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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

"VIA FAX"

18 JULIEN PILTZER, An Individual;
19 REBECCA O'BRIEN, An Individual;
20 TRACEY ZUNIGA, An Individual;
CONNOR HOUSTON, An Individual;

21 Plaintiffs,

22 v.

23 JUUL LABS, INC., a corporation and DOES
24 1 through 100, inclusive,
25 Defendants.

Case No. **20STCV02954**

COMPLAINT FOR DAMAGES

1. Negligence
2. Strict Liability
3. Failure to Warn
4. Negligent Misrepresentation
5. Fraudulent Misrepresentation
6. Breach of Implied Warranty
7. Breach of Express Warranty
8. Deceit By Concealment
9. Constructive Fraud

DEMAND FOR JURY TRIAL

1 **PARTIES**

2 1. Plaintiff Julien Piltzer is a citizen of Granada Hills, CA.

3 2. Plaintiff Rebecca O'Brien is a citizen of Oakland, MD..

4 3. Plaintiff Tracey Zuniga is a citizen of Copperas Cove, TX.

5 4. Plaintiff Connor Houston is a citizen of Casper, Wyoming.

6 5. Defendant JUUL Labs, Inc. ("JUUL") is a Delaware corporation. Its principal place
7 of business is in San Francisco, California. JUUL's Registered Agent is CT Corporation System,
8 818 West Seventh St., Ste. 930, Los Angeles, CA 90017.

9 6. Plaintiffs Julien Piltzer, Rebecca O'Brien, Tracey Zuniga and Conner Houston
10 (hereinafter collectively referred to as "Plaintiffs") are ignorant of the true names and capacities of
11 Defendants sued herein as Does 1 through 100 and therefore sues these Defendants by such
12 fictitious names pursuant to the provisions of California Code of Civil Procedure § 474. Plaintiffs
13 are informed and believes, and upon such information and belief alleges, that each of the
14 Defendants designated as a Doe are legally responsible in some manner for the events and
15 happenings hereinafter referred to, and caused damages thereby as hereinafter alleged. Plaintiffs
16 will seek leave of the Court to amend this complaint to show the true names and capacities of the
17 Defendants, and each of them, designated as Does when the same have been ascertained. At all
18 times relevant to this action Defendants and Does 1 through 100, inclusive, and each of them,
19 were the agents, servants, employees and joint venturers of each other and at all times herein
20 mentioned each and all were acting within the course, scope and purpose of their respective
21 agency, service, employment and joint venture relationships.

22 **JURISDICTION**

23 7. The Court has jurisdiction over this action pursuant to California Constitution,
24 Article 6, § 10 and Code of California Civil Procedure § 382.

25 8. There is no federal jurisdiction in this case. All claims are brought pursuant to
26 California state law. There are no federal causes of action and Plaintiffs expressly disclaims any
27 federal causes of action. All named Defendants are citizens of the state of California with their
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1 principal place of business in California. There are no damages claimed in this case that would
2 trigger federal jurisdiction under the Class Action Fairness Act.

3 ALLEGATIONS

4 JUUL Falsely Advertises Its E-Cigarette System as “Safe”

5 9. This case arises from Defendants’ failure to properly assess and warn about the
6 harm that its products cause to the human lungs and body. JUUL failed to evaluate and warn about
7 the dangers of its products, and it falsely advertises its e-cigarette system as a safe alternative to
8 traditional cigarettes. JUUL evaluated and knew or should have known the potential dangers of its
9 products but failed to adequately ascertain and warn about those dangers. Plaintiffs seek relief for
10 himself individually.

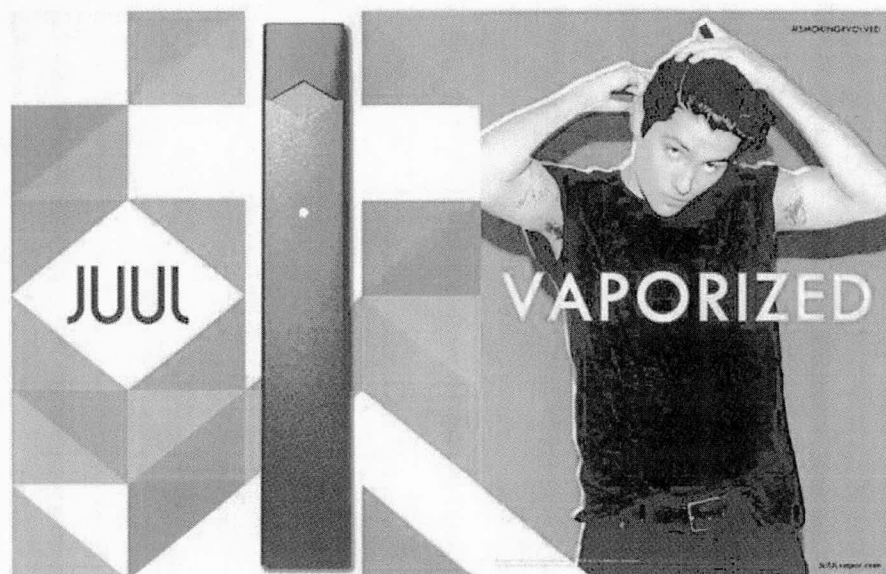
11 10. In this action, the Plaintiffs address and allege only those misrepresentations and
12 omissions JUUL made in its social media marketing to the Plaintiffs and other youth. That
13 marketing and those misrepresentations and omissions are referred to as “advertising” in this
14 Complaint. The Plaintiffs does not address, allege, or sue over any labeling of the Defendant’s
15 products. He makes no allegation regarding any JUUL label.

16 11. JUUL is a pioneer in Electronic Nicotine Delivery Systems (“ENDS”) and related
17 technologies. ENDS are touted as a safe alternative to traditional combustible cigarettes. JUUL
18 introduced its ENDS-branded, innovative commercial product to the United States market in 2015.
19 JUUL products are available via retail locations in 150 countries and the JUUL online store.

