first suspecting or having reason to suspect any wrongdoing, and
22 within the applicable limitations period of first discovering the injuries. Plaintiffs could not, by the
23 exercise of reasonable diligence, have discovered any wrongdoing and could not have discovered
24 the causes of the injuries at an earlier time because the injuries occurred without initial perceptible
25 trauma or harm and, when the injuries were discovered, the causes were not immediately known.
26 Plaintiffs did not suspect, nor did they have reason to suspect, that wrongdoing had caused the
27
28

1 injuries until recently. Plaintiffs filed the original action within two years of discovering the causes
2 of action and identities of Defendants.

3 421. Plaintiffs had no knowledge of the defects in the JUUL Products or of the wrongful
4 conduct of Defendants as set forth herein, nor did Plaintiffs have access to information regarding
5 other injuries and complaints in the possession of Defendants. Additionally, Plaintiffs were
6 prevented from discovering this information sooner because Defendants herein misrepresented and
7 continue to misrepresent to the public that the JUUL Products are safe, and Defendants fraudulently
8 concealed information to allow Plaintiffs to discover a potential cause of action sooner.

9 422. Furthermore, the running of any statute of limitations has been equitably tolled by
10 reason of Defendants' fraudulent concealment and conduct. Through their affirmative
11 misrepresentations and omissions, Defendants actively concealed from Plaintiffs the true risks
12 associated with consuming JUUL e-cigarettes and JUULPods.

13 423. As a result of Defendants' actions, Plaintiffs were unaware, and could not
14 reasonably know, or could not have reasonably learned through reasonable diligence, that Plaintiffs
15 have been exposed to the risks alleged herein and that those risks were the direct and proximate
16 result of Defendants' acts and omissions.

17 424. Furthermore, Defendants are estopped from relying on any statute of limitations
18 because of their concealment of the truth, quality and nature of the JUUL e-cigarette and other
19 JUUL products. Defendants were under a duty to disclose the true character, quality and nature of
20 the JUUL products because this was non-public information over which the Defendants had and
21 continue to have exclusive control, and because the Defendants knew that this information was not
22 available to Plaintiffs.

23 425. Defendants had the ability to and did spend enormous amounts of money in
24 furtherance of their purpose of marketing and promoting profitable JUUL products,
25 notwithstanding the known or reasonably known risks. Plaintiffs could not have afforded and could
26 not have possibly conducted studies to determine the nature, extent and identity of related health
27 risks, and was forced to rely on Defendants' representations.
28

1 426. In representations to the Plaintiffs and the public in general, Defendants also
2 fraudulently concealed and intentionally omitted the following material information:

- 3 a. that JUUL products were unsafe for use by anyone under the age of 26
4 b. that JUUL products were dangerous to young persons when used as intended
5 c. that JUUL products delivered excessive does of nicotine, significantly
6 increase blood pressure, cause addiction, permanent brain changes, mood disorders, strokes, heart
7 attacks, and other cardiovascular injuries, and
8 d. that the JUUL products were defectively and negligently designed and had
9 defective, inadequate, and insufficient warnings and instructions.

10 427. Defendants were under a duty to disclose to Plaintiffs, and the public in general, the
11 defective nature of the JUUL Products.

12 428. Defendants made the misrepresentations and actively concealed information
13 concerning the unsafe, dangerous, and harmful nature of the JUUL products with the intention and
14 specific desire to induce the consumers, specifically young adults, including Plaintiffs, to rely on
15 such misrepresentations in selecting, purchasing and using the JUUL Products.

16 429. Defendants made these misrepresentations and actively concealed information
17 concerning the unsafe, dangerous, and harmful nature of the JUUL Products in the labeling,
18 advertising, promotional material or other marketing efforts.

19 430. These representations, and others made by Defendants, were false when made
20 and/or were made with the pretense of actual knowledge when such knowledge did not actually
21 exist, and were made recklessly and without regard to the true facts.

22 431. The misrepresentations and active concealments by Defendants were perpetuated
23 directly and indirectly by Defendants, its sales representatives, employees, distributors, agents,
24 marketers and those with whom it worked in concert to design, develop, market and distribute
25 JUUL products.

26 432. At the time the misrepresentations were made, Plaintiffs did not know the truth about
27 the dangers and serious health and/or safety risks inherent in the use of the JUUL Products.
28

1 Plaintiffs did not discover the true facts about the dangers and serious health and/or safety risks,
2 nor did Plaintiffs discover the false representations of Defendants, nor would Plaintiffs with
3 reasonable diligence have discovered the true facts or Defendants' misrepresentations.

4 433. Defendants knew that Plaintiffs, and the public in general, had no way to determine
5 the truth behind Defendants' concealment and omissions, and that these included material
6 omissions of facts surrounding the JUUL Products, as set forth herein.

7 434. Had Plaintiffs known the true facts about the dangers and serious health and/or
8 safety risks of the JUUL Products, Plaintiffs would not have purchased, used, or relied on
9 Defendants' JUUL Products.

10 435. Defendants had a duty when disseminating information to the public to disseminate
11 truthful information and a parallel duty not to deceive the public, including Plaintiffs.

