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14 **UNITED STATES DISTRICT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 KADEN MOTARJEME,

17 Plaintiff,

18 v.

19 JUUL LABS, INC. AND ALTRIA
20 GROUP, INC.,

21 Defendants.

22 **MDL No. 2913**

23 **MDL Member Case No. _____**

24 **Filed Pursuant to Direct Filing Order**

25 **COMPLAINT**

26 **DEMAND FOR JURY TRIAL**

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1 Plaintiff Kaden Motarjeme, by and through his undersigned counsel, brings this Complaint
2 against Defendants JUUL Labs, Inc. and Altria Group, Inc., (hereinafter “Defendants”) and alleges
3 as follows:

4 **I. INTRODUCTION**

5 1. Mr. Motarjeme is a bright, young 19-year-old who has developed severe nicotine
6 addiction and other mental and physical health issues as a result of Defendants’ orchestrated efforts
7 to addict a new generation of teenagers to nicotine. He continues to be severely addicted to nicotine,
8 and this addiction will burden him the remainder of his life. Defendants’ wrongful conduct in
9 marketing, promoting, manufacturing, designing, distributing, and selling JUUL substantially
10 contributed to Mr. Motarjeme’s life-altering and permanent injuries.

11 2. In 2015, JUUL set out to recapture the magic of the most successful product ever
12 made—the cigarette. Due to regulations and court orders preventing the major cigarette
13 manufacturers from marketing to young people, youth smoking had decreased to its lowest levels
14 in decades. While the public health community celebrated this decline as a victory, JUUL saw an
15 opportunity. Seizing on regulatory inaction and loopholes for e-cigarettes, JUUL set out to develop
16 and market a highly addictive product that could be packaged and sold to young people. Youth is
17 and has always been the most sought-after market for cigarette companies, because they are the
18 most vulnerable to nicotine addiction and are most likely to become customers for life.

19 3. JUUL was designed perfectly for teenagers. It does not look or smell like a cigarette.
20 It is a sleek, high-tech youth-friendly battery-powered device that looks like a USB drive. The
21 JUUL device heats a nicotine-filled liquid JUUL pod, sold separately in fun flavors like mango and
22 cool mint, delivering powerfully potent doses of nicotine, along with aerosol and other toxic
23 chemicals into the lungs, body and brain. Unlike noxious cigarette smoke, when a JUUL user
24 exhales, the smoke is undetectable. JUUL is small, easily concealable and can be used practically
25 anywhere without parents or teachers knowing; just Google “JUUL in school” and find more than
26 23,000 videos on how to JUUL anywhere without detection. This is part of the appeal, fostered
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1 and bolstered by JUUL’s viral marketing campaigns using young models to make the products look
2 cool and stylish.

3 4. Defendants designed JUUL to quickly and severely addict young people to nicotine,
4 one of the most addictive chemicals in the world. By studying cigarette industry archives, JUUL
5 learned how to manipulate the nicotine in its products to maximize addictiveness, particularly
6 among new users and young people, and thereby increase sales. JUUL designed its products to
7 have maximum inhalability, without any “throat hit” or irritation that would serve as a natural
8 deterrent to new users. The sole purpose of this design element was to initiate new smokers, since
9 those who already smoke cigarettes are tolerant to the throat hit sensation and associate it with
10 smoking and nicotine satisfaction. At the same time, JUUL designed its device to deliver
11 substantially higher concentrations of nicotine per puff than traditional cigarettes and most other e-
12 cigarettes. This combination of ease of inhalation and high nicotine delivery makes JUUL both
13 powerfully addictive and dangerous.

14 5. Nicotine is particularly dangerous to young people whose brains are still developing
15 through the mid-20s. Nicotine is not only addictive developing adolescent brains, but it also induces
16 seizures and it permanently alters the structure of the brain and causes permanent mood changes
17 and other cognitive disorders.

18 6. Several studies, including one recently released by the American Stroke
19 Association, have shown that e-cigarettes increase the risk of stroke, heart attack and coronary
20 artery disease.¹ Other studies have shown that e-cigarettes containing nicotine significantly
21 increase blood pressure, heart rate and arterial stiffness, and also cause vascular damage, which can
22 lead to strokes and other cardiovascular injuries. These studies build on the well-established
23 research that nicotine increases blood pressure.

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

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

28 ² U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health, *Know*

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

8 9. At the time Plaintiff used JUUL, none of JUUL's advertising, marketing, promotion,
9 packaging or website disclosed any of the health effects and risks that JUUL knew or should have
10 known would occur from use of its products. These risks include severe nicotine addiction,
11 significant increases in blood pressure, vascular damage, increased risk of stroke, heart attacks and
12 other cardiovascular injuries, permanent brain changes, mood disorders, heightened risk of cancer,
13 seizures and other harms. JUUL never disclosed that its products were unsafe for anyone under
14 age 26. Instead, the imaging, advertising, promotion, packaging and overall marketing represented
15 the product as safe, fun, and not harmful. As one of the JUUL founders has said: "We don't think
16 a lot about addiction here because we're not trying to design a cessation product at all...anything
17 about health is not on our mind".³ JUUL's design, manufacturing, marketing and distribution of
18 this product has proven this statement to be true.

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

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26
27 *The Risks: E-cigarettes and Young People* (2019) <https://e-cigarettes.surgeongeneral.gov/> (as of July 5th, 2019).

28 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).

1 11. JUUL has created an epidemic. According to Alex Azar, the Secretary of the U.S.
2 Department of Health and Human Services, “We have never seen use of any substance by
3 America’s young people rise as rapidly as e-cigarette use is rising.”⁴ JUUL’s conduct has led to a
4 surge in teen e-cigarette use, creating the “largest ever recorded [increase in substance abuse] in
5 the past 43 years for any adolescent substance use outcome in the U.S.”⁵ In a mere two years,
6 Defendant undid more than a decade of progress in reducing teen smoking, thereby increasing
7 nicotine use among teenagers to levels not seen since the early 2000s. Plaintiff was both a target
8 and a victim of JUUL’s conduct.

9 12. As a result of Defendant’s conduct, Plaintiff has suffered life-altering personal
10 injuries and seeks all appropriate remedies and relief.

11 **II. JURISDICTION AND VENUE**

12 13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, because
13 the amount in controversy as to the Plaintiff exceeds \$75,000.00, exclusive of interest and costs,
14 and because there is complete diversity of citizenship between the Plaintiff and the Defendants.

15 14. This action is filed in this Court pursuant to Pre-Trial Order No. 9 (Direct Filing –
16 Stipulated) (Rec. Doc. 309). Pursuant to this Order and 28 U.S.C. § 1404(a), upon completion of
17 all pretrial proceedings applicable to cases before this Court, this action will be transferred to the
18 federal district court in the district where Plaintiff was injured or where Plaintiff resided at the
19 time of injury, after giving the parties an opportunity to meet and confer and be heard. The
20 Defendants have stipulated that they will not assert any objection of improper venue pursuant to
21 Fed. R. Civ. P. 12(b) upon transfer consistent with the terms of the Court’s Pre-Trial Order.
22 Plaintiff states that the appropriate transfer venue under 28 U.S.C. § 1391, is the United States
23 District Court for the 18th Judicial District of Colorado and the venue is proper in such district
24

25
26 ⁴ *Surgeon General releases advisory on E-cigarette epidemic among youth*, U.S. Department of Health & Human
27 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).

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 because of substantial part of the events or omissions giving rise to the claim occurred in
2 Colorado, and because Defendants conduct substantial business in Colorado.

3 15. This Court has personal jurisdiction over Defendants as they have done substantial
4 business, have committed a tort in whole or in part, have substantial and continuing contact with,
5 and derive substantial revenue from goods used and consumed within the State of Colorado and
6 throughout the United States. The Defendants actively sell, market and promote its JUUL
7 electronic nicotine delivery devices and products to consumers throughout the United States,
8 including the State of Colorado. Further, pursuant to 28 U.S.C. § 1407 and the October 2, 2019
9 Order of the Judicial Panel on Multidistrict Litigation, all JUUL-related personal injury claims
10 have been consolidated before this Court.

11 16. Pursuant to Case Management Order No. 3 (MDL Doc. 309), Plaintiff files this
12 Complaint directly into these MDL proceedings. In accordance with CMO 3, Plaintiff's
13 designated forum is the 18th Judicial District Court for Colorado. Pursuant to 28 U.S.C. § 1391,
14 the 18th Judicial District Court for Colorado is proper because, as detailed below, a substantial
15 part of the events or omissions giving rise to the claim occurred in Colorado, and because
16 Defendants conduct substantial business in Colorado.

17 **III. THE PLAINTIFF**

18 17. Mr. Motarjeme is a resident of Castle Rock, Colorado. Mr. Motarjeme was not
19 addicted to nicotine before trying JUUL for the first time in September 2017 at only 17 years old.
20 He had been offered to try JUUL by his high school friends, admitting that it was the trendy thing
21 to do at the time. It only took only one week of trying the JUUL before Mr. Motarjeme was addicted
22 and had to have his own. Mr. Motarjeme thereafter began using and purchasing JUUL vaping
23 products however and wherever he could. Mr. Motarjeme was unaware when he first began
24 "JUULing" just how much nicotine the device contained nor was he aware of the extent of addiction
25 it would cause.

26 18. Prior to using a JUUL, none of the advertisements or in-store promotions Mr.
27 Motarjeme saw nor would have seen disclosed the nature or addiction risks of JUUL's products,
28

1 nor that JUUL was engineered to deliver nicotine to the bloodstream more rapidly and in greater
2 quantities than a cigarette. Nor did they indicate that the JUUL was an age-restricted product and
3 not safe for anyone under the age of 26.

4 19. Mr. Motarjeme was attracted to and most often used the Cucumber and Mint flavors.
5 Mr. Motarjeme quickly became severely addicted to nicotine from his use of JUUL, reaching the
6 point of vaping up to four JUUL pods in one day.

7 20. Mr. Motarjeme now struggles to function without nicotine. He experiences
8 irritability, inability to focus, sluggishness, and other severe emotional and physical withdrawal
9 symptoms from the JUUL. He has tried to quit on multiple occasions through multiple methods.
10 Mr. Motarjeme's severe addiction to the nicotine levels contained in the JUUL created within him
11 addiction issues that did not exist before. His addiction has further cost him his ability to focus and
12 perform as well academically as well as has negatively affected his relationships. To this day, Mr.
13 Motarjeme still craves nicotine and fights the desire to feed this addiction.

14 21. Mr. Motarjeme still struggles with this nicotine addiction and will continue to
15 struggle with this addiction for the rest of his life. Mr. Motarjeme's nicotine addiction from JUUL
16 permanently injured and altered his developing brain at a crucial age. In addition to his severe
17 nicotine addiction, moodiness, lowered physical and mental performance, and brain injury, Mr.
18 Motarjeme has suffered harm through exposure to significant toxic substances, which may cause
19 or contribute to causing disease and future health problems.

20 22. Defendants' conduct has harmed Mr. Motarjeme physically, emotionally, mentally
21 and financially.

22 **IV. THE DEFENDANTS**

23 **A. Defendants**

24 23. Defendant JUUL Labs, Inc. ("JUUL") is a Delaware corporation, having its
25 principal place of business in San Francisco, California. JUUL originally operated under the name
26 PAX Labs, Inc. In 2017, it was renamed JUUL Labs, Inc. JUUL manufactures, designs, sells,
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1 markets, promotes and distributes JUUL e-cigarettes. JUUL ratified each and every act or omission
2 alleged herein in proximately causing the injuries and damages alleged herein.

3 24. Defendant Altria Group, Inc. (“Altria”), is incorporated in Virginia and has its
4 principal place of business in Richmond, Virginia. Altria has partnered with JUUL Labs, Inc. In
5 2018, Altria acquired 35% ownership in JUUL for \$12.8 billion and access to Altria’s industry
6 infrastructure.

7 **V. FACTUAL ALLEGATIONS**

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

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

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

19 27. JUUL used the cigarette industry’s prior practices as a playbook. Monsees has
20 publicly admitted that JUUL built its e-cigarette business by first consulting cigarette industry
21 documents, including board meeting minutes, made public under the Master Settlement Agreement
22 that had been reached between the cigarette industry, governmental officials, and injured smokers.

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

26 ⁷ Mings, *Ploom model Two Slays Smoking with Slick Design and Heated Tobacco Pods*, Solid 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 “[Industry documents] became a very intriguing space for us to investigate because we had so much
2 information that you wouldn’t normally be able to get in most industries. And we were able to catch
3 up, right, to a huge, huge industry in no time. And then we started building prototypes.”¹¹

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

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

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

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

26 ¹² *Id.*

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

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

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

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

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



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).

1 34. JUUL manufactures and distributes its nicotine formulation as JUUL pods, which
 2 contain JUUL's nicotine liquid. JUUL exclusively sells its pods in four-packs, in a variety of



14 flavors, many of which have no combustible cigarette analog, including mango, “cool” cucumber,
 15 fruit medley, “cool” mint, and crème brulee. According to a recent survey of more than 1,000 12
 16 to 17-year-olds, 6.5% admitted to using a JUUL e-cigarette. Of those, 86% of users most recently
 17 used fruit medley, mango, cool mint, or crème brulee.¹⁶

18 35. The physical design of the JUUL device (including its circuit board) and JUUL pod
 19 determines the amount of aerosolized nicotine the JUUL emits. By altering the temperature,
 20 maximum puff duration, or airflow, among other things, Defendants can finely tune the amount of
 21 nicotine vapor the JUUL delivers.¹⁷

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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).