20 12. The JUUL system is comprised of two components: (i) a vaporizer device and (ii)
21 disposable pods that are prefilled with a proprietary mixture of vaporizer carriers, nicotine salt
22 extracts, and flavoring (together, “e-liquid”). When a user inserts a pod into the device and inhales
23 using the mouthpiece, the device rapidly heats the e-liquid, aerosolizing it to allow the user to
24 inhale a puff of the vaporized e-liquid. JUUL Labs, Inc. owns and operates juullabs.com and
25 juulvapor.com where it advertises and sells e-cigarettes and pods.

26 13. JUUL advertises its e-cigarettes and pods deliberately to attract minors and young
27 adults, including those who have never even been regular tobacco smokers. The JUUL system
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1 delivers more potent doses of nicotine than traditional cigarettes. Under the guise of a safe
2 alternative, JUUL thus exposes these nonregular-tobacco users to highly-addictive products. The
3 flavored product coupled with the patented nicotine formation creates a perfect storm for addiction
4 among high schoolers, college students, and adults. JUUL makes it easy to purchase its products.
5 The JUUL e-cigarettes and pods are available for purchase online. There is also a subscription
6 service on JUUL's website. The JUUL system has been widely adopted and attained tremendous
7 commercial success, currently holding over 70% of the e-cigarette market share. JUUL e-
8 cigarettes are sleek, discrete, and easy to hide. The system looks like a USB flash drive and can
9 even be charged using the USB port of a computer. On its face, JUUL does not appear to be a
10 tobacco-related product. Pods come in flavors that appeal to minors, as young as middle school, as
11 well as high-school and college students. These flavors include mango, fruit medley, crème brûlée,
12 cool mint, and cool cucumber. Flavors play a key role in the use of tobacco products in teens and
13 young adults. Numerous physician and health organizations have urged the FDA to act on this
14 epidemic, citing the FDA's Population Assessment of Tobacco and Health (PATH) Study found
15 that 85 percent of current e-cigarette users aged 12-17 had used flavored product in the past month
16 and 81.5 percent of those young users cited flavors as the reason for their use of the product.
17 JUUL e-cigarettes deliver nicotine more quickly, more effectively, and at higher doses than other
18 e-cigarettes, increasing the users' risk of addiction. Each pod of e-liquid contains as much nicotine
19 as a pack of cigarettes (i.e., about 200 puffs).



1 14. E-cigarettes were largely unregulated until May 10, 2016, when the Department of
2 Health and Human Services, Food and Drug Administration, passed 21 CFR Parts 1100, 1140, and
3 1143: "Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act,
4 as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the
5 Sale and Distribution of Tobacco Products and Required Warning Statement for Tobacco
6 Products." The FDA has allowed e-cigarettes that were already on the market as of August 8,
7 2016, to stay on the market until at least 2022 without filing applications or undergoing public
8 health review by the FDA. The sale and market growth of JUUL e-cigarettes and pods has thus
9 occurred without any regulatory oversight into the health risks of the vaporization of nicotine salts.
10 On April 24, 2018, however, the FDA requested that JUUL submit to the FDA documents relating
11 to market practices and research on marketing, effect of product design, public health impact, and
12 adverse experiences and complaints related to JUUL products.

13 **Studies Highlight the Negative Health Effects of JUUL**

14 15. The simple yet almost unfathomable reality is that, until recently, very little was
15 known about the detrimental health effects that JUUL e-cigarettes and pods cause to the human
16 lungs and body. In accordance with section 904(b) of the FD&C Act, the FDA requested that
17 JUUL "submit all documents relating to marketing practices and research activities and research
18 findings, conducted, supported, or possessed by you or your agents relating to a specific set of
19 topics...research may include, but is not limited to, focus groups, surveys, experimental clinical
20 studies, toxicological and biochemical assays, in vivo and in vitro assays including animal testing,
21 laboratory formulation and processing testing, taste panels, and assessments of the effectiveness of
22 product marketing practices." Modern science has thus been playing catch-up with the effects of e-
23 cigarettes on humans. Since the science has developed, we have found that JUUL is a wolf-in-
24 sheep's-clothing, delivering as much or more nicotine and harmful chemicals as bigger, more
25 conspicuous e-cigarettes. What has been marketed and sold as a fun, harmless, and trendy pastime
26 is anything but that. This year the American vaporizer market will grow to five and a half billion
27 dollars, an increase of twenty-five percent from 2017. 70% of that market belongs to JUUL.

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1 16. Nicotine is both a stimulant and relaxant. Biochemically, it works by binding to
2 receptors in multiple regions of the brain. It raises dopamine levels and can mimic key
3 neurotransmitters that affect focus and arousal. The nicotine delivery for JUUL is enhanced by
4 adding benzoic acid to nicotine salts, which occur naturally in tobacco, allowing for rapid nicotine
5 delivery in vapor form that is quickly absorbed into the lungs and brain. When inhaled, the
6 flavored vapor is pleasing to the palate and the nicotine produces a rush to the brain.

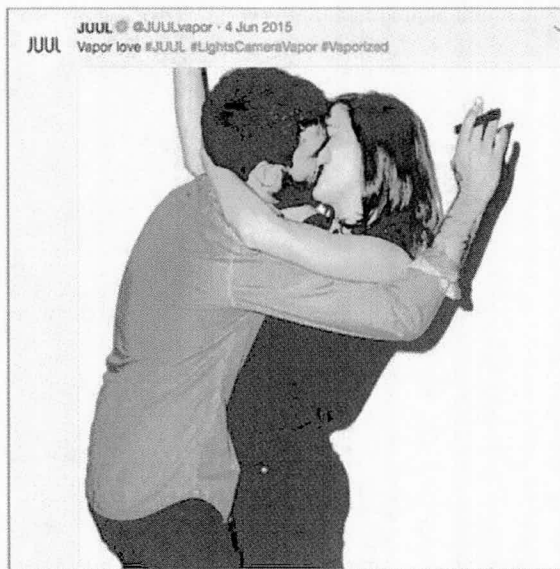
7 17. In March 2018, Dr. Johnathan Winickoff, the former chair of the American
8 Academy of Pediatrics Tobacco Consortium, said that “JUUL is already a massive public-health
9 disaster-and without dramatic action it’s going to get much, much worse.” Dr. Winickoff, who is
10 also a pediatrician at Massachusetts General Hospital and Professor at Harvard Medical School
11 also noted that: “[i]f you were to design your ideal nicotine-delivery device to addict a large
12 numbers of United States kids, you’d invent JUUL.” Of the emerging e-cigs, JUULs have all the
13 necessary elements to take over a substantial portion of the market share. Its batteries can be
14 recharged in an hour, it is flavored, it can often be used without detection, and it contains
15 somewhere around twice the concentration of nicotine as other vape products. For those aged 18 to
16 24, 40 percent were not smokers before using the device. On September 1, 2018, the Israeli
17 Government instituted a ban on the sale of JUUL e-cigarettes in Israel, citing that JUUL poses “a
18 grave danger to public health.”

