

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

R.G, a Minor, by and through his Mother  
and Natural Guardian, Kathleen Greenhill )  
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Plaintiff, )  
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v. )  
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JUUL Labs, Inc.; Pax Labs, Inc.; Altria )  
Group, Inc., and Philip Morris USA, Inc., )  
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Defendants. )  
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**COMPLAINT**  
**( Jury Trial Demanded)**  
  
**C/A No. 2:20-cv-971-RMG**

The Plaintiff, R.G, a Minor, by and through his Mother and Natural Guardian Kathleen Greenhill (“Plaintiff”), and by and through his undersigned counsel, brings this Complaint against Defendants JUUL Labs, Inc., Pax Labs, Inc., Altria Group, Inc., and Philip Morris USA, Inc., and alleges as follows:

**INTRODUCTION**

1. R.G. is a social and bright teenager who is now a victim of Defendants’ orchestrated efforts to addict a new generation of teenagers to nicotine. While just fifteen years old, R.G. developed a severe nicotine addiction through use of the JUUL, an electronic nicotine delivery system (ENDS) or e-cigarette. This extreme addiction, particularly in his vulnerable, developing brain, and his continued use of JUUL, has resulted in permanent injuries. Defendant’s wrongful conduct in marketing, promoting, manufacturing, designing, and selling JUUL directly contributed and caused R.G.’s life-altering injuries.

2. In 2015, JUUL set out to recapture the magic of the most successful product ever made—the cigarette. Due to regulations and court orders preventing the major cigarette manufacturers from marketing to young people, youth smoking had decreased to its lowest levels in decades. While the public health community celebrated this decline as a victory, JUUL saw an opportunity. Seizing on regulatory inaction and loopholes for e-cigarettes, JUUL set out to develop and market a highly addictive product that could be packaged and sold to young people. Youth is and has always been the most sought-after market for cigarette companies, because they are the most vulnerable to nicotine addiction and are most likely to become customers for life.
3. JUUL was designed perfectly for teenagers. It doesn't look or smell like a cigarette. It is a sleek, high-tech youth-friendly battery-powered device that looks like a USB drive. The JUUL device heats a nicotine-filled liquid JUUL pod, sold separately in fun flavors like mango and cool mint, delivering powerfully potent doses of nicotine, along with aerosol and other toxic chemicals into the lungs, body and brain. Unlike noxious cigarette smoke, when a JUUL user exhales, the smoke is undetectable. JUUL is small, easily concealable and can be used practically anywhere without parents or teachers knowing; just Google "JUUL in school" and find more than 23,000 videos on how to JUUL anywhere without detection. This is part of the appeal, fostered and bolstered by JUUL's viral marketing campaigns using young models to make the products look cool and stylish.
4. Defendants designed JUUL to quickly and severely addict young people to nicotine, one of the most addictive chemicals in the world. By studying cigarette industry archives, JUUL learned how to manipulate the nicotine in its products to maximize addictiveness, particularly among new users and young people, and thereby increase sales. JUUL designed

its products to have maximum inhalability, without any “throat hit” or irritation that would serve as a natural deterrent to new users. The sole purpose of this design element was to initiate new smokers, since those who already smoke cigarettes are tolerant to the throat hit sensation and associate it with smoking and nicotine satisfaction. At the same time, JUUL designed its device to deliver substantially higher concentrations of nicotine per puff than traditional cigarettes and most other e-cigarettes. This combination of ease of inhalation and high nicotine delivery makes JUUL both powerfully addictive and dangerous.

5. Nicotine is particularly dangerous to young people whose brains are still developing through the mid-20s. Nicotine is not only addictive in developing adolescent brains, but it also induces seizures and it permanently alters the structure of the brain and causes permanent mood changes and other cognitive disorders.
6. Youth e-cigarette use has been declared an epidemic by the US Surgeon General. In South Carolina, e-cigarette use among high school youth surpasses use of other tobacco products. E-cigarette use among South Carolina high school students increased by 21% between 2015 and 2017.<sup>1</sup>
7. Several studies, including one recently released by the American Stroke Association, have shown that e-cigarettes increase the risk of stroke, heart attack and coronary artery disease.<sup>2</sup> Other studies have shown that e-cigarettes containing nicotine

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<sup>1</sup> <https://www.scdhec.gov/health/tobacco-cessation/e-cigarettes-vapes-and-other-tobacco-products>.

<sup>2</sup> 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-attackdiseased-arteries> (as of July 5, 2019)

significantly increase blood pressure, heart rate and arterial stiffness, and also cause vascular damage, which can lead to strokes and other cardiovascular injuries. These studies build on the well-established research that nicotine increases blood pressure.