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

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

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

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

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

23 39. Once a brain is addicted to nicotine, the absence of nicotine causes compulsive drug-
24 seeking behavior, which, if not satisfied, results in withdrawal symptoms including anxiety,
25 tension, depression, irritability, difficulty in concentrating, disorientation, increased eating,
26 restlessness, headaches, sweating, insomnia, heart palpitations and tremors – and intense cravings

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

28 ¹⁹ *Id.*

1 for nicotine. Though smokers commonly report pleasure and reduced anger, tension, depression
2 and stress after smoking a cigarette, many of these effects are actually due to the relief of unpleasant
3 withdrawal symptoms that occur when a person stops smoking and deprives the brain and body of
4 nicotine. Studies have found that most smokers do not like smoking most of the time but do so to
5 avoid withdrawal symptoms.²⁰

6 40. Nicotine causes permanent brain changes. The effects of nicotine exposure on the
7 brain of youth and young adults include addiction, priming for use of other addictive substances,
8 reduced impulse control, deficits in attention and cognition, and mood disorders.²¹

9 41. Nicotine is also associated with cardiovascular, reproductive, and
10 immunosuppressive problems, and is also a carcinogen.²² Nicotine adversely affects the heart,
11 eyes, reproductive system, lung, and kidneys. It is well-established that nicotine increases blood
12 pressure. Exposure to nicotine from sources such as nicotine gum still produces an increased risk
13 of Coronary Vascular Disease by producing acute myocardial ischemia, as well as an increased risk
14 of peripheral arterial disorders. Aside from its use as a stimulant, the only other known use of
15 nicotine is as an insecticide.²³

16 42. Several studies have shown that e-cigarettes increase the risk of strokes and heart
17 attacks.²⁴

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

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

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

24 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4363846/>.

25 ²³ *Id.*

26 ²⁴ E-cigarettes linked to higher risk of stroke, heart attack, diseased arteries (Jan 30, 2019) American Stroke Association
27 *News Release*, Abstract 9, Session A2, [https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries)
28 [heart-attack-diseased-arteries](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries) (as of July 5, 2019); Vindhya *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,

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

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

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

8 46. Nicotine affects neurological development in adolescents, and exposure to nicotine
9 during adolescence produces an increased vulnerability to nicotine addiction.²⁸ Adolescent nicotine
10 addiction causes “substantial neural remodeling” including those parts of the brain governed by
11 dopamine or acetylcholine, which play central roles in reward functioning and cognitive function,
12 including executive function mediated by the prefrontal cortex. A “clear-cut relationship” between
13 adolescent smokers and diminished neural responses has been observed such that addicts exhibit
14 diminished sensitivity to non-drug rewards (e.g., financial rewards). This relationship becomes
15 even more severe in adolescents who smoke more than 5 cigarettes a day. In sum, “the use of
16 extremely rewarding drugs, such as nicotine, may decrease the pleasure obtained from non-drug
17 rewards.” *Id.* These changes occur in “early phases of smoking.” *Id.* Other brain changes from
18

19
20 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*
21 *of the American Heart Association*, Vol. 8, Iss. 12, www.ahajournals.org/doi/10.1161/JAHA.119.012317 (as of July 5
2019).

22 ²⁵ Vlachopoulos *et al.*, Electronic cigarette smoking increases aortic stiffness and blood pressure in young smokers
(Sep 10, 2017) *J. Am. Col.1 Cardiol.* 67:2802–2803, www.sciencedaily.com/releases/2017/09/170910232512.htm (as
23 of July 5, 2019)

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

26 ²⁷ Omaiye *et al.*, High-Nicotine Electronic Cigarette Products: Toxicity of JUUL Fluids and Aerosols Correlates
27 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 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).

1 nicotine include increased sensitivity to other drugs and heightened impulsivity.²⁹ “Brain imaging
2 on adolescents suggest that those who begin smoking regularly at a young age have markedly
3 reduced activity in the prefrontal cortex and perform less well on tasks related to memory and
4 attention compared to people who don’t smoke.”³⁰

5 47. Public health authorities have concluded that e-cigarettes are unsafe for anyone
6 under age 26.³¹

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

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

13 49. For this reason, cigarette companies spent decades manipulating nicotine in order to
14 foster and maintain addiction in their customers. For example, R.J. Reynolds Tobacco Company
15 (“RJR”) developed and patented nicotine salt additives such as nicotine benzoate to increase
16 nicotine delivery in cigarette smoke. As detailed in an RJR memorandum titled “Cigarette concept
17 to assure RJR a larger segment of the youth market,” manipulating the pH of nicotine was expected
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21 ²⁹ University of Warwick, “Different brain areas linked to smoking and drinking” (Jan 8, 2019) ScienceDaily,
22 www.sciencedaily.com/releases/2019/01/190108095119.htm (as of July 5, 2019).

23 ³⁰ Brodwin, *An e-cigarette with twice the nicotine of comparable devices is taking over high schools - and scientists*
24 *are sounding the alarm* (Apr 30, 2018) Business Insider, [www.businessinsider.com/juul-e-cig-vaping-health-effects-](http://www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3)
25 [2018-3](http://www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3) (as of July 5, 2019).

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

28 ³² How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-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).

³³ 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).

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

1 to give cigarettes an “additional nicotine ‘kick’.”³⁵ This kick was attributed to increased nicotine
2 absorption associated with lower pH.³⁶

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

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

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

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

24 ³⁶ Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine Psychopharmacology (Oct. 13, 2010), *Handb Exp Pharmacol* 192:29–60, www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/ (as of July 5, 2019).

25 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).

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

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

4 54. The same chart further shows that the Duell Study authors found that the low
5 freebase fraction in its aerosols suggested a “decrease in the perceived harshness of the aerosol to
6 the user and thus a greater abuse liability.” *Id.* at 431-434.

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

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

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

21 58. JUUL’s lack of throat hit increases the risk of using the product, because it masks
22 the amount of nicotine being delivered, by eliminating the throat sensory feedback normally
23 associated with a large dose of nicotine. The “throat hit” is part of the body’s alert system, letting
24 a person know he is inhaling something harmful. Eventually, the irritation to the throat will cause
25 even the most compulsive addict to wait before the next inhalation. Reducing or removing this

26 ³⁹ *Id.*, Duell Study, Fig. 3.

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

1 feedback impairs the user’s ability to ascertain that he is consuming a toxin. As a result, the
2 cravings for nicotine can be satisfied nonstop, fostering addiction or aggravating an existing
3 addiction, and repeatedly exposing the user to the health risks associated with the product, such as
4 significantly increased blood pressure.

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

8 60. Blood plasma studies in the ‘895 patent⁴¹ show that vaping nicotine benzoate
9 increases nicotine delivery compared to cigarettes or vaporized solutions of freebase nicotine. In
10 fact, nicotine uptake was up to four times higher for nicotine salt formulations than traditional
11 cigarettes (approximately 4 ng/mL/min compared to approximately 1 ng/mL/min). JUUL’s data
12 also indicates that nicotine salt solutions produce a higher heart rate in a shorter amount of time (a
13 50 beats/minute increase within 2 minutes for nicotine salt, versus a 40 beats/minute increase in 2.5
14 minutes for a Pall Mall cigarette). Nicotine salts also cause a faster and more significant rise in
15 heart rate than placebo or vaporized freebase nicotine.

16 61. JUUL’s ‘895 patent shows that a 4% solution of benzoic acid nicotine salt causes a
17 peak nicotine-blood concentration (“C_{max}”) of approximately 15 ng/mL, compared to a C_{max} of
18 11 ng/mL for a Pall Mall cigarette.⁴²

19 62. As high as the reported nicotine dose reported for JUUL pods is, the actual dose is
20 likely higher. Though the strongest benzoic acid concentration mentioned in the ‘895 patent is 4%
21 (i.e., 40 mg/mL of benzoic acid), one study tested four flavors of JUUL pods and found a 4.5%
22 benzoic acid (44.8 ± 0.6) solution.⁴³ That study found that JUUL pods contained a concentration
23 of 6.2% nicotine salt (about 60 mg/mL), rather than the 5% nicotine (about 50 mg/mL) advertised.
24 JUUL pods containing an absolute nicotine concentration 1.2% higher than the stated 5% on the
25

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

27 ⁴² ‘895 Patent, at col. 26, ll. 33-50.

28 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 label (a relative increase of over 20%) coupled with more benzoic acid than listed in the '895 patent
2 produce higher nicotine absorption than expected for the advertised formulation.

3 63. Other studies have reported even higher actual concentrations of nicotine in JUUL
4 pods. Some experts estimate that JUUL pods contain the same nicotine as two packs of cigarettes.⁴⁴

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

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

22
23 ⁴⁴ 6 important facts about JUUL, Truth Initiative, <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 (as of July 5, 2019)
(citing United Kingdom Medicines and Healthcare Products Regulatory Agency and industry reports).

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

26 ⁴⁷ Linder-Ganz, *JUUL Warns It Will Fight Israel Over Its Potential Ban on E-Cigarettes* (Jan 30, 2018), HAARETZ,
27 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).

28 ⁴⁸ Reilly *et al.*, Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic Cigarettes (Oct 20, 2018)
Nicotine Tob Res. 3 (the "Reilly study") <https://www.ncbi.nlm.nih.gov/pubmed/30346584> (as of July 5, 2019).

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 $\mu\text{g}/\text{puff}$.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 $\mu\text{g}/\text{puff}$. In other words, empirical data suggests
6 that JUUL delivers up to 36% more nicotine per puff than a Marlboro.

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

13 67. Despite the above data, Defendants have failed to disclose to consumers that the
14 JUUL pods’ nicotine salt formulation delivers an exceptionally potent dose of nicotine.

15 68. 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 69. 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, JUUL pods are foreseeably
21 exceptionally addictive when used by persons without prior exposure to nicotine—a fact not
22 disclosed by Defendant.

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

27 ⁵⁰ Jarvis *et al.*, Nicotine Yield From Machine Smoked Cigarettes and Nicotine Intakes in Smokers: Evidence From a
28 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 70. 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 71. 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 72. 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 73. 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 74. JUUL’s design offers no benefit to young people like Mr. Motarjeme, 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 75. Because JUUL understood that it could not specifically make health-related claims
23 without drawing the ire of the FDA, JUUL conspired with others in the cigarette industry to engage
24 consultants, academics, reporters, and other friendly sources such as the American Enterprise
25 Institute, to serve as spokespersons and cheerleaders for e-cigarette products. Taking yet another
26 page from the cigarette-industry playbook, these influencers masked their connection to the e-
27 cigarette industry, while serving as its mouthpiece to cast doubt about risks and overstate benefits.

28 ⁵² Duell Study, 431

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

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

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

9 78. During each of its multiple fundraising rounds, JUUL assured potential investors
10 that “addiction to something that is not harmful”, suggesting that JUUL was no more harmful than
11 coffee.

12 79. On information and belief, JUUL and its co-conspirators spread this message
13 through hired third-party spokespersons and influencers.

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

18 81. JUUL well-understood from the cigarette industry playbook that sowing doubt and
19 confusion over the benefits and risks of e-cigarettes is key to long-term success. First, by creating
20 a “two-sides-to-every-story” narrative, JUUL reduced the barriers for young people and new users
21 to try the product and gave addicted users permission to keep using the product and avoid the pain
22 of withdrawal. Second, by engaging people who looked like independent experts, JUUL staved off
23 regulation and suppressed political opposition, allowing it a long runway to capture market share.
24 Third, by belittling the public health community, JUUL neutered its most vocal threat.

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

27 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-](http://www.forbes.com/sites/sallysatel/2018/04/11/why-the-panic-over-juul-and-teen-vaping-may-have-deadly-results/#6b1ec693ea48)
28 [results/#6b1ec693ea48](http://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 82. On information and belief, JUUL conspired with others in the cigarette industry to
2 fraudulently conceal the risks of e-cigarettes, recognizing that a campaign of doubt, misinformation
3 and confusion would benefit all of them and would be the key to the industry’s survival.

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

6 83. From JUUL’s pre-release announcements to this day, JUUL, along with Defendants
7 that provided marketing services to JUUL, has continuously falsely represented that each pod
8 contains only as much nicotine as a pack of cigarettes. JUUL repeats these claims widely in
9 advertisements, press releases, on its packaging, and on its web site. For example, some JUUL
10 advertisements and JUUL’s website currently provides that each “JUULpod is designed to contain
11 approximately 0.7mL with 5% nicotine by weight at time of manufacture which is approximately
12 equivalent to 1 pack of cigarettes or 200 puffs.” This statement is false and seriously misleading
13 because, as JUUL knows, it is not just the amount of nicotine, but the efficiency with which the
14 product delivers nicotine into the bloodstream, that determines the product’s narcotic effect, risk of
15 addiction, and other health risks.

16 84. Defendant knows that benzoic acid affects pH and “absorption of nicotine across
17 biological membranes.”⁵⁶

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

21 86. JUUL’s equivalency claim further assumes 10 puffs per cigarette (i.e., 200 puff per
22 pack), or 0.2 mg (200 µg) of nicotine per puff.