19 18. JUUL’s e-liquid contains five ingredients: glycerol, propylene glycol, nicotine,
20 benzoic acid, and food-grade flavoring. Glycerol is a sweet liquid that has been used in antifreeze
21 and toothpaste. Propylene glycol is used in asthma nebulizers. Benzoic acid is a common food
22 preservative. Vaporing these liquids at elevated temperatures may result in the generation of
23 known pulmonary toxicants, including acrolein, acetaldehyde, and formaldehyde. Some of the
24 chemicals in the flavoring have known adverse respiratory effects. Marketed as a transitional
25 product to help adult smokers stop smoking cigarettes, many physicians question whether the
26 higher doses of nicotine delivered in a JUUL-vape draw just make the user want more. Nicotine
27 affects young peoples’ cognitive development, making them more susceptible to other addictions
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1 later in life. A Lancet study in March 2007 ranked nicotine as more addictive than alcohol or
2 barbiturates. The National Academies recently published Public Health Consequences of E-
3 Cigarettes, which shows incontrovertible evidence that using e-cigarettes creates dependence.

4 19. JUUL is patent-protected and has an expanding customer base. It has seen
5 exponential growth that has far exceeded expectations. The company's patented JUUL Salts
6 approach to nicotine delivery is due to compounds called nicotine salts, which develop in heat-
7 dried tobacco leaves. According to JUUL's website, freebase nicotine is mixed with benzoic acid
8 to make the e-liquid, which has a chemical reaction that produces the nicotine salts. JUUL U.S.
9 Patent No. 9,215,895 covers its process to produce nicotine salts. The patented process allows
10 20% more nicotine to enter the blood stream than a Pall Mall cigarette, rendering the risk of
11 addiction and abuse higher for JUUL users versus those who use traditional cigarettes.

12 20. JUUL heavily promotes its products via social-media platforms. It presents the
13 products as trendy, fresh, and safer alternatives to cigarettes, thus minimizing the health risks and
14 addictiveness of "juuling." This advertising mirrors how the tobacco industry promoted cigarettes
15 as being cool while suppressing the long-term adverse health complications. Research conducted
16 by the University of Kansas has shown that young people fail to question the information touted in
17 the e-cigarette ads, that the ads make them believe that they would not get addicted to e-cigarettes
18 based on the information portrayed in the ads, and that the emotional appeal of the ads make
19 adolescents perceive social benefits like increased friendships.



1 21. It took time and resources for healthcare researchers and clinicians to research the
2 effects of vaping on the lungs and human body. The evidence now shown by numerous clinical
3 and scientific studies is not favorable for JUUL. Stanton Glanz, Professor of Medicine with the
4 University of California, San Francisco Center for Tobacco Control, Research and Education, said
5 “it’s important to understand that e-cigs have an entirely different toxicological profile” than
6 cigarettes. Glanz notes that “[t]he assumption has been that at least e-cigarettes aren’t worse. But
7 this suggests that they have something in them that isn’t even in standard cigarettes that’s worth
8 being worried about.”

9 22. Recent studies examining the effects of e-cigarettes on the lungs have highlighted
10 the dangers of vaping. A study from the Marsico Lung Institute and the Department of Pathology
11 at the University of North Carolina-Chapel Hill shows that vaping from e-cigarettes causes a
12 unique innate immune response in the lung, involving increased neutrophilic activation and altered
13 mucin secretion. The authors wrote “taken together, our results indicate that the effects of e-
14 cigarettes are both overlapping with and distinct from what is observed in otherwise healthy
15 cigarette smokers. In conclusion, our results challenge the concept that e-cigarettes are a healthier
16 alternative to cigarettes and reverse smoking-induced adverse health effects.” Reidel et al, E-
17 Cigarette Use Causes a Unique Innate Immune Response in the Lung, Involving Increased
18 Neutrophilic Activation and Altered Mucin Secretion, AM J RESPIR CRIT CARE MED (2018
19 Feb 15;197(4):492-501). Another study by Dr. Casey G. Sommerfield MD with the Children’s
20 Hospital of Pittsburgh of UPMC reported the first case of hypersensitivity pneumonitis and acute
21 respiratory distress syndrome as a risk of e-cigarette use in an adolescent. Dr. Sommerfield’s case
22 report involves an 18-year-old woman who presented with severe inflammatory disease of the
23 lung called hypersensitivity pneumonitis. In an acute setting, hypersensitivity pneumonitis may be
24 secondary to chemical exposure, which is found in e-cigarette vapor. The case report thus shows a
25 life-threatening risk of e-cigarette use in an adolescent patient. Another study from the
26 Comprehensive Cancer Center at the Ohio State University found that the induction of
27 inflammation by e-cigs may differentially impact lung cancer and chronic obstructive pulmonary
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1 disease (COPD) risks and that the role of nicotine also needs to be considered, as it had both pro-
2 and-anti-inflammatory potential, making it unclear how nicotine content may mediate the effects
3 of the other aerosol constituents. Shields et al, A Review of Pulmonary Toxicity of Electronic
4 Cigarettes in the Context of Smoking: A focus on Inflammation, CANCER EPIDEMIOLOG
5 BIOMARKERS PREV 2017 Aug;26(8):1175-1191. Studies conducted at Tulane University show
6 that e-cigarette aerosol is capable of inducing reactive oxygen species, DNA damage, and cell
7 death in human umbilical vein endothelial cells and that in vivo studies of e-cigarette aerosol's
8 effect on the cardiovascular system have shown broad spectrum of potentially negative effects.
9 Anderson et al, E-Cigarette Aerosol Exposure Induces Reactive Oxygen Species, DNA Damage,
10 and Cell Death in Vascular Endothelial Cells, TOXICOLOGICAL SCIENCES 154(2), 2016 332-
11 340. Researchers at the West Virginia University School of Medicine published an animal study
12 showing that the cardiovascular effects of long-term vaping may be as dire as smoking cigarettes.
13 Results indicate that chronic exposure to e-cigarette vapor stiffened the aorta 2.5 times more than
14 the regular aging process did in a vapor or smoke-free environment. In comparison, cigarette
15 smoke caused a 2.8-fold increase. Olfert et al, Chronic exposure to electronic cigarettes results in
16 impaired cardiovascular function in mice, J APPLIED PHYSIOL, 2018 Mar 1;124(3):573-582. A
17 study funded by the National Institutes of Health, published in the Proceedings of the National
18 Academy of Sciences on October 7, 2019, tested the effect of vaped nicotine on mice. After
19 breathing in vapor for 20 hours a week for more than a year, 22.5% of the mice had cancerous
20 tumors in the lining of the lungs, and 57.5% developed growths in their bladder tissue that can be
21 precursors to cancer. The researchers also found that a few of the mice exposed to e-cigarette
22 vapor – with or without nicotine – developed abdominal or skin tumors, while none of the
23 counterparts in the control group did. Tang, et al., Electronic-cigarette smoke induces lung
24 adenocarcinoma and bladder urothelial hyperplasia in mice, PNAS, 2019 October 7. Researchers
25 at the Mayo Clinic studied the samples of lung tissue from seventeen patients around the country
26 who were being treated for vaping related illnesses. In an October 2019 study, the researchers
27 opined that they observed immune cells with “the fine, foamy-looking appearance that is
28