8. The United States Surgeon General has concluded that e-cigarettes, including JUUL, are not safe for anyone under age 26.<sup>3</sup>
9. As of January 7, 2020, the Center for Disease Control is reporting 2,602 cases of e-cigarette, or vaping, product use associated lung injury (EVALI) from all 50 states, the District of Columbia, and 2 U.S. territories. Fifty-seven deaths have been confirmed in 27 states and the District of Columbia.
10. In the state of South Carolina, as of January 7, 2020, there are thirty-nine (39) reported cases of e-Cigarette and Vaping Product Use Associated Lung Injury.
11. Even though e-cigarettes are unsafe for anyone under 26, JUUL heavily promoted its products to young people. Following the wildly successful playbook laid out in historic cigarette industry documents, Defendants leveraged social media and utilized other marketing and promotion tactics, long outlawed for cigarette companies, to capture the highly-lucrative youth market. JUUL preyed on youth using medium and themes that exploit teenagers' vulnerabilities to create and sustain nicotine addiction, all for financial gain, and without giving kids any warnings about the serious risks of addiction, stroke, and other permanent injuries.
12. At the time R.G. used JUUL, none of JUUL's advertising, marketing, promotion, packaging or website disclosed any of the health effects and risks that JUUL knew or

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<sup>3</sup> U.S. Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health, Know The Risks: E-cigarettes and Young People (2019) <https://ecigarettes.surgeongeneral.gov/> (as of July 5th, 2019).

should have known would occur from use of its products. These risks include severe nicotine addiction, significant increases in blood pressure, vascular damage, increased risk of stroke, heart attacks and other cardiovascular injuries, permanent brain changes, seizures, mood disorders, heightened risk of cancer, and other harms. JUUL never disclosed that its products were unsafe for anyone under age 26. Instead, the imaging, advertising, promotion, packaging and overall marketing represented the product as safe, fun, and not harmful. As one of the JUUL founders has said: “We don’t think a lot about addiction here because we’re not trying to design a cessation product at all...anything about health is not on our mind.”<sup>4</sup> JUUL’s design, manufacturing, marketing and distribution of this product have proven this statement to be true.

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

14. JUUL has created an epidemic. According to Alex Azar, the Secretary of the U.S. Department of Health and Human Services, “We have never seen use of any substance by America’s young people rise as rapidly as e-cigarette use is rising.”<sup>5</sup> JUUL’s conduct has led to a surge in teen e-cigarette use, creating the “largest ever recorded

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<sup>4</sup> 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](http://www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul) (as of July 5, 2019).

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

[increase in substance abuse] in the past 43 years for any adolescent substance outcome in the U.S.”<sup>6</sup> In a mere two years, Defendants undid more than a decade of progress in reducing teen smoking, thereby increasing nicotine use among teenagers to levels not seen since the early 2000s. Plaintiff R.G. was both a target and a victim of JUUL’s conduct.

15. As a result of Defendants’ conduct, R.G. has suffered life-altering personal injuries and seeks all appropriate remedies and relief.

### **JURISDICTION AND VENUE**

16. This Court has personal jurisdiction over the Defendants, because they actively do business in Charleston County and the State of South Carolina. Defendants have purposely availed themselves of the benefits, protections and privileges of the laws of the State of South Carolina through the promotion, marketing, distribution and sale of the products at issue and have purposely directed their activities in this State. Defendants have sufficient minimum contacts with this County to render the exercise of jurisdiction by this Court permissible.

17. Venue is proper in Charleston County, South Carolina because a substantial part of the events or omissions giving rise to the claims at issue in this Complaint arose in this county and Defendants are subject to the Court’s personal jurisdiction with respect to this action.

18. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 based on diversity of citizenship of the parties and the amount in controversy exceeding \$75,000.

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<sup>6</sup> 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](http://www.medpagetoday.com/primarycare/smoking/77000) (as of July 5, 2019).

**PLAINTIFF AND NATURE OF THE CASE**

19. Plaintiff, R.G., is 17 years old and a resident of Charleston County, South Carolina. Plaintiff resides in, purchased the product at issue in, and suffered injury as a result of the product at issue in Charleston County, South Carolina.
20. Plaintiff was first introduced to JUUL at 15 years old, when the device infiltrated R.G.'s High School. Students, young people, and nonsmokers were purchasing JUUL products from the local convenience stores, without knowledge of the high level of nicotine content.
21. Plaintiff was unaware when he first began "JUULing" just how much nicotine the device contained nor was he aware of the extent of addiction it would cause. Instead, he believed JUUL contained a vapor that contained 0% nicotine. The only reason R.G. started using JUUL was because of the appealing flavors JUUL and the other Defendants market.
22. On August 27, 2019, Plaintiff R.G., was rushed to the emergency room at the Medical University of South Carolina (MUSC) as R.G. was having trouble controlling his breathing and regulating his body temperature.
23. Upon arrival to the emergency room, the physicians could not regulate his oxygen. Therefore, R.G. was rushed to the Intensive Care Unit at MUSC.
24. R.G. was evaluated and treated for any and all types of possible infectious diseases and/or pneumonia, but the results came back negative.
25. R.G.'s blood work was sent to the world-renowned Johns Hopkins Hospital in Cincinnati for their additional review and assistance with R.G.'s treatment.
26. R.G. was also evaluated by the pulmonology, nephrology, and immunology departments at MUSC.