23 87. Typically, a cigarette that delivers around one milligram of nicotine in smoke retains
24 “about 14-20 milligrams of nicotine in the unsmoked rod,” *USA v. Philip Morris*, p. 567, for an
25 overall delivery of 5-7% of the cigarette’s actual nicotine content. A study by the Center for
26 Disease Control found that in “commercial cigarette brands, nicotine concentrations ranged from

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 16.2 to 26.3 mg nicotine/g tobacco (mean 19.2 mg/g; median 19.4 mg/g).⁵⁷ Assuming an average
2 of 19 milligrams of nicotine per cigarette, an average pack of cigarettes contains 380 milligrams of
3 nicotine, or six times as much nicotine as the 62 milligrams reported for each JUUL pod. Yet the
4 average pack would be expected to deliver only 5-7% (19-27 mg) of its nicotine content to the user.
5 In line with this expectation, a study of thousands of smokers found smokers intaking between 1.07
6 to 1.39 milligrams per cigarette (21.4-27.8 mg per pack).⁵⁸ This is less than half of the amount of
7 nicotine contained in a JUUL pod (i.e., 2 mg per “cigarette” based on JUUL’s stated concentration,
8 or 200 µg per puff assuming 100% delivery). Even with the slightly lower efficiency of delivery
9 demonstrated in studies like Reilly (about 82%, for averages of 164 µg per puff), this amounts to a
10 substantially higher amount of nicotine that a human will absorb from a JUUL pod than from
11 smoking a pack of cigarettes.

12 88. JUUL’s statement in its advertisements that each JUUL pod contains about as much
13 nicotine as a pack of cigarettes is therefore literally false and likely to mislead, because the amount
14 of nicotine contained in the JUUL pod is perhaps six times less than in a pack of cigarettes, but the
15 actual amount of nicotine consumed via JUUL pod is as much as twice as high as that via cigarettes.
16 This fact is never mentioned by JUUL nor Defendants.

17 89. Further, while a pack of cigarettes contains 20 cigarettes which each have to be
18 separately lit, the JUUL can be inhaled continuously, and often can be used indoors without
19 detection by others, a feature that JUUL promoted heavily in its advertisements, eliminating the
20 need for smoking breaks. Thus, the device design leads users to intake far more nicotine than would
21 occur with cigarettes.

22 90. Finally, the JUUL device does not have a manual or automatic “off” switch. On
23 information and belief, neither the JUUL pod nor the programming of the JUUL device’s
24 temperature or puff duration settings limit the amount of nicotine JUUL delivers each puff to the
25

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

27 ⁵⁸ Jarvis *et al.*, Nicotine Yield From Machine-Smoked Cigarettes and Nicotine Intakes in Smokers: Evidence From a
28 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 upper bound of a cigarette. Thus, in contrast to a traditional cigarette, which self-extinguishes as
2 each cigarette is consumed, the JUUL allows non-stop nicotine consumption, which is limited only
3 by the device's battery. As a result, the JUUL is able to facilitate consumption of extraordinarily
4 high levels of nicotine that a cigarette cannot match. This makes it easier for the user to become
5 addicted to nicotine and poses additional health risks.

6 91. Contrary to Defendant's representations, the above data indicate that each JUUL
7 pod delivers significantly more nicotine than a pack of cigarettes, both per pack and per puff.
8 JUUL's products thus have the foreseeable effect of luring youth, who react positively to a strong
9 nicotine "kick," and exacerbating nicotine addiction and adverse health effects associated with
10 nicotine consumption.

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

14 **H. Defendants Never Warned Mr. Motarjeme that JUUL's Products Were**
15 **Unsafe, Addictive, and Dangerous.**

16 93. At no time before Mr. Motarjeme became severely addicted, did JUUL, nor any of
17 the other Defendants involved in the research, development, marketing and distribution of JUUL
18 products provide any warnings about the risks of addiction or other brain damage.

19 94. At no time before Mr. Motarjeme became severely addicted did JUUL or any other
20 Defendants warn Mr. Motarjeme that JUUL products were unsafe for him and anyone under age
21 26, nor instruct him on how much JUUL would be safe to consume.

22 95. Despite making numerous revisions to its packaging since 2015, JUUL did not add
23 nicotine warnings until forced to do so in August of 2018, far too late for Mr. Motarjeme. Neither
24 did any of the Defendants involved in the research, development, marketing of JUUL products and
25 e-cigarettes provide any warnings. The original JUUL product labels had a California Proposition
26 65 warning indicating that the product contains a substance known to cause cancer, and a warning
27 to keep JUUL pods away from children and pets, but contained no warnings specifically about the
28

1 known effects, or possible long-term effects, of nicotine or vaping/inhaling nicotine salts. Many
2 of JUUL’s advertisements, particularly before August 2017, also lacked a nicotine warning.

3 96. Furthermore, JUUL misrepresents the nicotine content of JUUL pods by
4 representing it as 5% strength. As discussed above, JUUL pods contain more than 5% nicotine by
5 volume and deliver it in a form that is particularly potent.

6 97. Instead, JUUL marketed its JUUL products as an “alternative to cigarettes,” thereby
7 giving the false impression that they are not harmful like traditional cigarettes and safe to use.

8 98. Mr. Motarjeme did not and could have known the risks associated with JUUL,
9 because Defendant had exclusive knowledge about its product, including its design, and concealed
10 that information from him.

11 99. Instead, as a result of JUUL’s wildly successful marketing campaign, based on
12 tactics developed by the cigarette industry and amplified in social media, Mr. Motarjeme
13 reasonably believed that JUUL was safe, harmless, fun, and cool—a thing to do with friends.

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

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

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

22 c. Sixty-three percent of JUUL users did not know that this product always contains
23 nicotine.

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

27 101. As described further below, Defendant has used the same strategies perfected by the
28 cigarette industry to sell JUUL products to young people. In particular, JUUL has both exploited

1 regulatory loopholes and relied heavily on social media and other viral advertising tools to hook
2 people, and in particular young persons, on its addictive e-cigarettes.

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

6 103. These entities provided the strategies, analyses, and services to JUUL enabling and
7 in furtherance of JUUL’s deceptive and unfair marketing tactics.

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

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

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

23 106. Typically, a viral marketing campaign will begin with a “push” by the company
24 seeking to advertise the product, and since the advent of social media, that push is typically done
25 through the creation of new content on a social media platform, such as Instagram, YouTube,
26

27 _____
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 Twitter, Facebook or other similar platform (“Social Media Platforms”).⁶⁰ A company that wants
2 to push an ad on Social Media Platforms has a few options. First, the company can solicit followers
3 to its social media pages, so that when the company posts to its feed, the content would be delivered
4 to those followers and to those who visited the company page. Second, the company can purchase
5 paid advertisements that were delivered to specified target audiences. Then, to amplify a message,
6 companies can utilize other tools, such as paid influencers and strategic use of promotions and
7 hashtags, to blanket the targeted demographic with advertisements across social media.

8
9 107. Companies seeking to advertise new products or reach a new demographic have discovered
10 the power of the “like” and “share” features on social media, which allow users to promote content
11 to their own audiences. As Mark Zuckerberg, founder and Chief Executive Officer of Facebook
12 explained: “Nothing influences people more than a recommendation from a trusted friend...A
13 trusted referral is the Holy Grail of advertising.”⁶¹

14
15 108. With the advent of social media, viral marketing campaigns have become a
16 particularly effective way to reach young people, particularly teenagers. Teenagers tend to use
17 social media far more than adults and tend to be more susceptible to peer pressure. Ninety-five
18 percent of teens report having use of a smart phone.⁶² Forty-five percent report being online
19 “constantly.” *Id.* Eighty-five percent use YouTube. *Id.* Seventy-two percent use Instagram, and
20 sixty-nine percent use Snapchat. *Id.* Adolescents also have a far stronger herding instinct than
21 adults. The desire to fit in and look cool means that adolescents drive new trends online. As many

22
23
24 ⁶⁰ Skrob, The viral marketing concept as a model for open source software to reach the critical mass for global brand
25 awareness based on the example of TYPO3 (Aug 2005), University of Applied Science Kufstein, Austria,
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.494.8779&rep=rep1&type=pdf> (as of July 5, 2019).

26 ⁶¹ <https://www.ft.com/content/01341240-8cbd-11dc-b887-0000779fd2ac> (last accessed Dec. 13, 2018). See also
27 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.”).

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

1 businesses know, young people are often skeptical of traditional advertising and the tactics of large
2 corporations. Thus, by pushing a viral marketing campaign, these businesses can reach consumers
3 who might ignore typical advertising and are more likely to respond to an advertisement that does
4 not look or feel like an advertisement, but instead is a message shared by a friend, a peer, or some
5 other person influential to the viewer.

6
7 109. Companies can also take viral messaging off-line. By running simple, catchy ads
8 with minimal text and graphic visuals, and displaying those ads in various forms, companies
9 generate buzz and discussion, which is reinforced through social media.

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

12 110. To remain profitable, the tobacco industry must continue to woo new customers:
13 some existing customers wean themselves from addiction and the others eventually die, so
14 replacement customers are needed. In recent years, tobacco usage in the United States has fallen
15 dramatically, with particularly large decreases in the youth smoking rates, which cigarette
16 companies have been vigorously trying to counteract. The cigarette industry knows that the
17 younger a person starts smoking, the longer they will have a customer. Historically, cigarette
18 companies fought to increase share penetration among the 14-24 age group because “young
19 smokers have been the critical factor in the growth” of tobacco companies, and “the 14-18 year old
20 group is an increasing segment of the smoking population.”⁶³ The importance of the youth market
21 was illustrated in a 1974 presentation by RJR’s Vice-President of Marketing who explained that
22 the “young adult market . . . represent[s] tomorrow’s cigarette business. As this 14-24 age group
23 matures, they will account for a key share of the total cigarette volume - for at least the next 25
24 years.”⁶⁴

25
26
27 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).

28 ⁶⁴ Mr. C.A. Tucker Presentation to RJRI BOFD - 9/30/74 (740930), “Marketing Plan” (1974),
www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=ypmw0091 (as of July 5, 2019)

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

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

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

19 114. Thus, the industry has long used viral marketing campaigns to push its products on
20 children, teens, and young adults. Prior to the advent of the Internet, cigarette companies engaged
21 in “viral advertising” or “influential seeding” by paying “cool people” to smoke in select bars and
22 clubs, with the “idea being that people will copy this fashion, which would then spread as if by
23 infection.”⁶⁵ By simply paying some attractive, stylish third parties to use the product in trendy
24 public places, tobacco companies were able to create buzz and intrigue. As word spread, the public
25 would develop a strong association that smoking was what young, cool adults were doing.

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

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

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

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

22 118. Similarly, in 1988 the R.J. Reynolds Tobacco Company introduced the infamous
23 Joe Camel cartoon campaign, which faced instant criticism due to how appealing the cartoon animal
24 was to children and teens. Joe Camel was drawn as sleek, metropolitan figure, typically wearing
25 sunglasses or a tuxedo, or was depicted driving convertibles, gambling, or playing pool. The ads
26

27 ⁶⁶ *New Investigation Exposes How Tobacco Companies Market Cigarettes on Social Media in the U.S. and Around the*
28 *World* (Aug 27, 2019) Campaign For Tobacco-Free Kids www.tobaccofreekids.org/press-releases/2018_08_27_ftc (as
of July 5, 2019).

1 often used the phrase “Smooth Character,” which to teenagers, meant he had a slick, cool
 2 personality. That in turn led to an association between smoking and coolness in the minds of young
 3 people. To ensure that message stuck, R.J. Reynolds put up billboards featuring Joe Camel near
 4 schools, and printed Joe Camel shirts, hats, and other paraphernalia, ensuring the campaign would
 5 be carried far and wide, and that kids would constantly be exposed to it. Only three years after the
 6 campaign began, in 1991, the Journal of the American Medical Association published a study
 7 showing that by age six nearly as many children could correctly respond that “Joe Camel” was
 8 associated with cigarettes as could respond that the Disney Channel logo was associated with
 9 Mickey Mouse, and it alleged that the “Joe Camel” campaign was targeting children, despite R. J.
 10 Reynolds’ claim (similar to the claim of Defendants here) that the campaign was directed only to
 11 adults who were already smokers of other brands.⁶⁷ At that time researchers estimated that 32.8%
 12 of all cigarettes sold illegally to underage buyers were Camels.⁶⁸ The Joe Camel campaign ended
 13 under the pressure of an impending civil trial brought by the City Attorney in San Francisco,
 14 Congressional investigation, and public pressure.⁶⁹

15 119. Cigarette companies have also known for decades that flavored products are key to
 16 nicotine adoption by youth. A 1972 Brown & Williamson internal memorandum titled “Youth
 17 Cigarette – New Concepts,” observed that “it’s a well-known fact that teenagers like sweet
 18 products.”⁷⁰ A 1979 Lorillard memorandum found “younger” customers would be “attracted to
 19 products with ‘less tobacco taste’” and suggested investigating the “possibility of borrowing
 20 switching study data from the company which produces ‘Life Savers’ as a basis for determining
 21 which flavors enjoy the widest appeal” among youth.⁷¹ A 2004 study found that 17-year-old

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

24 ⁶⁸ DiFranza *et al.*, RJR Nabisco’s cartoon camel promotes camel cigarettes to children (Dec 11, 1991) JAMA
 25 266(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.)

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

27 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).

28 ⁷¹ Flavored Tobacco FAQs, Students Working Against Tobacco, (citing, Sedgefield Idea Sessions 790606-790607.
 June 8, 1979. Bates No. 81513681/3691)

1 smokers were more than three times as likely as those over the age of 25 to smoke flavored
 2 cigarettes, and they viewed flavored cigarettes as safer.⁷² Tobacco companies also used
 3 advertisements that paired cigarettes with foods, to make it seem like cigarettes were part of a
 4 healthy meal.