1 characteristic of chemical injuries.” The researchers found that patients with lung illnesses from
2 vaping had tissue damage and cell death in the lining of the airways and in the lungs themselves.
3 As the body of the patient reacts and tries to heal, the tissue swells and can narrow the airways.
4 Dead cells slough off into the airways, blocking them further, and fluids leak in the lungs’ air sacs.
5 The swelling, tissue damage and fluid buildup make it impossible for the patient to breathe. The
6 researchers found that it is too soon to tell whether the survivors’ lungs would fully recover and
7 whether vaping would lead to lifelong, chronic respiratory problems. Butt UM, Smith ML,
8 Tazelaar HD, et al. Pathology of vaping-associated lung injury, N Eng J Med. DOI:
9 10.1056/NEJMc1913069, 2019 October 2.

10 23. The regular use of e-cigarettes, including JUUL, presents a clear and present danger
11 of acute and chronic injury to the pulmonary and cardiovascular systems of nonsmokers and adults
12 who were not previously traditional cigarette smokers. Science News reports that about 1.9 million
13 American adults who have never consistently smoked traditional cigarettes use e-cigarettes. About
14 60% of these users were between the ages of 18 and 24. These numbers were based on the analysis
15 of data from 2016 and are much higher in 2019. We know that there are carcinogens in the vapor
16 created by JUUL e-cigarettes and scientists are concerned about the addictive risk of nicotine and
17 multiple chemicals that are contained in the vapor and how nicotine may serve as a catalyst to
18 increase the risk of cancer. There is concern about the addictive properties of the JUUL e-cigarette
19 in both nicotine addiction and behavioral aspects of juuling.

20 24. JUUL has been incredibly successful through its advertising, inducing young
21 people, including middle, high school and college students, to start vaping. It has done so with
22 wholly inadequate warnings about the potential health hazards of using the JUUL e-cigarettes and
23 pods. Medical evidence shows significant health issues relating to the transmission of glycerol,
24 propylene glycol, nicotine, benzoic acid, and food-grade flavoring in the vapor itself. The
25 cytotoxic properties of these vaporized chemicals cause cellular damage to pulmonary and
26 vascular cells that is acute and may lead to hypersensitivity pneumonitis and restrictive airway
27 disease. There is growing scientific concern among public-health officials that vaping may cause a
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1 much higher rate of COPD in young adults and that vaping may evolve into a national health
2 epidemic because it has become a means to nicotine addiction, rather than an end. Vaping among
3 young people is surpassing all other forms of tobacco use.

4 25. There is a subset of adults who use JUUL e-cigarettes and who will develop
5 significant acute pulmonary inflammation, leading to pneumonitis and pneumonia that will require
6 medical intervention, including hospitalization and potentially mechanical ventilation. There is
7 another subset of JUUL users who will sustain varying degrees of pulmonary injury that, over
8 time, may cause shortness of breath, dyspnea, restrictive airway disease, and COPD. Modern
9 pulmonary medicine allows physicians to assess and measure the level of pulmonary injury
10 regarding both restrictive airway disease and inflammatory changes through advanced non-
11 invasive pulmonary function tests and bronchoscopy. Past and current JUUL users who have
12 exposed and continue to expose their pulmonary and cardiovascular systems to vapor will need
13 medical monitoring to assess how badly the vaping has affected them. Restrictive airway disease
14 is often permanent and JUUL users will need to know how continued use may permanently impair
15 their health and restrict their mobility. The evidence shows that never smokers who use JUUL will
16 have increased risks of cancer from the carcinogenic compounds found in the vapor.

17 26. The FDA Commissioner has also recently announced a possible link between
18 seizure and e-cigarette use. See U.S. Food and Drug Administration, Statement from FDA
19 Commissioner Scott Gottlieb, M.D., and Principal Deputy Commissioner Amy Abernethy, M.D.,
20 Ph.D., on FDA's ongoing scientific investigation of potential safety issue related to seizures
21 reported following e-cigarette use, particularly in youth and young adults; April 3, 2019,
22 [https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-](https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-and-principal-deputy-commissioner-amy-abernethy-md-phd)
23 [gottlieb-md-and-principal-deputy-commissioner-amy-abernethy-md-phd](https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-and-principal-deputy-commissioner-amy-abernethy-md-phd).