27. R.G.'s case was reported to the Center of Disease Control and Prevention.
28. Following weeks of treatments and evaluations by the above referenced physicians, it was determined that R.G.'s injuries were caused by his use of the JUUL e-cigarette product.
29. Because of R.G.'s nicotine addiction and use of the JUUL e-cigarette, he suffered significant cardiovascular injuries and lung injuries, including, but not limited to: acute respiratory distress syndrome (ARDS); mediastinal emphysema (pneumomediastinum); secondary spontaneous pneumothorax; acute respiratory failure with hypoxia, dyspnea, lymphopenia, hyponatremia, hypogammaglobulinemia, and SIADH (syndrome of inappropriate ADH production).
30. Not only has Defendants' conduct caused harm to Plaintiff physically, but he has suffered emotionally, and financially and is entitled to recover damages as a result thereof.

### **THE DEFENDANTS**

31. Defendant JUUL Labs, Inc. ("JUUL") is a Delaware corporation, having its principal place of business in San Francisco, California. JUUL originally operated under the name PAX Labs, Inc. In 2017, it was renamed JUUL Labs, Inc. JUUL manufactures, designs, sells, markets, promotes, advertises, distributes and otherwise places into the stream of commerce JUUL e-cigarettes. JUUL ratified each and every negligent act or omission alleged herein in proximately causing the injuries and damages alleged herein. JUUL ships JUUL products to all fifty states, including the state of South Carolina.
32. Defendant PAX Labs, Inc. ("PAX"), is a Delaware Corporation, having its principal place of business in San Francisco, California. JUUL Labs, Inc. was originally a part of PAX, but was spun out as a separate company in 2017. A substantial portion of



the conduct cited here occurred while JUUL was part of PAX.

33. Defendant Altria Group, Inc. (“Altria”), is incorporated in Virginia and has its principal place of business in Richmond, Virginia. Altria has partnered with JUUL Labs, Inc.
34. Defendant Philip Morris USA, Inc. (Philip Morris), is a wholly-owned subsidiary of Altria. Philip Morris is also a Virginia corporation that has its principal place of business in Richmond, Virginia. Philip Morris is engaged in the manufacture and sale of e-cigarettes in the United States. Philip Morris is the largest cigarette company in the United States. Marlboro, the principal cigarette brand of Philip Morris, has been the largest selling cigarette brand in the United States for over 40 years.
35. Altria and Philip Morris are referred to collectively as the Altria Defendants. In 2018, Altria acquired 35% ownership in JUUL for \$12.8 billion and provided JUUL access to Altria’s industry infrastructure.

**FICTITIOUS DEFENDANTS 1-13**

36. Fictitious Defendant 1 is, whether singular or plural, being those persons, firms, partnerships, corporations or other entities, whose acts caused or contributed to cause the damages suffered by the Plaintiff herein and whose names are unknown to the Plaintiff at this time but which will be substituted by amendment when ascertained.
37. Fictitious Defendant 2 is, whether singular or plural, that entity who or which designed JUUL products involved in the occurrence made the basis of Plaintiff’s Complaint, any component part thereof, or any attendant product use or available for use therewith.
38. Fictitious Defendant 3 is, whether singular or plural, that entity who or which manufactured or assembled JUUL products and anything involved in the occurrence made

the basis of Plaintiff's Complaint, any component part thereof, or any attendant product used or available for use therewith.

39. Fictitious Defendant 4 is, whether singular or plural, that entity who or which had any role in the distributive chain regarding JUUL products involved in the occurrence made the basis of Plaintiff's Complaint, any component thereof, or any attendant accessory or product used or available for use therewith.

40. Fictitious Defendant 5 is, whether singular or plural, that entity or those entities, that individual or those individuals, other than those described above, whose negligence, intentional conduct, willfulness, wantonness, or other wrongful conduct contributed to cause the occurrence made the basis of Plaintiff's Complaint.

41. Fictitious Defendant 6 is, whether singular or plural, that entity or those entities, other than those described above, which is the successor-in-interest of any of those entities described above.

42. Fictitious Defendant 7 is, whether singular or plural, that entity who or which was responsible for the safety/health engineering of JUUL devices and/or products made the basis of Plaintiff's Complaint.

43. Fictitious Defendant 8 is, whether singular or plural, that entity who or which was the buyer, seller, or as a buyer's or seller's agent or representative had any role in the distribution of the JUUL device and/or products involved in the occurrence made the basis of Plaintiff's Complaint.

44. Fictitious Defendant 9 is, whether singular or plural, that entity who or which issued or failed to issue warnings or instructions regarding the use of the JUUL device and/or products involved in the occurrence made the basis of Plaintiff's Complaint.

45. Fictitious Defendant 10 is, whether singular or plural, that entity who or which manufactured the component parts of the JUUL device and/or products involved in the occurrence made the basis of Plaintiff’s Complaint.
46. Fictitious Defendant 11 is, whether singular or plural, that entity who or which was a buyer, seller, or buyer’s agent, had any role in the distribution of any JUUL product involved in the occurrence made the basis of Plaintiff’s Complaint.
47. Fictitious Defendant 12 is, whether singular or plural, that entity who or which issued warnings or instructions regarding the use or inhalation of any JUUL product involved in the occurrence made the basis of Plaintiff’s Complaint.
48. Fictitious Defendant 13 is, whether singular or plural, that person, firm, corporation, or entity who or which has conducted safety inspections or analyses with respect to assembling JUUL devices and/or products involved in the occurrence made the basis of Plaintiff’s Complaint.
49. The foregoing fictitious Defendants are not known to the Plaintiff at this time, and their true names will be substituted by amendment when ascertained.