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

7 120. Most of the activities described in the section above are now recognized as against
 8 public policy, and thus forbidden for cigarette companies.

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

14 a. using outdoor advertising such as billboards,
 15 b. sponsoring events,
 16 c. giving free samples,
 17 d. paying any person “to use, display, make reference to or use as a prop any Tobacco
 18 Product, Tobacco Product package . . . in any “Media,” which includes “any motion picture,
 19 television show, theatrical production or other live performance,” and any “commercial film or
 20 video;” and paying any third party to conduct any activity which the tobacco manufacturer is
 21 prohibited from doing.

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

26 <http://swatflorida.com/uploads/fightresource/Flavored%20Tobacco%20Industry%20Quotes%20and%20Facts.pdf>
 (as of July 5, 2019)

27 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).

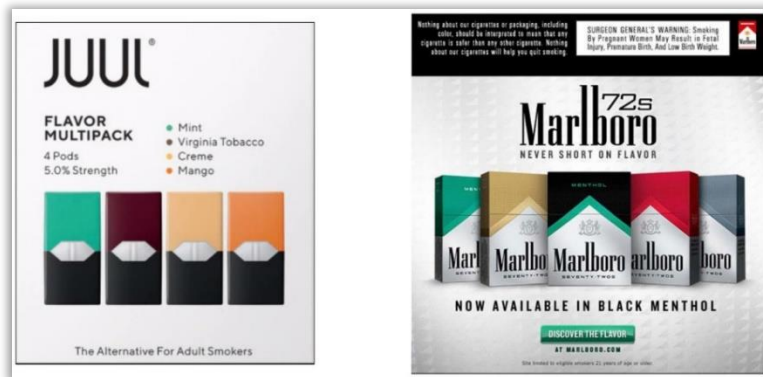
28 ⁷³ Harris, *Flavors Banned From Cigarettes to Deter Youth* (Sep 22, 2009), *The New York Times*,

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

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

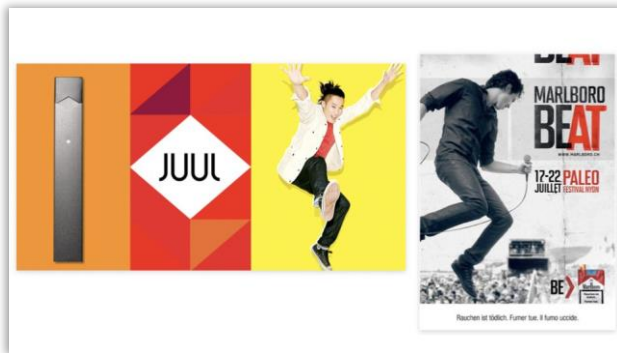
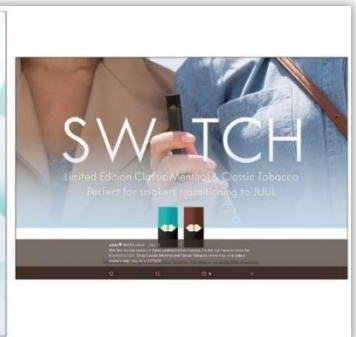
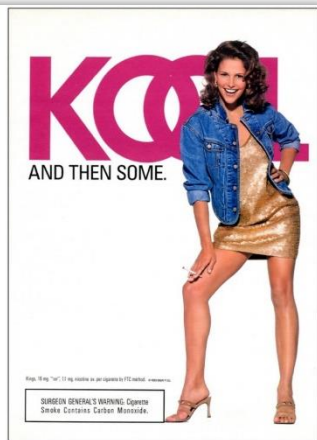
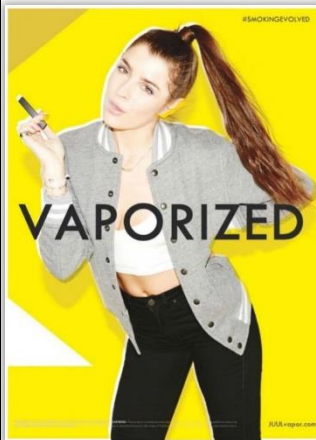
8 **2. JUUL’s Marketing Leveraged Banned Strategies Perfected by Cigarette**
 9 **Companies to Induce Minors and Young Non-Smokers to Purchase JUUL**
 10 **Products**

11 125. Following the successful model of its predecessors, since 2015, Defendant JUUL,
 12 in conjunction and in concert with Defendants, has been operating a long-term viral marketing
 13 campaign aimed at teenagers and young adults. This campaign extends and expands upon deceptive
 14 advertising tropes used by tobacco companies to exploit the psychological needs of consumers—
 especially youth—to convert them into smokers.



21
 22 www.nytimes.com/2009/09/23/health/policy/23fda.html (as of July 5, 2019).

23
 24
 25 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)



126. JUUL’s admitted reliance on tobacco industry documents is apparent in a collection of 82 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.

127. 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

1 forth below, JUUL developed and oversaw a long-term viral marketing campaign with the intent
2 to convince young people to purchase its products. JUUL's advertisements presented images
3 depicting an idealized future self that adolescents could achieve by taking up JUUL products.

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

12 129. JUUL's advertisements consistently withheld material information about the
13 dangers of the product. Through this long-term advertising campaign, JUUL was able to persuade
14 consumers, and in particular teenagers and young adults that its product was cool, while hiding
15 from them the dangers associated with using the product. And because of the viral nature of
16 JUUL's marketing, JUUL promotions continue to reach youth, despite JUUL's deactivation of its
17 social media accounts.

18 **3. JUUL Advertising Used Imagery that Exploited Young People's**
19 **Psychological Vulnerabilities.**

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

25 131. In designing the campaign, JUUL knew that to increase the chances that content
26 goes viral amongst the teen demographic, it needed to design a campaign that was simple, would
27 generate an emotional response that would resonate with teenagers, and obscure the fact that the
28 product was unsafe and addictive.

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

4. **JUUL’s Launch Campaign Was Targeted to Create Buzz Among Young Consumers.**

133. To announce the JUUL’s release in June 2015, JUUL launched the “Vaporized” advertising campaign that was aimed at a youth audience.⁷⁵ The campaign used young, stylish models, bold colors, and memorable imagery. The models were often using hand gestures or poses that mimicked teenagers.



134. JUUL’s advertisements presented images depicting an idealized future self that adolescents could achieve by taking up JUUL products.

135. The Vaporized campaign advertisements featured young, stylish models and images of attendees at JUUL’s launch parties and highlighted themes of sexual attractiveness, thinness,

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

1 independence, rebelliousness and being “cool.” This Vaporized campaign targeted youth using the
2 exact template established by the cigarette companies decades earlier.

3 136. Often the Vaporized ads contained the phrase “Smoking Evolved,” so that
4 consumers, and in particular youth, would associate JUUL with high tech and the latest generation
5 of cool products, like iPhones and MacBooks.

6 137. The color scheme chosen was similar to colors used by Natural Americans Spirit
7 Cigarettes, a leading brand of cigarettes among teenagers.

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

11 139. As the Cult Collective creative director explained, “We created ridiculous
12 enthusiasm for the hashtag ‘Vaporized,’ and deployed rich experiential activations and a brand
13 sponsorship strategy that aligned perfectly with those we knew would be our best customers.”⁷⁶

14 140. As part of the Vaporized campaign, JUUL advertised on a 12-panel display over
15 Times Square.



23 141. Billboard advertising of cigarettes has for years been unlawful under the Master
24 Settlement Agreement reached between 46 states’ attorneys general and cigarette companies, but
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26 ⁷⁶ Jackler *et al.*, JUUL Advertising Over its First Three Years on the Market (Jan 31, 2019) Stanford Research into the
27 Impact of Tobacco Advertising, Stanford University School of Medicine,
28 http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (as of July 5, 2019). (Citing, Cult Creative JUUL case study. <http://cultideas.com/case-study/juul> (last accessed September 21, 2018)). (emphasis added)

1 JUUL took advantage of that agreement’s failure to foresee the rise of vaping products to advertise
 2 its nicotine products in a manner that had already been deemed against public policy for other
 3 nicotine products.

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

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



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27 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)

28 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).

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

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

11 146. John Schachter, director of state communications for Campaign for Tobacco-Free
12 Kids, expressed "concern about the JUUL campaign because of the youth of the men and women
13 depicted in the campaign, especially when adjoined with the design." Mr. Schachter said "the
14 organization has noticed obvious trends that appeal to adolescents in e-cigarette campaigns such as
15 celebrity endorsements, sponsorships and various flavors."⁷⁹

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

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⁷⁹ 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).

1 **5. JUUL Gave Away Free Products to Get New Consumers Hooked**

2 148. JUUL distributed free starter packs at the live social events described above in
3 paragraph 125—conduct forbidden for a cigarette company under the Tobacco Master Settlement
4 Agreement, because it lured young people into nicotine addiction and related harms. BeCore, one
5 of the firms responsible for designing and implementing JUUL’s live events reported that “on
6 average, BeCore exceeded the sampling goals set by JUUL . . . average number of samples/event
7 distributed equals 5,000+.”⁸⁰ (emphasis added). At these events, BeCore distributed the
8 appropriately-named JUUL “Starter Kits,” which contain a JUUL and 4 JUUL pods of varying
9 flavors. If BeCore indeed gave away 5,000 Starter Kits per event, JUUL effectively distributed the
10 nicotine equivalent of 20,000 packs of cigarettes at each of the 25 events described above—or the
11 equivalent of 500,000 packs of cigarettes at all 25 events.



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⁸⁰ 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).



149. 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.

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

6. JUUL Portrayed Its Products as Status Symbols.

151. As tobacco companies have long known, young people—and adolescents in particular—find security and a sense of identity in status symbols. Even after the “Vaporized” campaign, JUUL’s later advertisements mimicked the look and feel of the “Vaporized” ads to foster

1 the image of JUUL e-cigarettes and JUUL pods as sleek, stylish, status symbol. For example,
2 JUUL developed and ran a series of advertisements that were simple images of stylish young people
3 using JUUL.

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

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

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

19 155. Beyond triggering an emotional response in teenagers, all of JUUL’s social media
20 advertising had three additional things in common. First, through the use of clean lines, artistic
21 arrangements, minimal text, and eye-catching graphics, JUUL ensured that the advertisements
22 would jump out to distracted teenagers who scrolled crowded social media pages on their phones
23 and browsers.

24 156. Second, all of JUUL’s advertisements reflect an understanding that social media
25 users in general, and teenagers in particular, do not typically read long blocks of text on social
26 media, and rely more heavily on imagery instead of text to convey a message. Many of the ads
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1 did not include any warning about the dangers of JUUL or suggest to teenagers that the product
2 contained nicotine.

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

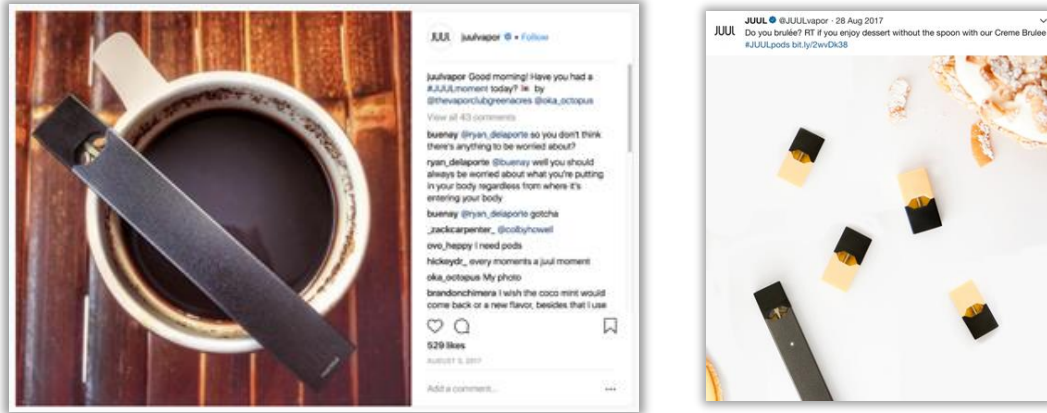
8 158. JUUL’s Instagram advertisements obscure those nicotine warnings by placing them
9 in a location that requires the user to open up the post and read it. As can be seen in JUUL’s
10 Instagram ads, the company consistently used brief text at the beginning of a post so that it would
11 to be a complete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

16 159. Third, JUUL’s advertisements were typically creative, giving them the look and feel
17 of “art.” Thus, teenagers were drawn to the advertisements, holding their gaze on the ads for longer
18 periods of time, and being more inclined to share the advertisement with others in their networks,
19 thus accomplishing JUUL’s goal: turning consumers into salespeople.

20 160. Even JUUL’s newer “alternative for adult smokers” tagline suggests to adolescents
21 that JUUL-use is a symbol of status as an adult, which happens to be an advertising theme cigarette
22 companies peddled to youth for decades.
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7. **JUUL Used Flavors and Food Imagery to Attract Teenagers and Downplay Risks**

161. JUUL sells its JUUL pods 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.



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

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

164. 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% of current youth e-cigarette users had used a flavored e-cigarette in the past month.

165. 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)

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

3 167. 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.

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

13 169. 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.

16 170. 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

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

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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,
25 www.ncbi.nlm.nih.gov/pubmed/30314868 (as of July 5, 2019)

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

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).