24 **Plaintiffs' JUUL Addiction Leads to Lung Damage and Hospitalization**

25 27. Plaintiff Julien Piltzer began "juuling" as a minor and sustained serious injuries as a
26 result of his JUUL usage including but limited to seizures requiring medical treatment. Plaintiff
27 Julien Piltzer continues to suffer ongoing injuries as a result of his use of this dangerous product.
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1 28. Plaintiff Rebecca O'Brien began "juuling" as an adult and sustained serious injuries
2 as a result of her JUUL usage including but not limited to suffering six seizures requiring
3 hospitalization, nicotine addiction, and cough. Plaintiff Rebecca O'Brien continues to suffer
4 ongoing injuries as a result of her use of this dangerous product.

5 29. Plaintiff Tracey Zuniga began "juuling" as an adult and sustained serious injuries
6 as a result of her JUUL usage including but limited to pneumonia, bronchitis, shortness of breath,
7 and chest pain. Plaintiff Tracey Zuniga continues to suffer ongoing injuries as a result of her use of
8 this dangerous product.

9 30. Plaintiff Conner Houston began "juuling" as a minor and sustained serious injuries
10 as a result of his JUUL usage including but not limited to 45% collapsed lung, difficulty breathing,
11 and seizure requiring hospitalization for four days. Plaintiff Conner Houston continues to suffer
12 ongoing injuries as a result of this dangerous product.

13 31. Upon information and belief, Defendants concealed and failed to completely
14 disclose their knowledge that their products were associated with or could cause serious injuries.
15 In the alternative, Defendants concealed their knowledge that they had failed to fully test or study
16 said risks.

17 32. JUUL's failure to disclose in its advertising information that it possessed regarding
18 the failure to adequately test and study its product(s) for serious health risks further rendered the
19 advertising for this product inadequate.

20 33. By reason of the foregoing acts and omissions, Plaintiffs have endured and
21 continue to suffer severe personal injuries, including medical expenses, physical pain and mental
22 anguish, diminished enjoyment of life, and loss of earnings, among other damages.

23 **FIRST CAUSE OF ACTION: NEGLIGENCE**

24 **(AGAINST ALL DEFENDANTS)**

25 34. Plaintiffs repeats, reiterates and realleges each and every allegation of this
26 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect
27 as if more fully set forth herein.

28

1 35. Defendants as designers, manufacturers, retailers, wholesalers, suppliers, and
2 distributors of JUUL e-cigarettes and pods were negligent in carrying out the manufacturing,
3 retailing, design, wholesaling, testing, advertising, promotion, and distribution of the products.
4 Defendants' negligence proximately caused the defects inherent in the JUUL e-cigarettes and
5 pods. Plaintiffs have suffered and will continue to suffer from the physical injuries and threat of
6 future injuries as described herein.

7 36. As a proximate cause of Defendants' negligence, Plaintiffs have employed and will
8 be forced to continue to employ clinicians to examine, treat, and care for him, and will incur
9 medical, hospital, pharmaceutical, and incidental and consequential expenses. Plaintiffs have
10 incurred and will continue to incur such medical, hospital, pharmaceutical, and incidental and
11 consequential expenses in the future.

12 **SECOND CAUSE OF ACTION: STRICT LIABILITY**

13 **(AGAINST ALL DEFENDANTS)**

14 37. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
15 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
16 fully set forth herein.

17 38. Defendants as the designers, manufacturers, retailers, wholesalers, suppliers, and
18 distributors of the JUUL e-cigarettes and pods are strictly liable to the Plaintiffs for designing,
19 manufacturing, retailing, distributing, wholesaling, supplying, and placing on the market and in
20 the flow of commerce a defective product knowing that the product, as advertised, would be used
21 without adequate research, inspection, and testing. The JUUL e-cigarettes and pods were not fit
22 for their intended purpose and/or the risks inherent in the design of the JUUL e-cigarettes and
23 pods outweighed the benefits and/or the JUUL e-cigarettes and pods were more dangerous than
24 the Plaintiffs anticipated. Plaintiffs have suffered and will continue to suffer from physical injuries
25 and the continuing likelihood of medical problems as described herein.

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1 **THIRD CAUSE OF ACTION: FAILURE TO WARN**

2 **(AGAINST ALL DEFENDANTS)**

3 39. Plaintiffs repeats, reiterates and realleges each and every allegation of this
4 Complaint contained in each of the foregoing paragraphs inclusive, with the same force and effect
5 as if more fully set forth herein.

6 40. At the time the JUUL e-cigarettes and pods were supplied to Plaintiffs, the product
7 was defective as a result of Defendants' failure to adequately test for safety, and through their
8 advertising, failed to give adequate warnings or instructions regarding the possibility of adverse
9 health consequences, including to the lungs, brain, and cardiovascular systems, the development
10 of medical problems associated with the use as described herein, including cancer, and other
11 dangers that might be associated with use, such as possible seizures. Defendants also failed to
12 inform and warn the Plaintiffs through their advertising that they had failed to perform adequate
13 testing of the JUUL e-cigarettes and pods to ensure safety, including long-term testing of the
14 product, testing for injury to the lungs, brain, and cardiovascular systems, and other related
15 medical conditions.

16 41. Defendants failed to both adequately test JUUL e-cigarettes and pods before
17 making it available to consumers such as the Plaintiffs and failed to disclose to Plaintiffs through
18 their advertising that such testing had not been done and which testing would have disclosed the
19 magnitude of the potential risks associated with the use of the JUUL e-cigarettes and pods. In the
20 alternative, Defendants conducted adequate testing but failed to warn about the dangers of using
21 JUUL e-cigarettes and pods in their advertising.

22 42. Defendants' failure to warn was willful and malicious in that the conduct was
23 carried on with a conscious disregard for the safety and the rights of the Plaintiffs. Plaintiffs have
24 suffered and will continue to suffer from physical injuries and the continuing likelihood of
25 medical problems as described herein.