**FACTUAL ALLEGATIONS**

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

50. JUUL’s founder James Monsees has described the cigarette as “the most successful consumer product of all time . . . . an amazing product.”<sup>7</sup> Because of “some problems” inherent in the cigarette, JUUL’s founders set out to “deliver[] solutions that

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<sup>7</sup> 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), [www.forbesindia.com/article/leaderboard/billionairestobe-cigarette-breakers/51425/1](http://www.forbesindia.com/article/leaderboard/billionairestobe-cigarette-breakers/51425/1) (as of July 5, 2019).

refresh the magic and luxury of the tobacco category.”<sup>8</sup>

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

52. JUUL used the cigarette industry’s prior practices as a playbook. Monsees has publicly admitted that JUUL built its e-cigarette business by first consulting cigarette industry documents, including board meeting minutes, made public under the Master Settlement Agreement that had been reached between the cigarette industry, governmental officials, and injured smokers. “[Industry documents] became a very intriguing space for us to investigate because we had so much information that you wouldn’t normally be able to get in most industries. And we were able to catch up, right, to a huge, huge industry in no time. And then we started building prototypes.”<sup>12</sup>

53. JUUL researched how cigarette companies had chemically manipulated nicotine content to maximize delivery: “We started looking at patent literature. We are pretty fluent in ‘Patentese.’ And we were able to deduce what had happened historically in the tobacco industry.” Among the documents JUUL would have found were those documenting how to manipulate nicotine pH to maximize the delivery of nicotine in a

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<sup>8</sup> 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/](http://www.solidsmack.com/design/ploom-modeltwo-slick-design-tobacco-pods/) (as of July 5, 2019).

<sup>9</sup> Id.

<sup>10</sup> James Monsees – Co-founder and CEO of Ploom, IDEAMENSCH (Apr 11, 2014), <https://ideamensch.com/james-monsees/> (as of July 5, 2019).

<sup>11</sup> Id.

<sup>12</sup> Montoya, Pax Labs: Origins With James Monsees, Social Underground, <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/> (as of July 5, 2019).

youth-friendly vapor that delivers minimal “throat hit”—a combination that creates unprecedented risks of nicotine abuse and addiction, as detailed further below.<sup>13</sup>

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

55. JUUL also used cigarette industry advertisements—which were created to lure nonsmoking youth—as a blueprint for JUUL’s advertising campaigns. In a 2018 interview, “Monsees indicated that the design of JUUL’s advertising had been informed by traditional tobacco advertisements and that [the Stanford Research into Impact of Tobacco Advertising] had been quite useful to them.”<sup>15</sup>

56. 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.<sup>16</sup>

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<sup>13</sup> Id.

<sup>14</sup> Pierce, *This Might Just Be The First Great E-Cig*, *WIRED*, (Apr 21, 2015), [www.wired.com/2015/04/pax-juul-ecig/](http://www.wired.com/2015/04/pax-juul-ecig/) (as of July 5, 2019).

<sup>15</sup> 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](http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf) (as of July 5, 2019).

<sup>16</sup> 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](http://www.durbin.senate.gov/imo/media/doc/FINAL%20JUUL%20Letter%204.8.19.pdf) (as of July 5, 2019).

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

57. 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.
58. 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 JUULpod 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 JUULpod, the battery in the JUUL device activates the heating element, which in turn converts the nicotine solution in the JUULpod 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.
59. JUUL manufactures and distributes its nicotine formulation as JUULpods, which contain JUUL's nicotine liquid. JUUL exclusively sells its pods in four-packs, in a variety of flavors, many of which have no combustible cigarette analog, including mango, "cool" cucumber, fruit medley, "cool" mint, and crème brulee. According to a recent survey of more than 1,000 17 year-olds, 6.5% admitted to using a JUUL e-cigarette. Of those, 86% of users most recently used fruit medley, mango, cool mint, or crème

brulee.<sup>17</sup>

60. All leading health authorities support the three major conclusions of a 1988 report by the Surgeon General of the United States regarding nicotine and tobacco: Cigarettes and other forms of tobacco are addictive; Nicotine is the drug in tobacco that causes addiction; the physiological and behavioral processes that determine tobacco addiction are similar to those that determine heroin and cocaine addiction.
61. Several studies have shown that e-cigarettes increase the risk of strokes and heart attacks.<sup>18</sup>
62. In addition, E-Cigarettes contain chemicals that can cause irreversible lung damage and alter teen brains. A study from the University of North Carolina found that the two primary ingredients found in e-cigarettes – propylene glycol and vegetable glycerin – are toxic to cells, and that the more ingredients in an e-liquid, the greater the toxicity. E-cigarettes also contain acrolein, a herbicide primarily used to kill weeds. It can cause acute lung injury and COPD and may cause asthma and lung cancer.<sup>19</sup>
63. With respect to JUUL in particular, a recent study found that “the concentrations of nicotine and some flavor chemicals (e.g. ethyl maltol) are high enough to be cytotoxic

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<sup>17</sup> Willett, *JUUL: Recognition, use and perceptions* (Apr 26, 2018) [www.publichealthlawcenter.org/sites/default/files/JUUL-Webinar-Slides-Apr262018.pdf](http://www.publichealthlawcenter.org/sites/default/files/JUUL-Webinar-Slides-Apr262018.pdf) (as of July 5, 2019).