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

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

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

15 174. JUUL even hired celebrity chefs to provide pairing suggestions for JUUL flavors.
16 On Instagram and Twitter, JUUL boasted about “featured chef” Bobby Hellen creating a “seasonal
17 recipe to pair with our brulee pod.” On Facebook, JUUL posted a link to an article on
18 porhomme.com about “what our featured chefs created to pair with our pod flavors.”⁸⁸ JUUL
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27 ⁸⁷ <https://airtable.com/tblkPVYIp5AFNLrTy/viwFFlmOJSzXHskhz/recEYkrXbuSCdZB0h>

28 ⁸⁸ Facebook_10, <https://airtable.com/tblkPVYIp5AFNLrTy/viwFFlmOJSzXHskhz/rec0vT9owbjQeVUuY>.

1 tweeted repeatedly about its flavors and encouraged its social media followers to share their
2 preferred pairings.



11 175. In several caffeine-pairing advertisements, JUUL devices or pods sit next to coffee
12 and other caffeinated drinks, sometimes with what appear to be textbooks in the picture. JUUL's
13 coffee-based advertisements suggest that JUUL should be part of a comfortable routine, like a cup
14 of coffee. This comparison to coffee was an intentional effort to downplay and minimize the risks
15 of JUUL, suggesting it was no more risky than coffee; a tactic utilized by tobacco companies for
16 decades to equate nicotine with caffeine.

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

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

1 178. By 2017, JUUL knew that the foreseeable risks posed by fruit and candy-flavored
2 e-liquids had materialized. A significant percentage of JUUL’s customers included adolescents
3 who overwhelmingly preferred Fruit Medley and Crème Brulee over Tobacco or Menthol.⁸⁹ Instead
4 of taking corrective action or withdrawing the sweet flavors, JUUL capitalized on youth enthusiasm
5 for its products.

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

13 180. It took nearly three years – and pressure from regulators and U.S. Senators –
14 before JUUL in April 2018 announced what it called a “comprehensive strategy” of measures to
15 curb youth sales. By that time, a leading U.S. government youth tobacco survey showed that
16 more than 3 million U.S. high school students – one in five – had tried an e-cigarette in the prior
17 month. More than a quarter of those vaped at least 20 days a month. The latest available data
18 from the same survey, in September 2019, shows yet another increase: More than one in four high
19 schoolers – 27.5% – reported using e-cigarettes in the previous month.

20 181. In November 2018, in response to litigation and other mounting public pressures,
21 JUUL announced that it had “stopped accepting retail orders” for many of its flavored JUUL pods,
22 such as mango, crème brulee, and cucumber.⁹⁰ But JUUL’s promise is misleading. JUUL has only
23 refused to sell them directly to retailers, but it still manufactures and sells the JUUL pods. The pods
24 can still be purchased on its website by persons under age 26. JUUL also continues to sell “Cool”
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26 ⁸⁹ Truth Initiative, *JUUL fails to remove all of youth’s favorite flavors from stores* (Nov 15, 2018),
27 <https://truthinitiative.org/news/juulfails-remove-all-youths-favorite-flavors-stores> (as of July 5, 2019).

28 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-teenagers.html (as of July 5, 2019).

1 Mint in gas stations knowing that the flavor is incredibly popular with youth and will become the
2 de facto favorite if access to other flavors is removed.

3 182. The only responsible solution to prevent flavored JUUL pods from getting into the
4 hands of young people is to stop manufacturing them.

5 **8. JUUL Developed Point-of-Sale Advertising That Emphasized the Products’**
6 **Positive Image Without Adequately Disclosing Its Nature and Risks.**

7 183. The cigarette industry spends \$8.6 billion a year in point-of-sale (“POS”)
8 promotions—or almost \$990,000 every hour.⁹¹ In a 2009 study of adult daily smokers, unintended
9 cigarette purchases were made by 22 percent of study participants, and POS displays caused nearly
10 four times as many unplanned purchases as planned purchases. *Id.* at 4. Younger smokers, in
11 particular, are more likely to make unplanned tobacco purchases in the presence of POS advertising.
12 *Id.*

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

22 185. In particular, they designed bright, white packages. The packaging looked similar to
23 iPhone packaging, which JUUL knew would resonate with young people, and because it was solid
24 white, the packaging stood out and caught people’s eyes when displayed in store shelves. This
25 packaging buttresses Defendant’s online marketing of JUUL e-cigarette as “the i-Phone of Ecigs,”
26 thereby framing them as a cool, fashionable item to own and use. JUUL posters and signs at the

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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 point of sale also promoted JUUL’s flavors. From 2015 through late 2018, JUUL promoted JUUL
2 products and JUUL flavors at the point of sale without disclosing that the products contained
3 nicotine or warning that the products could lead to addiction. Instead, JUUL’s promotions displayed
4 the colorful JUULpod caps and their food-based names while omitting that JUUL delivers nicotine,
5 is addictive, carries risks of stroke and other cardiovascular events, and is unsafe for anyone under
6 age 26.



186. 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

1 powerfully addictive nicotine delivery system, unsafe for anyone under age 26—adolescents who
2 saw JUUL’s POS and were later offered a JUUL would have no reason to think that what they were
3 being offered JUUL contained nicotine, or posed risks of addiction, or was unsafe.

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

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

10 188. On information and belief, JUUL maintains active accounts on most social media
11 platforms, including Instagram, Facebook, and Twitter, where JUUL tweeted nearly 5,000 times in
12 2017 alone. As of 2016, 76 percent of American teens age 13-17 used Instagram, 66 percent of
13 teens use Facebook, and 44 percent of teens use Twitter.⁹² While JUUL continues to maintain its
14 Twitter page, it deleted nearly all content from its Instagram and Facebook pages around November
15 of 2018, in response to lawsuits.

16 189. JUUL was able to deliver content directly on social media using two approaches.
17 First, it could post its advertisements directly to its own page, where it would be viewed by those
18 who followed JUUL, and those who shared its posts (“Unpaid Advertising”). And it could engage
19 in paid advertising, whereby it could target specific demographics of people to ensure they received
20 its advertisements (“Paid Advertising”).

21 190. With respect to Unpaid Advertising, Instagram was the centerpiece of JUUL’s teen-
22 focused advertising blitz. Instagram is used overwhelmingly by teenagers. At least 72% of
23 teenagers in the United States have an Instagram account, and at least 63% of teenagers between
24 the ages of 13 and 17 use Instagram every day.⁹³ While increasingly more adults are using

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

⁹³ Smith & Anderson, Social Media Use in 2018: A majority of Americans use Facebook and 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 Instagram, this has been a recent development, and thus, advertisers typically only use Instagram
2 if they are interested in marketing to young people, especially teenagers.

3 191. Because of the way Instagram delivers content, Instagram allowed for fast, effective
4 delivery and sharing of its graphic, simple messages. Users would see these images simply by
5 scrolling through their feeds.

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

14 193. JUUL’s hashtag marketing played a central role in the viral spread of JUUL between
15 teenagers. The use of hashtags in social media advertisements “can be used to get your content in
16 front of a bigger audience, raise awareness about your brand, target a very specific group of people,
17 boost your SEO, and use hot trends and topics to your advantage.”⁹⁴ Hashtags are “the best weapon
18 in your arsenal, aside from influencer marketing” for getting content “in front of its intended
19 audience.” *Id.* Through hashtag marketing, brands can join in on trending topics, engaging “an
20 insane amount of readers” by using “hashtags which aren’t closely related to your industry” by,
21 e.g., using holiday-related hashtags. *Id.* By using “branded hashtags” that include the company’s
22 name or a specific product, advertisers can monitor the performance of specific campaigns. Another
23 advantage of branded hashtags is user-generated content: “Every time a user puts one of your
24 branded hashtags inside one of their posts, they are increasing your presence on social media” by
25 promoting the branded hashtag, and the related content, to the user’s followers. *Id.* (emphasis
26

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

1 added). Through successful hashtag marketing campaign, brands can create communities through
2 which “followers will not only be able to communicate via chat or messages, but also connect with
3 each other by using your hashtag.” *Id.* (emphasis in original).

4 194. From 2015 through 2018, JUUL used hashtag marketing consistently on Twitter,
5 Instagram, and Facebook to promote its products. In various posts, JUUL would slip in hashtags so
6 that their posts would be found by young people. This post is not a paid advertisement, but a post
7 to JUUL’s Instagram feed. JUUL used #TBT, which is an acronym for “Throwback Thursday.”
8 Throwback Thursday is a popular meme on social media, and teenagers are especially likely to
9 understand it and use it. Thus, any teenager who had elected to follow the hashtag TBT would see
10 this post when they logged into Instagram that day. Moreover, no one would see any warning
11 regarding nicotine unless they actually opened the post. JUUL frequently used other hashtags that
12 would be used by teenagers to push their product to them across social media, such as #icymi (“in
13 case you missed it”).

14 195. JUUL also used hashtags to convert young users into salespersons through unpaid
15 viral marketing.

16 196. Despite JUUL deactivating some of its social media accounts in November 2018,
17 “the vibrant community of #juul lives on, including an abundant representation of youthful
18 postings.”⁹⁵ “The JUUL hashtag lives on. It’s immortal. It’s still viral in peer-to-peer teen
19 promotion.”⁹⁶

20 197. In disseminating Paid Advertising, the Social Media Platforms allow companies like
21 JUUL to engage in micro-targeting, i.e., to select precisely what demographics of people should be
22 exposed to its advertising. Social Media Platforms create internal profiles for the consumers that
23 use them, tracking their online activity to determine their likes, habits, and purchasing power.
24 When advertisers pay to disseminate ads, they can choose to target those ads so that they are
25 received only by people whose digital footprint suggests an interest or predisposition to the product.
26 JUUL would have had the option to exclude teenagers. It also could have elected to narrow its

27 ⁹⁵ Robert K. Jackler, M.D. et al, JUUL Advertising Over Its First Three Years on the Market (Jan. 21, 2019).

28 ⁹⁶ Quote by Robert K. Jackler, M.D., in <https://www.vox.com/2019/1/25/18194953/vape-juul-e-cigarette-marketing>.

1 target audience to people with an interest in tobacco products, if it wanted to reach and convert
2 non-smokers. Or it could target a broader audience of people whose digital footprints did not reveal
3 that they were smokers.

4 198. While JUUL's precise targeting methods are unknown, on information and belief,
5 young people like Plaintiff are known to have been exposed to JUUL's Paid Advertising while on
6 social media, suggesting that JUUL did not narrow its target audience to adult smokers

7 199. Moreover, regardless of to whom JUUL targeted paid advertisements, JUUL's use
8 of Paid Advertising was aggressive, and had the inevitable result of reaching teenagers, including
9 Plaintiff. Paid advertising can be shared and liked just as Unpaid Advertising. JUUL relentlessly
10 advertised to its targeted audience, across all Social Media Platforms. Plaintiff saw JUUL
11 advertising frequently, regardless of what platform he used. The continual use of Paid Advertising
12 has increased the pressure to buy, and it made quitting harder due to the fact that he was exposed
13 to the advertising through his phone and other personal electronic devices.

14 **10. JUUL Exploited Social Media to Target Young People**

15 200. To broaden the reach of its campaign, JUUL used "influencers" to push the product
16 to young people. Influencers are "high-social net worth" individuals who have developed large
17 social media followings – i.e., the "cool kids" of the social media world. People follow influencers
18 because they tend to deliver lots of high quality, interesting photos and content, and because they
19 are known to be trend-setters.

20 201. Viewed as tastemakers and trendsetters by their followers, influencers are prized
21 sources of brand promotion on social media networks. Companies seeking to market products often
22 will pay influencers to advertise their products, similar to the ways in which they utilize "product
23 placement" in movies. They seek out influencers with large amounts of followers in their target
24 demographic and will offer these influencers money or other deals to promote their products. The
25 influencer then will create various posts on social media using the product. Typically, these posts
26 are images of them using the product, but sometimes these posts will include videos, longer written
27 reviews, or other information about the product. Influencers often include in these posts company-

1 endorsed hashtags or links to the company’s website to try to direct their followers to learn more.
2 The company gets the benefit of having word-of-mouth advertising, and the influencer is able to
3 attract more followers because those followers want to stay in the loop about new products and
4 deals. While influencers operate on all Social Media Platforms, most of them rely primarily on
5 Instagram.

6 202. JUUL relied on influencers to carry out its viral marketing campaign. JUUL’s
7 reliance on influencers appears to have begun around June 2015, when JUUL listed a position on
8 its website for a three-month Influencer Marketing Intern.⁹⁷ JUUL described the position as
9 follows: “The Influencer Marketing Intern will create and manage blogger, social media and
10 celebrity influencer engagements. . . to build and nurture appropriate relationships with key
11 influencers in order to drive positive commentary and recommendations through word of mouth
12 and social media channels, etc.” (*Id.*). JUUL’s efforts to solicit influencers appears to have been
13 underway for years; until December 2018, JUUL’s website still called for individuals to “Join the
14 JUUL influencers.” Applicants were required to disclose their profile information for Instagram,
15 Twitter, and Facebook, as well as various other blog and vlog platforms, suggesting that JUUL was
16 interested in understanding whether the influencers could help JUUL reach its targeted youth
17 demographic.

18 203. JUUL’s outreach had its desired impact, as it was able to line up influencers to
19 promote its products to teenagers, while spreading pictures of cool, young people using JUUL. In
20 addition to all the means above, JUUL paid influencers and celebrities to promote JUUL, generating
21 even more attention and exposure to young people, and reinforcing that the products were safe,
22 cool, and fun.