26 43. As a proximate cause of Defendants' actions, Plaintiffs must employ clinicians to
27 examine, treat, and care for him, and has and will continue to incur medical, hospital,
28

1 pharmaceutical, and incidental and consequential expenses. Plaintiffs will continue to incur such
2 medical, hospital, pharmaceutical, and incidental and consequential expenses in the future.

3 **FOURTH CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION**

4 **(AGAINST ALL DEFENDANTS)**

5 44. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
6 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
7 fully set forth herein.

8 45. During the period of time that Defendants designed, manufactured, distributed,
9 advertised, promoted, supplied, and marketed the JUUL e-cigarettes and pods, Defendants falsely
10 and negligently represented to the Plaintiffs, the consumer of the product, through their
11 advertising, that the JUUL e-cigarettes and pods were safe for use, safer than traditional
12 cigarettes, not harmful like traditional cigarettes, and were fit for their intended purposes; that
13 JUUL e-cigarettes and pods were not dangerous and did not impose any health risks; and that the
14 products would function without defect.

15 46. The representations made by Defendants in their advertising were false. Defendants
16 concealed, falsified, or misrepresented to the public, and to medical providers the true facts,
17 representing that the JUUL e-cigarettes and pods are safe for use, safer than traditional cigarettes,
18 not harmful like traditional cigarettes, and fit for their intended purposes, even though use of the
19 JUUL e-cigarettes and pods may cause severe medical problems as described herein.

20 47. When Defendants made these representations in their advertising, they knew or
21 should have known that the representations were false and that they were made with no reasonable
22 ground for believing them to be true. The representations were made by Defendants with intent to
23 deceive users of the JUUL e-cigarettes and pods, and the public, with intent to induce them to use
24 JUUL e-cigarettes and pods.

25 48. At the time these representations were made in their advertising, Defendants
26 concealed from Plaintiffs their lack of adequate testing and research and their lack of information
27 about the safety of the JUUL e-cigarettes and pods.

1 49. Plaintiffs, at the time these representations were made by Defendants and at the
2 time Plaintiffs purchased and used JUUL e-cigarettes and pods, was ignorant of the falsity of
3 Defendants' representations and believed that the JUUL e-cigarettes and pods were safe and fit for
4 their intended use.

5 50. In reliance on Defendants' representations, Plaintiffs were induced to and did
6 purchase and use JUUL e-cigarettes and pods. Had Plaintiffs known of the true facts, Plaintiffs
7 would not have taken such actions.

8 51. Plaintiffs' reliance on Defendants' representations was justified because he
9 reasonably relied upon Defendants' representations concerning the product, having no
10 independent expertise of his own to evaluate the product or the representations to be anything
11 other than what Defendants represented. Plaintiffs have suffered and will continue to suffer from
12 physical injuries and the continuing likelihood of medical problems as described herein.

13 52. As a proximate cause of Defendants' negligence, Plaintiffs must employ clinicians
14 to examine, treat, and care for him, and has and will continue to incur medical, hospital,
15 pharmaceutical, and incidental and consequential expenses. Plaintiffs will continue to incur such
16 medical, hospital, pharmaceutical, and incidental and consequential expenses in the future.

17 **FIFTH CAUSE OF ACTION: FRAUDULENT MISREPRESENTATION**

18 **(AGAINST ALL DEFENDANTS)**

19 53. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
20 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
21 fully set forth herein.

22 54. During the period of time that Defendants designed, manufactured, distributed,
23 advertised, promoted, supplied and marketed the JUUL e-cigarettes and pods, they knowingly and
24 purposely represented to the Plaintiffs, and users of JUUL e-cigarettes and pods JUUL e-
25 cigarettes and pods that the products were fit for their intended purposes, would function without
26 defect, and were appropriate for use.

27 55. Defendants knew that these representations were false when made in their
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1 advertising. The true facts that Defendants concealed were that the JUUL e-cigarettes and pods are
2 dangerous and may cause long-term adverse health consequences, including injury to the lungs,
3 brain, and cardiovascular systems.

4 56. When Defendants made these representations in their advertising, they knew that
5 the representations were false. The representations were made by Defendants with intent to
6 deceive the public, including teenagers and young adults, users of JUUL e-cigarettes and pods,
7 such as the Plaintiffs, with intent to induce them to purchase and use JUUL e-cigarettes and pods.

8 57. The teenagers, young adults, and users of JUUL e-cigarettes and pods, including
9 Plaintiffs, at the time these representations were made by Defendants and at the time the JUUL e-
10 cigarettes and pods were purchased and used, were ignorant of the falsity of Defendants'
11 representations and believed that the JUUL e- cigarettes and pods were safe for use, safer than
12 traditional cigarettes, not harmful like traditional cigarettes, and were fit for their intended
13 purposes, and that JUUL e-cigarettes and pods were not dangerous and did not impose any health
14 risks, and would function without defect.

15 58. Plaintiffs' reliance on Defendants' representations was justified because he
16 reasonably relied upon Defendants' representations concerning the product, having no
17 independent expertise of his own to evaluate the product or the representations to be anything
18 other than what Defendants represented. Plaintiffs have suffered and will continue to suffer from
19 physical injuries and the continuing likelihood of medical problems as described herein.

20 59. As a proximate cause of Defendants' negligence, Plaintiffs must employ clinicians
21 to examine, treat, and care for him, and has and will continue to incur medical, hospital,
22 pharmaceutical, and incidental and consequential expenses. Plaintiffs will continue to incur such
23 medical, hospital, pharmaceutical, and incidental and consequential expenses in the future.

24 **SIXTH CAUSE OF ACTION: BREACH OF IMPLIED WARRANTY**

25 **(AGAINST ALL DEFENDANTS)**

26 60. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
27 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
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1 fully set forth herein.

2 61. Defendants designed, manufactured, distributed, packaged, compounded,
3 merchandised, advertised, promoted, supplied and sold JUUL e-cigarettes and pods and, before the
4 JUUL e-cigarettes and pods were purchased and used, Defendants impliedly warranted to
5 Plaintiffs that the JUUL e-cigarettes and pods were of merchantable quality and safe for the use
6 for which they were intended.

7 62. Plaintiffs relied on the skill, judgment, and representations of Defendants through
8 their advertising in purchasing and using the JUUL e-cigarettes and pods.