<sup>18</sup> 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); 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](http://www.onlinejacc.org/content/73/9_Supplement_2/11)(as of July 5, 2019); Ndunda & Muutu, Electronic cigarette use is associated with a higher risk of stroke (Jan 30, 2019) *International Stroke Conference 2019 Oral Abstracts. Community/risk factors*, Vol. 50, Suppl. 1, Abst. 9, [www.ahajournals.org/doi/10.1161/str.50.suppl\\_1.9](http://www.ahajournals.org/doi/10.1161/str.50.suppl_1.9) (as of July 5, 2019); Bhatta & Glantz, Electronic Cigarette Use and Myocardial Infarction Among Adults in the US Population Assessment of Tobacco and Health (Jun 18, 2019) *Journal of the American Heart Association*, Vol. 8, Iss. 12, [www.ahajournals.org/doi/10.1161/JAHA.119.012317](http://www.ahajournals.org/doi/10.1161/JAHA.119.012317) (as of July 5 2019).

<sup>19</sup> <https://www.lung.org/assets/documents/stop-smoking/impact-of-ecigarettes-on-lung.pdf>.

in acute in vitro assays.”<sup>20</sup>

64. Public health authorities have concluded that e-cigarettes are unsafe for anyone under age 26.<sup>21</sup>

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

65. According to the National Institutes of Health, the “amount and speed of nicotine delivery . . . plays a critical role in the potential for abuse of tobacco products.”<sup>22</sup> The cigarette industry has long known that “nicotine is the addicting agent in cigarettes”<sup>23</sup> and that “nicotine satisfaction is the dominant desire” of nicotine addicts.<sup>24</sup>

66. For this reason, cigarette companies spent decades manipulating nicotine in order to foster and maintain addiction in their customers. For example, R.J. Reynolds Tobacco Company (“RJR”) developed and patented nicotine salt additives such as nicotine benzoate to increase nicotine delivery in cigarette smoke. As detailed in an RJR memorandum titled “Cigarette Concept to assure RJR a larger segment of the youth market,” manipulating the pH of nicotine was expected to give cigarettes an “additional

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<sup>20</sup> Omaiye *et al.*, High-Nicotine Electronic Cigarette Products: Toxicity of JUUL Fluids and Aerosols Correlates Strongly with Nicotine and Some Flavor Chemical Concentrations (Apr 17, 2019) Chem Res Toxicol 17;32(6):1058-1069 [www.ncbi.nlm.nih.gov/pubmed/30896936](http://www.ncbi.nlm.nih.gov/pubmed/30896936) (as of July 5, 2019).

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

<sup>22</sup> 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/](http://www.ncbi.nlm.nih.gov/books/NBK53017/) (as of July 5<sup>th</sup>, 2019).

<sup>23</sup> 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](http://www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf) (as of July 5, 2019).

<sup>24</sup> *Id.*, R.J. Reynolds Tobacco Co. marketing memo, 1972.



nicotine ‘kick.’” This kick was attributed to increased nicotine absorption associated with lower pH.<sup>25</sup>

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

68. In a 2015 interview, Ari Atkins, a JUUL research & development engineer and one of the inventors of the JUUL device said this about the role of acids: “In the tobacco plant, there are these organic acids that naturally occur. And they help stabilize the nicotine in such a way that makes it ...” He pauses. “I’ve got to choose the words carefully here: Appropriate for inhalation.”<sup>26</sup>

69. JUUL’s manipulation of nicotine pH directly affects the palatability of nicotine inhalation by reducing the “throat hit” users experience when vaping. Benzoic acid reduces the pH of solutions of nicotine, an alkali with a pH of 8.0 in its unadulterated, freebase form. This reduction in pH converts naturally-occurring unprotonated nicotine, which causes irritation in the throat and respiratory tract, to protonated nicotine, which is not absorbed in the throat or upper respiratory tract and, therefore, does not irritate the throat. A recent study found that JUUL’s e- liquid had a pH of under 6.0, suggesting that the

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<sup>25</sup> 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/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/) (as of July 5, 2019).

<sup>26</sup> Pierce, This Might Just Be The First Great E-Cig (Apr 21, 2015) *WIRED*, [www.wired.com/2015/04/pax-juul-ecig/](http://www.wired.com/2015/04/pax-juul-ecig/) (as of July 5, 2019).