23 204. JUUL used or ratified multiple accounts across many social media sites to reach
24 young people, even encouraging users to JUUL at school.

25 205. JUUL also enjoyed the benefit of third-party promoters who reached hundreds of
26 thousands of young people.

27
28 ⁹⁷ <https://www.internships.com/marketing/influencer-marketing-intern-i7391759> (last accessed Nov 14, 2018).

1 206. Cigarette companies are prohibited from conducting any of the practices described
2 above under the Tobacco Master Settlement Agreement. Activities such as product placement in
3 performances and professional videos have been identified as against public policy for nicotine
4 products.

5 207. One recent study concluded that JUUL was “taking advantage” of the reach and
6 accessibility of multiple social media platforms to “target the youth and young adults . . . because
7 there are no restrictions,” on social media advertising.⁹⁸

8 **11. JUUL Utilized a Pricing and Distribution Model Designed to Put the Product**
9 **Within Reach of Youth Without Disclosing Harms.**

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

14 209. A pack of four JUUL pods, which, according to JUUL, is the equivalent of four
15 packs of cigarettes, costs approximately \$13-\$20. JUUL’s website charges \$15.99 for a pack of
16 JUUL pods, or about \$4 per JUULpod. By contrast, a single pack of cigarettes in Connecticut costs
17 approximately \$9, and \$13 in New York.

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

22 211. To further drive curiosity and interest, and make it so its target audience, and
23 especially teenagers, would purchase JUUL, JUUL instructed retailers to display the product in an
24 unusual fashion. Whereas cigarettes and other tobacco products have long been kept behind the
25 counter, JUUL designed display cases that would sit on store shelves. JUUL intentionally designed
26

27 ⁹⁸ Kelley, *JUUL Sales Among Young People Fueled by Social Media, Says Study* (Jun 4, 2018), The Washington Times,
28 www.washingtontimes.com/news/2018/jun/4/juul-sales-among-young-people-fueled-by-social-med/ (as of July 5,
2019).

1 the clear display cases so that the bright white, sleek packaging and the flavors would catch
2 consumers' eyes and make them interested in purchasing the product.

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

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

7 213. Between 2015 and 2018, JUUL sent around 200 email promotions to customers and
8 potential customers. JUUL's email subscription list was not age-restricted and, until recently, users
9 who failed the age verification requirements on JUUL's purchase page were nevertheless added to
10 JUUL's mailing list and emailed a coupon for a discount on a Starter Kit. The JUUL emails
11 promoted retail locations, flavors, discounts, and "refer a smoker" programs. The emails also
12 promoted JUUL's find-a-store locator.

13 214. JUUL also used emails to distribute surveys. Because JUUL's emails were not age-
14 restricted, neither were their surveys. On information and belief, JUUL thus collected data from
15 minors. JUUL paid customers, including youth, up to \$30 to complete some surveys.

16 **L. JUUL Knew that its Scheme to Attract Young Smokers Like Mr. Motarjeme**
17 **had Worked**

18 215. Within a few months of the JUUL's commercial release in June 2015, a former
19 JUUL executive reportedly told the New York Times that JUUL "quickly realized that teenagers
20 were, in fact, using [JUULs] because they posted images of themselves vaping JUULs on social
21 media."⁹⁹

22 216. JUUL tracked and closely monitored usage among youth through social media,
23 online surveys, YouTube videos, hashtags, likes, email lists, and myriad other sources.

24
25
26
27 ⁹⁹ Richtel & Kaplan, *Did Juul Lure Teenagers and Get 'Customers for Life'?: The e-cigarette company says it never*
28 *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).

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

4 218. From the outset, JUUL was well-aware that a huge portion of its sales was going to
5 persons like Plaintiff under age 26, but did nothing to curb, prevent, mitigate the harms that its
6 products could cause.

7 **M. JUUL Created a Youth-Vaping Epidemic and Exposed a New Generation to**
8 **the Dangers of Nicotine Products.**

9 219. JUUL’s marketing and product design efforts have been wildly successful. Since
10 its launch, JUUL is now the fastest growing e-cigarette in the country. Because the JUUL delivers
11 more nicotine in a shorter amount of time than any other product, delivers that nicotine in a
12 sweetened vapor that causes no irritation, and does so through a concealable device that can be
13 consumed discretely in class, at home, and in the car, nicotine naïve users like Plaintiff frequently
14 spiral into patterns of addiction with no historical precedent. It is not uncommon for young people,
15 like Plaintiff, to consume up to two JUUL pods in a day, the nicotine equivalent of at least as
16 many—and likely more—packs of cigarettes.

17 220. Because JUUL’s marketing turned the JUUL into a status symbol for teens, the acute
18 nicotine addiction a JUUL fosters is frequently reinforced by the idea—which JUUL spread—that
19 JUUL use is what “cool” popular kids do in high school. As a result, the medical community has
20 found itself ill-equipped to develop a treatment for JUUL-addicted youth, as evidenced by a January
21 2019 FDA-sponsored meeting concerning the role of drug therapies in treating e-cigarette use.

22 221. The vaping epidemic caused by JUUL has swept the entire nation in a short period
23 of time. On December 28, 2018, the University of Michigan’s National Adolescent Drug Trends
24 for 2018 reported that increases in adolescent Electronic Nicotine Delivery System (“ENDS”)
25 vaping from 2017 to 2018 were the “*largest ever recorded in the past 43 years for any adolescent*
26 *substance use outcome in the U.S.*”¹⁰⁰

27 ¹⁰⁰ Prieur, National Adolescent Drug Trends in 2018 (Dec 17, 2018), Institute For Social Research, The University of
28 Michigan, <https://isr.umich.edu/news-events/news-releases/national-adolescent-drug-trends-in-2018/> (as of July 5,
2019).

1 222. The percentage of 12th grade students who reported vaping nicotine almost doubled
2 between 2017 and 2018, rising from 11% to 21%. The ten-percentage-point increase in 12th grade
3 students who reported vaping nicotine (an indicator of nicotine addiction) is “twice as large as the
4 previous record for largest-ever increase among past 30-day outcomes in 12th grade.” *Id.* “One in
5 five 12th graders vaped nicotine in the last 30 days in 2018.” *Id.* And because JUUL controls over
6 50% of the e-cigarette market and was released immediately prior to the jump in vaping prevalence
7 from 11% of teens to 21%, the entire increase in vaping prevalence since 2016 is attributable to
8 JUUL.

9 223. FDA Commissioner Dr. Scott Gottlieb has described the increase in e-cigarette
10 consumption as an “almost ubiquitous – and dangerous – trend” that is responsible for an
11 “epidemic” of nicotine use among teenagers.¹⁰¹ The rapid –indeed infectious- adoption of e-
12 cigarettes “reverse[s] years of favorable trends in our nation’s fight to prevent youth addiction to
13 tobacco products.” *Id.* The Commissioner identified the two primary forces driving the epidemic
14 as “youth appeal and youth access to flavored tobacco products.” *Id.*

15 224. Within days of the FDA’s declaration of an epidemic, Surgeon General Dr. Jerome
16 Adams also warned that the “epidemic of youth e-cigarette use” could condemn a generation to “a
17 lifetime of nicotine addiction and associated health risks.”¹⁰²

18 225. Even more troubling are the challenges associated with getting kids to quit JUUL
19 once they start. JUUL’s aggressive social media campaign puts JUUL advertisements before them
20 every day, all day. Those that want to stop thinking about it are faced with advertising when
21 engaging in their regular activities. And even while JUUL has purportedly stopped advertising on
22 social media in recent months, its hashtags, imagery, and impact live on, as there remain nearly
23 524,000 posts and counting on Instagram featuring the #juul hashtag as of July 8, 2019.

24
25
26 ¹⁰¹FDA launches new, comprehensive campaign to warn kids about the dangers of e-cigarette use as part of agency’s
27 Youth Tobacco Prevention Plan, amid evidence of sharply rising use among kids, U.S. Food & Drug Administration,
(Sep 18, 2018), www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620788.htm (as of July 5, 2019)

28 ¹⁰² 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).

1 226. Moreover, many medications for breaking nicotine addictions are approved only for
2 adults.

3 227. The inadequacy of quality control and other standards in the manufacture of JUUL
4 raises additional, serious public health concerns regarding youth access and use. For instance,
5 actual nicotine concentrations in JUUL can vary from advertised amounts, sometimes significantly
6 exceeding the advertised concentration of nicotine. Because the concentration of nicotine in JUUL
7 pods is already staggeringly high and potent, concentrations over the advertised amounts can
8 increase the risk that users could become addicted or experience nicotine poisoning, or experience
9 a spike in blood pressure which can result in serious illness or death. A related concern is the lack
10 of full disclosure of all ingredients in e-liquids, some of which can also cause harm when inhaled.

11 **N. JUUL Implemented its Advertising Strategy with the Advice and Services of**
12 **Defendants**

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

16 229. JUUL's advertising and marketing relied on the ideas, strategies, and advice of
17 marketing and public relations entities.

18 230. These entities willingly and knowingly provided advertising expertise to JUUL,
19 fully aware that JUUL would use these advertisements to target, sell to, and ultimately increase the
20 number of young people consuming nicotine via its products.

21 231. Defendants used their knowledge of how young adults use social media, interact
22 with social media posts, and are influenced by such posts, to create an advertising strategy designed
23 to consistently, relentlessly, and exploitatively induce young adults and teenagers to use JUUL's
24 JUUL e-cigarette products.

25 232. Other cigarette companies provided their marketing services knowing that the
26 marketing slogans, advertisements, and advertising methods they created were deceptive, provided
27 no meaningful warning to users, and would necessarily mislead or otherwise falsely suggest that
28 JUUL's JUUL e-cigarette products were not harmful, not addictive, or otherwise safe for use.

1 233. Defendants expended time, money, and effort in order to design, create, and
2 implement and pervasive advertising scheme whose sole purpose was to exploit and influence the
3 minds of young adults into associating social status, popularity, desirability, and success with the
4 purchase and consumption of JUUL’s JUUL e-cigarette products.

5 234. Defendants essentially used the playbook of cigarette and tobacco product
6 advertising implemented by companies such as Philip Morris, in order to market JUUL e-cigarette
7 products to young adults.

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

10 235. The teen vaping epidemic was by design, not by accident.

11 236. When JUUL was first developed, the FDA’s regulations on tobacco products were
12 vague as to whether they applied to vaping devices. Because the regulations did not explicitly
13 identify electronic vaping devices that dispensed tobacco and nicotine as a regulated product, JUUL
14 interpreted those regulations to mean that it could sell its dangerous products to anyone, regardless
15 of their age, and that it did not have to comply with the advertising and labeling restrictions that
16 restricted other tobacco companies.

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

25 238. Moreover, by pumping social media platforms full of images of cool, young people
26 having fun while JUULing, JUUL ensured that everyone from adults to young children, would
27 think JUULing was a cool, fun, and safe activity. Just as RJR Reynolds learned with Joe Camel,
28

1 even very young children would in turn be more likely to form strong, positive associations with
2 the tobacco product and be more susceptible to trying it in the future.

3 239. In 2017, the FDA announced that it would be taking steps to regulate vaping devices
4 such as JUUL and other ENDS. Regulations were proposed and ultimately went into effect in late
5 2018. But the damage was done, and it was too late for Mr. Motarjeme.

6 240. In 2018, after the FDA opened an investigation and lawsuits were filed, JUUL set
7 out to rewrite its history. It has removed from its website and much of the internet images of
8 glamorous young models seductively exhaling clouds of vapors. JUUL's website now pictures
9 middle-age adults in non-glamorous settings and suggests that JUUL solely exists for the benefit
10 of adult smokers looking for an alternative. Although JUUL now markets its product as a smoking
11 cessation device ("Switch to JUUL"), it has not received FDA approval as a modified risk tobacco
12 product or as a nicotine replacement therapy, and JUUL's e-cigarette has not participated in any
13 FDA approval process analyzing its risks and benefits. While JUUL has also announced some half-
14 hearted voluntary measures to reduce access to young people, the cat cannot go back in the bag.
15 The viral marketing campaign and images live on, the candy flavors are still available, and the
16 product remains designed to maximize the nicotine delivery for young people, leading to
17 devastating health consequences.

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

21 **P. JUUL's Conduct Harmed Mr. Motarjeme**

22 242. Starting JUUL in September 2017, when Mr. Motarjeme was approximately 17
23 years, he recalls seeing advertising and promotions for JUUL on his social media feeds, online and
24 on displays at gas stations near his home. These ads and promotions made JUULing seem fun,
25 healthy and cool.

26 243. Mr. Motarjeme first tried JUUL in September 2017, when the device became
27 especially ubiquitous among his high school friends, and was the "trendy" thing to do.
28

1 244. Mr. Motarjeme started using JUUL with his friends, largely because it had a cool
2 design, appealing flavors, and was fun to use. Part of the attraction for Mr. Motarjeme was the
3 discreet slick design and lack of smell that would avoid detection from teachers, coaches or other
4 authority figures. The flavors attracted him as well.

5 245. Before Mr. Motarjeme tried JUUL, he was not addicted to nicotine. Since becoming
6 addicted to JUUL, Mr. Motarjeme has tried other vape devices and cigarettes in an effort to satisfy
7 his intense nicotine cravings when he was out of JUUL pods.

8 246. Mr. Motarjeme initially was attracted to JUUL's mint and cucumber flavors. He
9 purchased JUUL devices and pods at gas stations close to his home. At gas stations, Mr. Motarjeme
10 was exposed to JUUL's point of sale advertising, promotions and messaging.