9 63. The JUUL e-cigarettes and pods were unsafe for their intended use and were not of
10 merchantable quality as warranted by Defendants in that they had dangerous propensities when
11 put to their intended use.

12 64. Plaintiffs have suffered and will continue to suffer from physical injuries and the
13 continuing likelihood of medical problems as described herein.

14 65. As a proximate cause of Defendants' negligence, Plaintiffs must employ clinicians
15 to examine, treat, and care for him, and has and will continue to incur medical, hospital,
16 pharmaceutical, and incidental and consequential expenses. Plaintiffs will continue to incur such
17 medical, hospital, pharmaceutical, and incidental and consequential expenses in the future.

18 **SEVENTH CAUSE OF ACTION: BREACH OF EXPRESS WARRANTY**

19 **(AGAINST ALL DEFENDANTS)**

20 66. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
21 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
22 fully set forth herein.

23 67. Defendants designed, manufactured, distributed, packaged, compounded,
24 merchandised, advertised, promoted, supplied and sold JUUL e-cigarettes and pods and, before the
25 JUUL e-cigarettes and pods were purchased and used, Defendants expressly warranted to
26 Plaintiffs, through their advertising, that the JUUL e-cigarettes and pods were of merchantable
27 quality and safe for the use for which they were intended.

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1 68. At the time of making said express warranties, Defendants had knowledge of the
2 purpose for which the JUUL e-cigarettes and pods were to be used and warranted them to be, in all
3 respects, fit, safe, and effective and proper for such purposes.

4 69. Plaintiffs relied on the skill, judgment and express warranties and representations
5 of Defendants in having the purchasing and using the JUUL e-cigarettes and pods.

6 70. These warranties were false and untrue at the time they were made. Defendants
7 knew that the JUUL e-cigarettes and pods were unsafe and unsuited for the use for which they
8 were intended, and that they could cause attendant medical problems as described herein. Further,
9 the JUUL e-cigarettes and pods were unsafe for their intended use and were not of merchantable
10 quality as warranted by Defendants in that they had dangerous propensities when put to their
11 intended use.

12 71. The JUUL e-cigarettes and pods designed, manufactured, distributed, packaged,
13 compounded, merchandised, advertised, promoted, supplied and/or sold by Defendants,
14 proximately and directly exposed Plaintiffs to harmful health consequences and medical
15 conditions, as set forth herein.

16 **EIGHTH CAUSE OF ACTION: DECEIT BY CONCEALMENT –**

17 **CALIFORNIA CIVIL CODE §§ 1709, 1710**

18 **(AGAINST ALL DEFENDANTS)**

19 72. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
20 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
21 fully set forth herein.

22 73. Plaintiffs are informed and believes, and thereon alleges, that Defendants, and each
23 of them, from the time that the JUUL e-cigarettes and pods was first tested, studied, researched,
24 evaluated, endorsed, manufactured, marketed and distributed, and up to the present, willfully
25 deceived Plaintiffs, and the public in general, by concealing from them the true facts concerning
26 JUUL e-cigarettes and pods, which Defendants had a duty to disclose in their advertising.

27 74. Plaintiffs are informed and believes, and thereon alleges, that at all times relevant
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1 hereto, Defendants, and each of them, conducted a sales and marketing campaign to promote the
2 sale of JUUL e-cigarettes and pods and willfully deceived Plaintiffs, and the public in general, as
3 to the health risks and consequences of the use of JUUL e-cigarettes and pods, including but not
4 limited to, the following false, deceptive, misleading, and untruthful advertisements, public
5 statements, marketing campaigns, and promotions:

6 a. In failing to warn Plaintiffs of the hazards associated with the use of JUUL e-
7 cigarettes and pods;

8 b. In failing to properly test JUUL e-cigarettes and pods to determine adequacy and
9 effectiveness or safety measures, if any, prior to releasing JUUL e-cigarettes and pods for
10 consumer use;

11 c. In failing to advise the FDA and the public about the adverse reports it had received
12 regarding JUUL e-cigarettes and pods;

13 d. In failing to remove JUUL e-cigarettes and pods from the market and/or issue
14 additional advertising which truthfully disclosed the health risks posed by JUUL products,
15 Defendants knew or should have known JUUL e-cigarettes and pods posed or caused greater
16 health risks than previously stated;

17 e. In failing to act like a reasonably prudent company under similar circumstances.

18 75. Defendants, and each of them, were aware of the foregoing, that JUUL e-cigarettes
19 and pods were not safe, fit, or effective for use as intended. Furthermore, Defendants were aware
20 that the use of JUUL e-cigarettes and pods were hazardous to a user's health, and that JUUL e-
21 cigarettes and pods carry a significant propensity to cause serious injuries to users including, but
22 not limited to, the injuries suffered by Plaintiffs as alleged herein.

23 76. Defendants intentionally concealed and suppressed the true facts concerning JUUL
24 e-cigarettes and pods with the intent to defraud Plaintiffs, other consumers, and the public in
25 general, in that Defendants knew that Plaintiffs would not have used JUUL e-cigarettes and pods
26 if he had known the true facts concerning the risks and dangers of JUUL e-cigarettes and pods.

27 77. As a result of the foregoing fraudulent and deceitful conduct by Defendants, and
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1 each of them, Plaintiffs suffered injuries and damages as alleged hereinabove.

2 **NINTH CAUSE OF ACTION: CONSTRUCTIVE FRAUD**

3 **(AGAINST ALL DEFENDANTS)**

4 78. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
5 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
6 fully set forth herein.

7 79. Plaintiffs are informed and believes, and thereon alleges, that Defendants falsely
8 and fraudulently represented to Plaintiffs, and members of the general public, that JUUL e-
9 cigarettes and pods were safe for use. The representations by Defendants were in fact false.
10 Contrary to Defendants' representations, JUUL e-cigarettes and pods were not safe for use by
11 members of the general public and were, in fact, extremely dangerous to consumers.

12 80. Defendants made other representations about the safety of JUUL e-cigarettes and
13 pods, including, but not limited to, the false, deceptive, misleading, and untruthful advertisements,
14 public statements, marketing campaigns, and promotions alleged herein.