12 436. The information distributed to the public and Plaintiffs by Defendants included, but
13 was not limited to advertising campaigns, television commercials, print advertisements, billboards,
14 social media posts, the use of social media personalities as promoters, and other commercial media
15 containing material representations, which were false and misleading, and contained omissions and
16 concealment of the truth about the dangers of the use of the JUUL Products.

17 437. Defendants intentionally made material misrepresentations to the public, including
18 Plaintiffs, regarding the safety of the JUUL Products specifically that the JUUL Products did not
19 have dangerous and/or serious adverse health safety concerns, and that the JUUL Products were
20 safe for consumption by young adults, specifically those under the age of 26.

21 438. Defendants' intent and purpose in making these misrepresentations was to deceive
22 the Plaintiffs; to gain the confidence of the public and Plaintiffs, to falsely assure them of the quality
23 and fitness for use of the JUUL Products; induce Plaintiffs and the public to use the JUUL Products;
24 and to avoid litigation and liability.

25 439. Defendants recklessly and/or intentionally falsely represented the dangerous and
26 serious health and safety concerns inherent in the use of the JUUL Products to the public at large,
27
28

1 for the purpose of influencing the sales of products known to be dangerous and defective, and/or
2 not as safe as other alternatives.

3 440. At all times relevant to this action, Defendants knew that the JUUL Products were
4 not safe for consumers under age 26.

5 441. The misrepresentations and active concealment by Defendants constitute a
6 continuing tort. Indeed, Defendants continue to misrepresent the potential risks and serious side
7 effects associated with the use of the JUUL Products.

8 442. As a result of the Defendants' advertising and marketing efforts, misrepresentations
9 and omissions, the JUUL Products are and continue to be pervasively manufactured and used in
10 California and Florida and throughout the United States.

11 443. The acts, conduct, and omissions of Defendants, and each of them, as alleged
12 throughout this Complaint were fraudulent, willful and malicious and were done with a conscious
13 disregard for the rights of Plaintiffs and other users of the JUUL Products and for the primary
14 purpose of increasing Defendant's profits from the sale and distribution of the JUUL Products.
15 Defendants' outrageous and unconscionable conduct warrants an award of exemplary and punitive
16 damages against each Defendant in an amount appropriate to punish and make an example of each
17 Defendant.

18 444. Prior to the manufacturing, sale and distribution of the JUUL Products, Defendants,
19 and each of them, knew that the JUUL Products were dangerous and unsafe when used as intended
20 as previously alleged herein and knew that those who consumed the JUUL Products would
21 experience and did experience severe injuries, such as those experienced by Plaintiffs. Further,
22 Defendants and each of them through its officers, directors, managers, and agents, had knowledge
23 that the JUUL Products presented a substantial and unreasonable risk of harm to the public,
24 including Plaintiffs and, as such, consumers of the JUUL Products were unreasonably subjected to
25 risk of injury.

26 445. Despite such knowledge, Defendants, and each of them, acting through its officers,
27 directors and managing agents for the purpose of enhancing Defendant's profits, knowingly and
28

1 deliberately failed to remedy the known defects in the JUUL Products and failed to warn the public,
2 including the Plaintiffs, of the extreme risk of injury inherent in the JUUL Products. Defendants
3 and its individual agents, officers, and directors intentionally proceeded with the manufacturing,
4 sale, distribution and marketing of the JUUL Products knowing that the public, including Plaintiffs,
5 would be exposed to serious danger in order to advance Defendants' own pecuniary interest and
6 monetary profits.

7 446. Defendants' conduct was despicable, and so contemptible that it would be looked
8 down upon and despised by ordinary decent people, and was carried on by Defendants with willful
9 and conscious disregard for safety, entitling Plaintiffs to exemplary damages under California Civil
10 Code section 3294.

11 447. Plaintiffs have reviewed the potential legal claims and causes of action against the
12 Defendants and intentionally chooses only to pursue claims based on state law. Any reference to
13 any federal agency, regulation or rule is stated solely as background information and does not raise
14 a federal question. Plaintiffs choose to only pursue claims based on state law and are not making
15 any claims that raise federal questions.

16 **VIII. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs respectfully request that the Court:

18 1. Award Plaintiffs compensatory, restitutionary, rescissory, general, consequential,
19 punitive and exemplary damages in an amount to be determined at trial, and also including, but
20 not limited to:

21 a. General Damages;

22 b. Special Damages, including all expenses, including incidental past and
23 future expenses, including medical expenses, and loss of earnings and earning capacity;

24 2. Award prejudgment interest as permitted by law;

25 3. Enter an appropriate injunction against Defendants and their officers, agents,
26 successors, employees, representatives, and assigns;

1 4. Appoint a monitor and retain jurisdiction to ensure that Defendants comply with
2 the injunctive provisions of any decree of this Court;

3 5. Enter other appropriate equitable relief;

4 6. Award reasonable attorneys' fees and costs, as provided for by law; and

5 7. Grant such other and further relief as the Court deems just and proper.

6
7 Dated: July 19, 2019

Respectfully submitted,

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24 *and Jared Pitts*

1 **IX. JURY TRIAL DEMAND**

2 Plaintiffs demand trial by jury for all issues so triable.

3
4 Dated: July 19, 2019

Respectfully submitted,

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