11 247. Like the majority of young people surveyed, Mr. Motarjeme was not aware when
12 he first began "JUULing" how much nicotine the device contained, or that it carried any health
13 risks.

14 248. Mr. Motarjeme relied to his detriment on JUUL's representations that the product
15 was safe, not harmful, and fun.

16 249. JUUL never warned Mr. Motarjeme that JUUL was addictive, dangerous, could
17 cause him to develop physical and mental issues, or would permanently alter his brain.

18 250. Had Mr. Motarjeme known that JUUL was overly addictive, carried health risks,
19 and would cause the problems it has in his health and personal life, he never would have tried it.

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

23 252. JUUL never instructed Mr. Motarjeme that the product was unsafe for him, nor how
24 much JUUL was safe to consume.

25 253. Had Mr. Motarjeme known that JUUL was not safe, was addictive, dangerous, could
26 cause mood disorders, cardiovascular issues, could permanently alter his brain and impair his mood
27 and mind and ability to focus, that JUUL had manipulated nicotine to maximize addiction, or that
28

1 each JUULpod delivered substantially more nicotine than a pack of cigarettes, he would not have
2 used JUUL.

3 254. Within a week of trying the JUUL, Mr. Motarjeme became addicted to nicotine and
4 had to have one for himself. The level of nicotine his body required increased over time, and before
5 long he was consuming up to four pods per day on some days. As his use steadily increased, he
6 began using JUUL immediately upon waking, all throughout the day, and then just before going to
7 sleep, admitting that he was so addicted he slept with his JUUL in his hand. He would JUUL during
8 school, at home, while driving, practically anywhere that he could get away with it, taking multiple
9 bathroom breaks if necessary to get his nicotine fix.

10 255. Mr. Motarjeme struggled to function without nicotine, and when he has tried to quit
11 using the product, he has experienced severe withdrawal symptoms such as painful headaches and
12 irritability. He still struggles to this day with fighting the desire and cravings. He believes his severe
13 nicotine addiction is a substantial contributing factor to his overall decrease in quality of life and
14 inability to exert himself physically and assert himself academically.

15 256. Before he started to use JUUL, Mr. Motarjeme was a healthy, young and intelligent
16 high school student who maintained A Honor Roll. He hung out with his friends and was a good
17 kid. He exhibited no signs or indications that he had an addictive personality. Since starting JUUL,
18 he has lost his ability to focus in school, resulting in his grades declining and having to drop out of
19 school for a semester, developed shortness of breathe, inhibiting his ability to exercise, and overall
20 has lost motivation. He has become short-tempered and frustrated, admitting that his addiction has
21 put a strain on his familial relationships as well. While he has and will continue to fight his addiction
22 and to lead as normal a life as possible, Mr. Motarjeme's brain injuries have caused him to become
23 more withdrawn and have interfered with his relationships, academic performance, ability to
24 exercise and overall sense of well-being.

25 257. As a direct and proximate result of JUUL's conduct, Mr. Motarjeme suffered life-
26 altering and permanent injuries, including severe nicotine addiction.

1 258. As a result of his injuries caused by JUUL, Mr. Motarjeme has incurred and will
2 incur significant medical and other expenses to sustain and/or fight his nicotine addiction for the
3 rest of his life, pain and suffering, and emotional distress.

4 **VI. CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**
6 **Strict Products Liability - Design Defect**

7 259. Plaintiff incorporates the above and below allegations by reference.

8 260. At all relevant times, JUUL Labs, in concert and aided by Defendants, designed,
9 engineered, developed, manufactured, fabricated, assembled, equipped, tested or failed to test,
10 inspected or failed to inspect, labeled, advertised, promoted, marketed, supplied, distributed,
11 wholesaled and/or sold the JUUL Devices and Pods (“JUUL Products”) that Plaintiff consumed
12 and which were intended by Defendants to be used as a method of ingesting nicotine and the other
13 aerosolized constituents of JUUL’s nicotine solution.

14 261. JUUL Products were defective in design in that they did not perform as safely as
15 an ordinary consumer would have expected them to perform when used in an intended or
16 reasonably foreseeable way.

17 262. Defendants had constructive notice or knowledge and knew, or in the exercise of
18 reasonable care should have known, that its JUUL Products under ordinary use were harmful or
19 injurious, particularly to youth and adolescents, including the Plaintiff. Defendants knew or,
20 should have known the risks inherent in young people ingesting nicotine, particularly severe
21 lifelong nicotine addiction and decreased brain development. These are serious injuries in that
22 they affect not only the short-term quality, but the remainder of the young person’s life.

23 263. The JUUL Defendants claim they designed JUUL for use by adult smokers.
24 However, Defendants designed and marketed their products to appeal to nonsmokers, youths and
25 adolescents and to encourage them to buy and use the product. Defendants defectively designed
26 JUUL in a number of ways.

1 264. JUUL products are inherently defective because they contain and deliver
2 significantly more nicotine than JUUL represents and significantly more nicotine than traditional
3 cigarettes. Moreover, JUUL is unreasonably dangerous and therefore defective in design because
4 it is made to create and sustain addiction. JUUL designed the product to contain more nicotine
5 than necessary to satisfy a cigarette smoker's nicotine craving with the intention of creating
6 addiction. JUUL's nicotine salts enhance the risk and severity of addiction; it supplies nicotine at
7 high levels without any of the intake harshness associated with other nicotine products.
8 Furthermore, JUUL is defectively designed in that it uses flavors that appeal to minors and
9 enhances their ability to intake dangerous amounts of nicotine. The risks inherent in the design of
10 JUUL outweigh significantly any benefits of such design.

11 265. In addition, JUUL products are inherently defective in that it is created to be easy
12 to hide, a design that is enticing to minors. Lifelong smokers are accustomed to the open, notorious
13 and inconvenient act of smoking cigarettes – the smell and taste of cigarettes as well as the need
14 to step outside and smoke. These are traditional properties of smoking a cigarette that smokers
15 actually often appreciate and enjoy. A smoke break has been valued for year by smokers. A device
16 that is easy to hide, tastes good, and does not smell is not necessary to draw in lifelong smokers as
17 customers, but it is entirely necessary to draw in first time smokers and young people. The physical
18 appearance of JUUL makes it easy for young people to hide it at school or at home by concealing
19 it in their clothing, backpacks, markers, or even their hand, or by passing it off as a USB or another
20 device, a feature that would not be necessary or appealing to a lifelong smoker. However, the
21 design is most certainly convenient to a minor. It also is designed in such a way as to look
22 completely harmless. Resembling a USB drive that tastes good in this technology driven age, the
23 JUUL device is duly attractive to nonsmokers of every age.

24 266. The benefits of JUUL products' design are not outweighed by their risks,
25 considering the gravity of the potential harm resulting from the use of the products, the likelihood
26 that harm would occur, the feasibility and cost of an alternative safer design at the time of
27 manufacture, and the disadvantages of an alternative design.

1 products that Plaintiff consumed had other potential risks that were known or were knowable in
2 light of the scientific and medical knowledge that was generally accepted in the scientific
3 community well before and at the time of manufacture, market, distribution, and sale. Despite
4 having that knowledge, Defendants failed to adequately warn the minor Plaintiff of the dangerous,
5 addictive nature of JUUL as well as the multitude of health risks it posed.

6 273. The potential risks presented a substantial danger when the JUUL Products were
7 used or misused in an intended or reasonably foreseeable way.

8 274. At all times relevant, Plaintiff would not have recognized the risks of using a JUUL
9 device with a JUUL pod because Defendant JUUL has intentionally downplayed, misrepresented,
10 concealed, and failed to warn of the heightened risks of nicotine exposure and addiction.

11 275. Further, the ordinary consumer of JUUL Products would not have recognized the
12 potential for risks for the same reasons.

13 276. JUUL Products were defective and unreasonably dangerous when they left
14 Defendants' possession because they did not contain adequate warnings, including warnings that
15 the products are not safe for anyone under 26 years old, may cause strokes, heart attacks and other
16 cardiovascular injuries, are powerfully addictive, may cause permanent brain changes and mood
17 disorders, may impair learning and cognition. Additionally, the products lacked sufficient
18 instructions, including that the product should not be used concurrently with cigarettes, and
19 instructions regarding how many pods are safe to consume in a day.

20 277. Instead, as described herein, Defendants marketed their products to young people
21 and nonsmokers and made them available in youth-friendly colors and flavors. Defendants also
22 designed their products to be more palatable to youth by increasing JUUL's inhale-ability,
23 incorporating appealing flavors, and increasing the level of nicotine that is absorbed by users,
24 making them even more addictive and dangerous.

25 278. Defendants had constructive notice or knowledge and knew, or in the exercise of
26 reasonable care should have known, that its Products were dangerous, had risks, and were defective
27 without adequate warnings or instructions, including because delivering high doses of nicotine to
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1 a young person could cause severe addiction to nicotine, permanently alter the structure of the
2 developing brain and resulting in irreversible, life-altering injuries.

3 279. In all forms of advertising as well as social media communications, Defendants
4 failed to adequately warn or instruct foreseeable users, including youth and adolescent users, that
5 JUUL products were unreasonably dangerous to them and created a high level of risk of harms
6 caused by nicotine exposure and addiction as explained herein. Defendants failed to adequately
7 warn in their advertising, social media communications, or anywhere on the product label that the
8 product was not for sale for minors and should not be used or consumed by them. Instead, as
9 described herein, Defendants marketed their products to minors, young people and nonsmokers
10 and made them available in youth-friendly colors and flavors. Defendants also designed their
11 products to be more palatable to youth and nonsmokers by increasing JUUL's inhale-ability and
12 increased the level of nicotine that is absorbed by users, making them even more addictive.

13 280. The defects in JUUL Products, including the lack of warnings, existed at the time
14 the JUUL pods and devices were sold and/or when the JUUL pods and devices left JUUL's
15 possession or control.

16 281. As a result of Defendants' failures to adequately warn and/or instruct, Plaintiff was
17 harmed directly and proximately as described herein. Such harm includes significant exposure to
18 toxic substances, which may cause or contribute to causing disease; severe nicotine addiction, a
19 permanent injury that Plaintiff will now struggle with for the rest of his life; Plaintiff's exposure
20 to such a high content of nicotine has also affected his brain development at such a crucial age, an
21 injury that cannot be undone; and economic harm in that he would not have purchased JUUL or
22 would have paid less for it if he had known the true facts and that he had paid a premium as a result
23 of Defendants' failure to warn.

24 **THIRD CAUSE OF ACTION**
25 **Negligence and/or Gross Negligence**

26 282. Plaintiff incorporates the above and below allegations by reference.
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1 283. Defendants had a duty and owed a duty to Plaintiff to exercise a degree of
2 reasonable care including, but not limited to: ensuring that JUUL marketing does not target young
3 minors; ensuring that JUUL devices and JUUL pods are not sold and/or distributed to minors and
4 young people and are not designed in a manner that makes them unduly attractive to minors;
5 designing a product that is not defective and unreasonably dangerous; designing a product that will
6 not addict youth or other users to nicotine; adequately warning of any reasonably foreseeable
7 adverse events with respect to using the product. Defendants designed, produced, manufactured,
8 assembled, packaged, labeled, advertised, promoted, marketed, sold, supplied and/or otherwise
9 placed JUUL Products into the stream of commerce, and therefore owed a duty of reasonable care
10 to avoid causing harm to those consumed it, such as Plaintiff.

11 284. JUUL's Products were the types of products that could endanger others if
12 negligently made, promoted, or distributed. Defendants knew the risks that young people would
13 be attracted to their electronic cigarette devices and JUUL pods and knew or should have known
14 the importance of ensuring that the products were not sold and/or distributed to anyone under age
15 26, but especially to minors.

16 285. Defendants knew or should have known that their marketing, distribution, and sales
17 practices did not adequately safeguard Plaintiff from the sale and/or distribution of electronic
18 cigarette devices and JUUL pods and, in fact, induced minors and youth to purchase JUUL
19 products.

20 286. Defendants were negligent in designing, manufacturing, supplying, distributing,
21 inspecting, testing (or not testing), marketing, promoting, advertising, packaging, and/or labeling
22 JUUL's Products.

23 287. As a powerfully addictive and dangerous nicotine-delivery device, Defendants
24 knew or should have known that JUUL Products needed to be researched, tested, designed,
25 advertised, marketed, promoted, produced, packaged, labeled, manufactured, inspected, sold,
26 supplied and distributed properly, without defects and with due care to avoid needlessly causing
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1 harm. Defendants knew or should have known that its JUUL Products could cause serious risk of
2 harm, particularly to young persons like Plaintiff.

3 288. Defendants were negligent, reckless and careless and failed to take the care and
4 duty owed to Plaintiff, thereby causing Plaintiff to suffer harm.