15 81. Defendants misrepresented the safety of JUUL e-cigarettes and pods in their
16 advertising, representing in that advertising that JUUL e-cigarettes and pods were safe for use, and
17 concealed in the advertising the known or knowable risks and side effects of JUUL e-cigarettes
18 and pods.

19 82. When Defendants made these representations, they knew that such representations
20 were false. Defendants made the representations with the intent to defraud and deceive Plaintiffs,
21 consumers, and the public in general, and with the intent to induce them to use JUUL e-cigarettes
22 and pods in the manner alleged in this Complaint.

23 83. Plaintiffs took the actions alleged in this Complaint, while ignorant of the falsity of
24 Defendants' representations in their advertising, and reasonably believed them to be true. In
25 reliance upon such representations, Plaintiffs were induced to, and did, use JUUL e-cigarettes and
26 pods as alleged in this Complaint. If Plaintiffs had known the actual facts, Plaintiffs would not
27 have used JUUL e-cigarettes and pods, and his reliance upon Defendants' misrepresentations was
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1 justified because such misrepresentations were made and conducted by individuals and entities
2 that were in a position to know the true facts.

3 84. As a direct and proximate result of Defendants' fraud and deceit, Plaintiffs
4 sustained the injuries and damages as alleged in this Complaint.

5 **PUNITIVE DAMAGES ALLEGATION**

6 85. Plaintiffs repeat, reiterate and reallege each and every allegation of this Complaint
7 contained in each of the foregoing paragraphs inclusive, with the same force and effect as if more
8 fully set forth herein.

9 86. Through the actions outlined above, Defendants expressed a reckless indifference
10 to the safety of users of JUUL e-cigarettes and pods, including Plaintiffs. Defendants' conduct, as
11 described herein, knowing the dangers and risks of JUUL e-cigarettes and pods, yet concealing
12 and/or omitting this information in their advertising, in furtherance of their conspiracy and
13 concerted action was outrageous because of Defendants' evil motive or a reckless indifference to
14 the safety of users of JUUL e-cigarettes and pods, including Plaintiffs.

15 87. Plaintiffs are entitled to punitive damages because Defendants' failure to warn and
16 other actions as described herein were malicious, wanton, willful or oppressive or were done with
17 reckless indifference to the Plaintiffs and the public's safety and welfare. Defendants misled both
18 the FDA and the public at large, including the Plaintiffs herein, by making false representations
19 about the safety of their product. In their advertising, Defendants downplayed, understated and/or
20 disregarded their knowledge of the serious and permanent side effects associated with the use of
21 their product, despite available information demonstrating that JUUL e-cigarettes and pods were
22 likely to cause serious side effects.

23 88. Defendants were or should have been in possession of evidence demonstrating that
24 their products caused serious side effects. Nonetheless, they continued to advertise the products
25 by providing false and misleading information with regard to safety and efficacy.

26 89. Defendants' actions described above were performed willfully, intentionally and
27 with reckless disregard for the rights of Plaintiffs and the public.
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1 90. As a direct and proximate result of the willful, wanton, evilly, motivated and/or
2 reckless conduct of Defendants, Plaintiffs sustained damages as set forth above. Accordingly,
3 Plaintiffs seeks and are entitled to punitive damages in an amount to be determined at trial.

4 **TOLLING OF APPLICABLE STATUTES OF LIMITATIONS**

5 91. Defendants failed to disclose a known defect and affirmatively misrepresented that
6 JUUL e-cigarettes and pods were safe for their intended use in their advertising. Further, in their
7 advertising, Defendants actively concealed the true risks associated with the use of JUUL e-
8 cigarettes and pods. Plaintiffs had no knowledge that Defendants were engaged in the wrongdoing
9 alleged herein. Because of Defendants' concealment of and misrepresentations regarding the true
10 risks associated with JUUL e-cigarettes and pods, Plaintiffs could not have reasonably discovered
11 Defendants' wrongdoing at any time prior to the commencement of this action.

12 92. Thus, because Defendants fraudulently concealed the defective nature of JUUL e-
13 cigarettes and pods and the risks associated with their use, the running of any statute of limitations
14 has been tolled.

15 93. Additionally, and alternatively, Plaintiffs files this lawsuit within the applicable
16 limitations period of first suspecting that JUUL e-cigarettes and pods caused the appreciable harm
17 sustained by Plaintiffs. Plaintiffs did not have actual or constructive knowledge of the existence
18 of all facts or causes of action indicating to a reasonable person that Plaintiffs were the victim of a
19 tort. Plaintiffs were unaware of the facts upon which a cause of action rests until less than the
20 applicable limitations period prior to the filing of this action. Plaintiffs' lack of knowledge was not
21 willful, negligent, or unreasonable.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs demands judgment against the Defendants on each of the above-
24 referenced claims and Causes of Action and as follows:

- 25 1. Past and future general damages, the exact amount of which has yet to be
26 ascertained, in an amount which will conform to proof at time of trial;

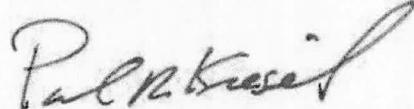
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2. Past and future economic and special damages according to proof at the time of trial;
3. Loss of earnings and impaired earning capacity according to proof at the time of trial;
4. Medical expenses, past and future, according to proof at the time of trial;
5. Punitive or exemplary damages according to proof at the time of trial;
6. Attorney's fees;
7. For costs of suit incurred herein;
8. For pre-judgment interest as provided by law; and
9. For such other and further relief as the Court may deem just and proper.

DATED: January 23, 2020

KIESEL LAW LLP

By: 
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Mariana A. McConnell
Melanie Palmer
Nicole DeVanon

SALIM-BEASLEY, LLC

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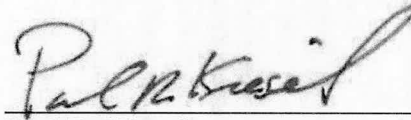
DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a trial by jury as to all claims in this action.

DATED: January 23, 2020

KIESEL LAW LLP

By:



Paul R. Kiesel

Mariana A. McConnell

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