JUUL contains almost no freebase (i.e., non-salt form) nicotine.<sup>27</sup>

70. The vapor from JUUL’s e-liquid contains about the same ratio of free-base nicotine—and hence causes the same amount of irritation—as a nearly nicotine-free 3 mg/mL e- liquid.<sup>28</sup>
71. The authors noted that “tobacco company documents suggest that products [like JUUL] with high nicotine levels but a low [percentage of freebase nicotine] will yield vape aerosols of much reduced harshness as compared to products with even only moderate nicotine levels” but high percentages of freebase nicotine. Id.
72. JUUL’s creation of a product with low levels of harshness and minimal throat “hit” is consistent with the goal of producing a product for young non-smokers. The non-irritating vapor product is easier for non-smokers to consume without negative side effects like coughing or irritation. The design also shows that JUUL’s intention was to recruit nonsmokers, not existing smokers, because smokers are already tolerant of the throat hit and have even been habituated into associating the “throat hit” with getting their nicotine fix. Minimizing the throat “hit” of JUUL e- cigarettes is therefore unnecessary to providing an alternative for adult smokers, but is crucial to luring a new generation of users.
73. JUUL’s lack of throat hit increases the risk of using the product, because it masks the amount of nicotine being delivered, by eliminating the throat sensory feedback

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<sup>27</sup> 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](http://www.coresta.org/sites/default/files/abstracts/2018_TSRC83_Lauterbach.pdf) (as of July 5, 2019); Other studies have confirmed the low ratio of freebase nicotine in JUUL products. *See* Duell *et al.*, Free-Base Nicotine Determination in Electronic Cigarette Liquids by 1H NMR Spectroscopy (Jun 18, 2018) 31 *Chem. Res. Toxicol.* 431-434, [www.ncbi.nlm.nih.gov/pmc/articles/PMC6008736/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC6008736/) (as of July 5<sup>th</sup>, 2019).

<sup>28</sup> Id., Duell Study, Fig. 3.

normally associated with a large dose of nicotine. The “throat hit” is part of the body’s alert system, letting a person know he is inhaling something harmful. Eventually, the irritation to the throat will cause even the most compulsive addict to wait before the next inhalation. Reducing or removing this feedback impairs the user’s ability to ascertain that he is consuming a toxin. As a result, the cravings for nicotine can be satisfied nonstop, fostering addiction or aggravating an existing addiction, and repeatedly exposing the user to the health risks associated with the product, such as significantly increased blood pressure.

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

75. Blood plasma studies in the ‘895 patent<sup>29</sup> show that vaping nicotine benzoate increases nicotine delivery compared to cigarettes or vaporized solutions of freebase nicotine. In fact, nicotine uptake was up to four times higher for nicotine salt formulations than traditional cigarettes (approximately 4 ng/mL/min compared to approximately 1 ng/mL/min). JUUL’s data also indicates that nicotine salt solutions produce a higher heart rate in a shorter amount of time (a 50 beats/minute increase within 2 minutes for nicotine salt, versus a 40 beats/minute increase in 2.5 minutes for a Pall Mall cigarette). Nicotine salts also cause a faster and more significant rise in heart rate than placebo or vaporized freebase nicotine.

76. JUUL’s ‘895 patent shows that a 4% solution of benzoic acid nicotine salt causes

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<sup>29</sup> See U.S. Patent No. 9, 215, 895.

a peak nicotine-blood concentration (“Cmax”) of approximately 15 ng/mL, compared to a Cmax of 11 ng/mL for a Pall Mall cigarette.<sup>30</sup>

77. As high as the reported nicotine dose reported for JUULpods is, the actual dose is likely higher. Though the strongest benzoic acid concentration mentioned in the ‘895 patent is 4% (i.e., 40 mg/mL of benzoic acid), one study tested four flavors of JUULpods and found a 4.5% benzoic acid ( $44.8 \pm 0.6$ ) solution.<sup>31</sup> That study found that JUULpods contained a concentration of 6.2% nicotine salt (about 60 mg/mL), rather than the 5% nicotine (about 50 mg/mL) advertised. JUULpods containing an absolute nicotine concentration 1.2% higher than the stated 5% on the label (a relative increase of over 20%) coupled with more benzoic acid than listed in the ‘895 patent produce higher nicotine absorption than expected for the advertised formulation.

78. Other studies have reported even higher actual concentrations of nicotine in JUULpods. Some experts estimate that JUUL pods contain the same nicotine as two packs of cigarettes.<sup>32</sup>

79. JUUL is delivering doses of nicotine that are materially higher than delivered by combustible cigarettes.

80. Comparison of available data regarding per puff nicotine intake corroborates the other JUUL studies (mentioned above), indicating that JUUL delivers about 30% more nicotine per puff. Specifically, a recent study of JUULpods found that “[t]he nicotine levels delivered by the JUUL are similar to or even higher than those delivered by

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<sup>30</sup> ‘895 Patent, at col. 26, ll. 33-50.

<sup>31</sup> 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/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC5342216/) (as of July 5, 2019).

<sup>32</sup> *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)

cigarettes.”<sup>33</sup> The Reilly study tested JUUL’s Tobacco, Crème Brulee, Fruit Punch, and Mint flavors and found that a puff of JUUL delivered  $164 \pm 41$  micrograms of nicotine per puff. By comparison, a 2014 study using larger 100 mL puffs found that a Marlboro cigarette delivered 152—193  $\mu\text{g/puff}$ .<sup>34</sup> Correcting to account for the different puff sizes between the Reilly and Schroeder studies, this suggests that, at 75ml/puff, a Marlboro would deliver between 114 and 144  $\mu\text{g/puff}$ . In other words, empirical data suggests that JUUL delivers up to 36% more nicotine per puff than a Marlboro.