5 289. The negligence and extreme carelessness of Defendants includes, but is not limited
6 to, the following:

7 a. Failure to perform adequate testing of the JUUL Products prior to marketing to
8 ensure safety, including long-term testing of the product, and testing for injury to the brain and
9 cardiovascular systems, and other related medical conditions;

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

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

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

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

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

15 g. Failure to use reasonable care in distributing JUUL's Products;

16 h. Failure to use reasonable care in advertising, promoting, and marketing JUUL's
17 Products;

18 i. Promotion of JUUL to young people under age 26, but especially to minors;

19 j. Use of flavors and design to appeal to young people under age 26, and especially
20 to minors, in that the products smell good, look cool and are easy to conceal from parents, teachers,
21 and authority figures in general;

22 k. Use of design that maximizes nicotine delivery while minimizing "harshness",
23 thereby easily creating and sustaining addiction;

24 l. Failure to prevent JUUL from being sold to young people under age 26, particularly
25 to minors;

26 m. Failure to prevent JUUL use among young people under age 26, particularly for
27 minors;

1 n. Failure to curb JUUL use among young people under age 26, particularly for
2 minors;

3 o. Failure to develop tools or support to help people addicted to JUUL cease using the
4 product, including manufacturing lesser amounts of nicotine;

5 p. Failure to reasonably and properly test and properly analyze the testing of JUUL's
6 Products under reasonably foreseeable circumstances;

7 q. Failure to warn its customers about the dangers associated with use of JUUL's
8 Products, in that it was unsafe for anyone under age 26, significantly increases blood pressure,
9 carries risks of stroke, heart attacks, and cardiovascular events, is powerfully addictive, can cause
10 permanent brain changes, mood disorders, and impairment of thinking and cognition.

11 r. Failure to instruct customers not to use the product if they were under 26,
12 particularly minors, and failing to provide any instructions regarding a safe amount of JUUL pods
13 to consume in a day.

14 s. Failure to ensure that JUUL's Products would not be used by persons like Plaintiff
15 who were not smokers and who were under age 26, particularly minors;

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

19 u. Failure to utilize proper materials and components in the design of JUUL's
20 Products to ensure they would not deliver unsafe doses of nicotine;

21 v. Failure to use due care under the circumstances;

22 w. Failure to take necessary steps to modify JUUL's Products to avoid delivering high
23 doses of nicotine to young people and repeatedly exposing them to toxic chemicals;

24 x. Failure to recall JUUL's Products; and

25 y. Failure to inspect JUUL's Products for them to operate properly and avoid
26 delivering unsafe levels of nicotine to young persons.

1 296. Defendants could have easily marketed the products to a whole different audience
2 of prior smokers as well as could have easily informed the ultimate consumers of the extremely
3 high nicotine content.

4 297. Defendants breached the duties they owed to Plaintiff and in doing so, were wholly
5 unreasonable. Defendants breached their heightened duties owed to youth when they intentionally
6 marketed and sold JUUL products to youth, which they should not have done.

7 298. Defendants' acts and omissions constitute wanton and willful conduct, because
8 they constitute a total lack of care and an extreme departure from what a reasonably careful person
9 or a reasonably careful company that holds itself out as manufacturers of smoking cessation
10 devices would do in the same situation to prevent foreseeable harm to young persons, like Plaintiff.

11 299. Defendants acted and/or failed to act willfully, and with conscious and reckless
12 disregard for the rights and interests of Plaintiff. Defendants' acts and omissions had a great
13 probability of causing significant harm and in fact resulted in such harm.

14 300. But for Defendants' duties and breaches thereof, Plaintiff would not have been
15 harmed as alleged in this Complaint.

16 301. Plaintiff was harmed directly and proximately by Defendants' negligence and
17 willful and wanton conduct. Such harm include significant exposure to toxic substances, which
18 may cause or contribute to causing disease; severe nicotine addiction, a permanent injury that
19 Plaintiff will now struggle with for the rest of his life; Plaintiff's exposure to such a high content
20 of nicotine has also affected his brain development at such a crucial age, an injury that cannot be
21 undone; and economic harm in that he would not have purchased JUUL products had he known
22 of the dangers. Plaintiff has paid and will continue to pay a premium because of Defendants'
23 negligence.

24 **FIFTH CAUSE OF ACTION**
25 **Fraud**

26 302. Plaintiff incorporates by reference paragraphs above as if fully set forth herein
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1 303. At all times relevant, Defendants fraudulently and deceptively sold or partnered to
2 sell products to Plaintiff as non-addictive nicotine delivery systems, or less addictive nicotine
3 products than cigarettes, when Defendant knew it to be untrue.

4 304. Defendants had a duty to disclose material facts about JUUL to Plaintiff, as:

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

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

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

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

23 307. Defendants fraudulently and deceptively failed to disclose to Plaintiff that the JUUL
24 creates an insatiable nicotine addiction, significantly increases blood pressure, can cause mood
25 disorders, induce seizures and other adverse health effects.

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

4 309. Defendants also fraudulently and deceptively failed to disclose to Plaintiff that the
5 JUUL nicotine salts purchased were highly addictive in nature, making it extremely difficult for
6 one to cease purchasing JUUL pod refills.

7 310. Defendants further failed to disclose to Plaintiff that JUUL is designed to create and
8 sustain an addiction to nicotine. Defendants also manipulated the formulations of JUUL devices
9 and JUUL pods in ways that could and would impact their potency and addictiveness, and
10 Defendants did so without notifying Plaintiff. Defendants actively concealed the nicotine content
11 and nicotine potency of JUUL e-cigarettes.

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

17 312. Each of these misrepresentations and omissions were material at the time they were
18 made. In particular, each of the misrepresentations and omissions concerned material facts that
19 were essential to the analysis undertaken by Plaintiff as to whether to purchase or consume a JUUL
20 E-cigarette and/or JUUL pods.

21 313. Plaintiff did not know of the facts that Defendants concealed.

22 314. Defendants intended to deceive Plaintiff and the public by concealing these facts.

23 315. Defendants had a duty to accurately provide this information to Plaintiff. In not so
24 informing Plaintiff, Defendants breached their duty. Defendants also gained financially from, and
25 as a result of their breach.

26 316. Defendants had ample opportunities to disclose these facts to Plaintiff, through
27 packaging, advertising, retail outlets, and on social media. Defendants concealed material
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1 information at all relevant times to this Complaint. Defendants have yet to disclose the truth about
2 JUUL products.

3 317. Plaintiff relied to his detriment on Defendants' fraudulent omissions. Had Plaintiff
4 been adequately informed of the material facts concealed from him regarding the safety of JUUL,
5 and not intentionally deceived by Defendants, he would not have purchased or used JUUL products.

6 318. Plaintiff was harmed directly and proximately by Defendants' fraud. Such harm
7 includes significant exposure to toxic substances, which may cause or contribute to causing
8 disease; severe nicotine addiction, a permanent injury that Plaintiff will now struggle with for the
9 rest of his life; Plaintiff's exposure to such a high content of nicotine has also affected his brain
10 development at such a crucial age, an injury that cannot be undone; and economic harm in that he
11 would not have purchased JUUL or would have paid less for it if he had known the true facts and
12 that he had paid a high premium as a result of Defendants' fraud.

13 319. Defendants' acts and omissions as described herein were committed maliciously,
14 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's rights,
15 interests, and well-being to enrich Defendants. Defendants' conduct was designed to maximize
16 Defendants' profits even though Defendant knew that it would cause loss and harm to Plaintiff.

17
18 **SIXTH CAUSE OF ACTION**
19 **Conspiracy to Commit Fraud**

20 320. Plaintiff incorporates by reference paragraphs above as if fully set forth herein

21 321. During all relevant times, including before Plaintiff consumed JUUL, Defendant
22 JUUL was part of a conspiracy with tobacco and e-cigarette industry players to fraudulently
23 conceal, misrepresent, and downplay the risks of e-cigarettes to boost profits at the expense of
24 public health. Defendants, for research and development, marketing, and distribution purposes,
25 engaged consultants, pundits, academics, lobbyists, media personalities, reporters, researchers and
26 other influencers to tout the safety of e-cigarettes, and benefits of nicotine, while minimizing or
27 downplaying the dangers, particularly to those under age 26, playing on the vulnerabilities of young
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1 people. These tactics mimic those used by the tobacco industry to sow seeds of doubt and confusion
2 among the public, to initiate new users, to keep customers buying JUUL products, and to avoid
3 regulation or legislative efforts to control sales.

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

8 323. JUUL agreed with others in the e-cigarette and tobacco industry and intended that
9 the conspiracy to commit fraudulent concealment be committed.

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

14 325. Defendants' participation in this conspiracy was a substantial factor in causing
15 Plaintiff's harm as alleged herein.

16 326. Defendants' acts and omissions as described herein were committed maliciously,
17 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's rights,
18 interests, and well-being to enrich Defendants. Defendant's 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 **SEVENTH CAUSE OF ACTION**
22 **Intentional Misrepresentation**

23 327. Plaintiff incorporates by reference paragraphs above as if fully set forth herein

24 328. At all times relevant, Defendants represented to Plaintiff via the media, advertising,
25 website, social media, packaging, and promotions that:

- 26 a. JUUL products were safe or not harmful; and
27 b. That one JUUL Pod is "approximately equivalent to about 1 pack of cigarettes"

1 329. These representations were false. JUUL is unsafe for anyone under age 26,
2 especially minors. The amount of nicotine consumed from one JUULPod is actually equivalent to
3 the amount of nicotine consumed through at least two packs of traditional cigarettes.

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

7 331. Defendants intended for Plaintiff to rely on these representations.

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

11 333. Defendants have yet to disclose correct these misrepresentations about JUUL
12 products.

13 334. Plaintiff reasonably relied on these representations and was harmed as described
14 herein. Plaintiff's reliance on Defendants' representation was a substantial factor in causing his
15 harms, including becoming powerfully addicted to JUUL. Had Defendants told Plaintiff the truth
16 about the safety and composition of JUUL's products, he would not have purchased them.

17 335. Defendants' intentional misrepresentation was a substantial factor in Plaintiff's
18 harm as described herein, including that he became severely addicted to the nicotine and incurred
19 permanent brain changes, resulting in irreversible, life-altering injuries. He also suffered economic
20 harm in that he would not have purchased JUUL or would have paid less for it if he had known
21 the true facts and that he has paid a high premium as a result of Defendants' fraud.

22 336. Defendants' acts and omissions as described herein were committed maliciously,
23 oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's rights,
24 interests, and well-being to enrich Defendants. Defendants' conduct warrants an assessment of
25 punitive damages in an amount sufficient to deter such conduct in the future, which amount is to
26 be determined according to proof.

EIGHTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress

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2 337. Plaintiff incorporates by reference paragraphs above as if fully set forth herein.

3 338. Defendants' conduct described herein, preying on youth and poisoning kids for
4 profit, is so outrageous in character and so extreme in degree as to go beyond all possible bounds
5 of decency. Defendants conduct is atrocious and utterly intolerable. Defendants' outrageous
6 conduct caused and/or substantially contributed to Plaintiff's injuries alleged herein.

7 339. Defendants' intentional and reckless conduct caused, and continues to cause, severe
8 emotional distress on Plaintiff. Defendants interjected their product and themselves into the
9 Plaintiff's family and personal life, causing severe stress, strain, and emotional distress in his home.
10 The severe nicotine addiction caused by Defendants' product resulted in behavior and symptoms
11 so severe that Plaintiff's academic performance notably declined, resulting in plaintiff having to
12 drop out of school for a semester as well as a loss of overall well-being. Plaintiff's addiction has
13 caused him to be more frustrated and short-tempered, resulting in a strain on his familial
14 relationships. The relationships and dynamic between Plaintiff and his friends and family has also
15 been forever altered, resulting in Plaintiff suffering from severe emotional distress. Plaintiff's
16 JUUL usage and addiction has also resulted in a loss of emotional and mental control for an
17 addiction he never intended to develop and that he is now unable to control. Further, as described
18 herein, Plaintiff's addiction is a physical injury that has damaged and altered his developing brain.
19 Plaintiff's addiction is no accident; rather, it is the result of Defendants' intentional, calculated
20 behavior to addict him to nicotine to create a life-long customer. Now, for the rest of his life,
21 Plaintiff will either fight a nicotine addiction or sustain a nicotine addiction, all because of
22 Defendants' outrageous conduct. Plaintiff has likewise suffered economic damages related to
23 addressing his addiction and the consequences thereof.

24
25 **NINTH CAUSE OF ACTION**
Unjust Enrichment

26 340. Plaintiff incorporates by reference paragraphs above as if fully set forth herein.
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1 341. As described in this Complaint, Defendants knowingly sold or partnered to sell
2 JUUL products to Plaintiff in a manner that was unfair, unreasonable, unconscionable, and
3 oppressive.

4 342. As a result of Defendants' intentional, unlawful, and deceptive actions described
5 above, Defendants were enriched at the expense of Plaintiff.

6 343. Under the circumstances, it would be against equity and good conscience to permit
7 Defendants to retain the ill-gotten benefits received from Plaintiff. Thus, it would be unjust and
8 inequitable for Defendants to retain the benefit without restitution to Plaintiff for the monies paid
9 to Defendants for its defective JUUL products.

10 **VII. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff respectfully requests that the Court:

12 344. Award Plaintiff compensatory, restitutionary, rescissory, general, consequential,
13 punitive and exemplary damages in an amount to be determined at trial, and also including, but not
14 limited to:

15 a. General Damages;

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

18 345. Award prejudgment interest as permitted by law;

19 346. Enter an appropriate injunction against Defendants and their officers, agents,
20 successors, employees, representatives, and assigns;

21 347. Appoint a monitor and retain jurisdiction to ensure that Defendants comply with
22 the injunctive provisions of any decree of this Court;

23 348. Enter other appropriate equitable relief;

24 349. Award reasonable attorneys' fees and costs, as provided for by law; and

25 350. Grant such other and further relief as the Court deems just and proper.

26 **VIII. JURY TRIAL DEMAND**

27 351. Plaintiff demands a trial by jury.

1
2 Dated: February 17, 2020

3 /s/ Andy D. Birchfield, Jr.
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