81. Despite the above data, Defendant JUUL has failed to disclose to consumers that the JUULpods’ nicotine salt formulation delivers an exceptionally potent dose of nicotine.

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

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

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

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<sup>33</sup> 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).

<sup>34</sup> Schroeder & Hoffman, *Electronic Cigarettes and Nicotine Clinical Pharmacology* (May 2014) *Tobacco Control* 2014: 23:ii30-ii35, [www.ncbi.nlm.nih.gov/pmc/articles/PMC3995273/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3995273/) (as of July 5, 2019).

health.”<sup>35</sup>

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

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

87. JUUL’s design offers no benefit to young people like R.G., who was not addicted to cigarettes before he started using JUUL.

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

88. Because JUUL understood that it could not specifically make health-related claims without drawing the ire of the FDA, JUUL conspired with others, including unnamed Fictitious Defendants, in the cigarette industry to engage consultants, academics, reporters, and other friendly sources such as the American Enterprise Institute, to serve as spokespersons and cheerleaders for e-cigarette products. Taking yet another page from the cigarette-industry playbook, these influencers masked their connection to the e-cigarette industry, while serving as its mouthpiece to cast doubt about risks and overstate benefits.

89. For example, just as JUUL launched, cigarette company expert witness Sally Satel published an article in Forbes Magazine touting the benefits of nicotine—claiming it aids in concentration—and stating that it is harmless.<sup>54</sup> In another article, she lauded

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<sup>35</sup> Duell Study, 431

efforts by JUUL and others to develop nicotine-related products, and cast any doubters as hysterical and creating a “panic.”<sup>36</sup>

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

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

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

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

94. On information and belief, JUUL conspired with others in the cigarette industry to fraudulently conceal the risks of e-cigarettes, recognizing that a campaign of doubt, misinformation

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<sup>36</sup> Satal, *Why The Panic Over JUUL And Teen Vaping May Have Deadly Results* (Apr 11, 2018), Forbes, [www.forbes.com/sites/sallysatal/2018/04/11/why-the-panic-over-juul-and-teen-vaping-may-have-deadly-results/#6b1ec693ea48](http://www.forbes.com/sites/sallysatal/2018/04/11/why-the-panic-over-juul-and-teen-vaping-may-have-deadly-results/#6b1ec693ea48) (as of July 5, 2019).

and confusion would benefit all of them and would be the key to the industry's survival.

**JUUL Intentionally Misrepresents and Grossly Understates the Amount of Nicotine in each JUULpod**

95. From JUUL's pre-release announcements to this day, JUUL, along with unnamed Fictitious Defendants 1-14 that provided marketing services to JUUL, has continuously falsely represented that each pod contains only as much nicotine as a pack of cigarettes. JUUL repeats these claims widely in advertisements, press releases, on its packaging, and on its web site. For example, some JUUL advertisements and JUUL's website currently provide that each "JUULpod is designed to contain approximately 0.7mL with 5% nicotine by weight at time of manufacture which is approximately equivalent to 1 pack of cigarettes or 200 puffs." This statement is false and seriously misleading because, as JUUL knows, it is not just the amount of nicotine, but the efficiency with which the product delivers nicotine into the bloodstream, that determines the product's narcotic effect, risk of addiction, and other health risks.
96. Defendant JUUL knows that benzoic acid affects pH and "absorption of nicotine across biological membranes."<sup>37</sup>
97. Assuming a concentration of 59 mg/mL, JUUL's reported nicotine content corresponds to about 40 mg of nicotine per 0.7 mL JUULpod. If, as JUUL claims, this is equivalent to one pack of cigarette (or 20 cigarettes), that implies 2 mg of nicotine per cigarette.
98. Typically, a cigarette that delivers around one milligram of nicotine in smoke retains "about 14-20 milligrams of nicotine in the unsmoked rod," *USA v. Philip Morris*,

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<sup>37</sup> Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine Psychopharmacology (Oct 12, 2010), *Handb Exp Pharmacol* 192: 29–60.



p. 567, for an overall delivery of 5-7% of the cigarette's actual nicotine content. A study by the Center for Disease Control found that in "commercial cigarette brands, nicotine concentrations ranged from 16.2 to 26.3 mg nicotine/g tobacco (mean 19.2 mg/g; median 19.4 mg/g)."<sup>38</sup> Assuming an average of 19 milligrams of nicotine per cigarette, an average pack of cigarettes contains 380 milligrams of nicotine, or six times as much nicotine as the 62 milligrams reported for each JUULpod. Yet the average pack would be expected to deliver only 5-7% (19-27 mg) of its nicotine content to the user. In line with this expectation, a study of thousands of smokers found smokers intaking between 1.07 to 1.39 milligrams per cigarette (21.4-27.8 mg per pack).<sup>39</sup>

99. This is less than half the nicotine contained in a JUULpod (i.e., 2 mg per "cigarette" based on JUUL's stated concentration, or 200 µg per puff assuming 100% delivery). Even with the slightly lower efficiency of delivery demonstrated in studies like Reilly (about 82%, for averages of 164 µg per puff), this amounts to a substantially higher amount of nicotine that a human will absorb from a JUULpod than from smoking a pack of cigarettes.

100. JUUL's statement in its advertisements that each JUULpod contains about as much nicotine as a pack of cigarettes is therefore literally false and likely to mislead, and did mislead, because the amount of nicotine contained in the JUULpod is perhaps six times less than in a pack of cigarettes, but the actual amount of nicotine consumed via JUULpod

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<sup>38</sup> 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/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/) (as of July 5, 2019).

<sup>39</sup> Jarvis *et al.*, Nicotine Yield From Machine-Smoked Cigarettes and Nicotine Intakes in Smokers: Evidence From a Representative Population Survey (Jan 17, 2001), *JNCI*, Vol. 93, 2:134–138,  
[www.ncbi.nlm.nih.gov/pubmed/11208883](http://www.ncbi.nlm.nih.gov/pubmed/11208883) (as of July 5 2019).

is as much as twice as high as that via cigarettes. This fact is never mentioned by JUUL nor Fictitious Defendants 1-12.

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

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

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

104. Thus, JUUL is more harmful when compared to cigarettes, in that the extraordinarily high levels of nicotine can cause heightened blood pressure and stroke,

and the repetitive exposure to the toxins and chemical in JUUL can also cause vascular damage and stroke.

**Defendants never warned R.G. that JUUL's Products were unsafe, addictive, and dangerous.**

105. At no time before R.G. became severely addicted, did JUUL, Pax Labs, Inc.; Altria Group, Inc., Philip Morris USA, Inc., nor any of the other unnamed Fictitious Defendants involved in the research, development, marketing and distribution of JUUL products provide any warnings about the risks of addiction, stroke, or other brain, lung, or cardiovascular damage.

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

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

108. Furthermore, JUUL misrepresents the nicotine content of JUULpods by representing it as 5% strength. As discussed above, JUULpods contain more than 5%

nicotine by volume, and deliver it in a form that is particularly potent.

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

110. Plaintiff did not and could have known the risks associated with JUUL, because Defendant had exclusive knowledge about its product, including its design, and concealed that information from him.

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

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

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

114. Among those who recognized JUUL, 25 percent reported that use of this product is called “JUULing,” indicating that this product is so distinctive, it is perceived as its own category. Sixty-three percent of JUUL users did not know that this product always contains nicotine.

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

115. As described below, Defendant JUUL has used the same strategies perfected by

the cigarette industry to sell JUUL products to young people. In particular, JUUL has both exploited regulatory loopholes and relied heavily on social media and other viral advertising tools to hook people, and in particular, young persons, on its addictive e-cigarettes.

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

117. The Altria Defendants and Fictitious Defendants provided the strategies, analyses, and services to JUUL enabling and in furtherance of JUUL's deceptive and unfair marketing tactics.

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

118. To remain profitable, the tobacco industry must continue to woo new customers: some existing customers wean themselves from addiction and the others eventually die, so replacement customers are needed. In recent years, tobacco usage in the United States has fallen dramatically, with particularly large decreases in the youth smoking rates, which cigarette companies have been vigorously trying to counteract. The cigarette industry knows that the younger a person starts smoking, the longer they will have a customer. Historically, cigarette companies fought to increase share penetration among the 14-24 age group because "young smokers have been the critical factor in the growth" of tobacco companies, and "the 14-18-year-old group is an increasing segment of the smoking population." The importance of the youth market was illustrated in a 1974

presentation by RJR's Vice-President of Marketing who explained that the "young adult market . . . represent[s] tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume - for at least the next 25 years."<sup>40</sup>

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

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

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

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<sup>40</sup> Mr. C.A. Tucker Presentation to RJRI BOFD - 9/30/74 (740930), "Marketing Plan" (1974), [www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=ypmw0091](http://www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=ypmw0091) (as of July 5, 2019).

rebelliousness, and being ‘cool.’” *Id.* at ¶ 2674

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

123. Today, cigarette manufacturers like Defendant Altria are limited in their ability to advertise in the United States, but actively use viral marketing techniques outside of the United States. For example, Japan Tobacco International, one of JUUL’s early investors, launched social media campaigns including a “Freedom Music Festival” promoting Winston cigarettes in Kazakhstan, Kyrgyzstan, and Jordan. Similarly, Defendant Philip Morris International, a wholly owned subsidiary of Defendant Altria, JUUL’s largest stakeholder, has used influencer campaigns in multiple countries. A campaign in Indonesia called “I Decide To” has been viewed more than 47 million times online. A hashtag marketing campaign called #NightHunters in Uruguay used paid influencers to pose with menthol cigarettes and was seen by nearly ten percent of Uruguay’s population.<sup>41</sup>

124. An influencer paid to promote Defendant Philip Morris brands stated that

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<sup>41</sup> *New Investigation Exposes How Tobacco Companies Market Cigarettes on Social Media in the U.S. and Around the World* (Aug 27, 2019) Campaign For Tobacco-Free Kids [www.tobaccofreekids.org/press-releases/2018\\_08\\_27\\_ftc](http://www.tobaccofreekids.org/press-releases/2018_08_27_ftc) (as of July 5, 2019).

Defendant Philip Morris targets a “super young profile” for its influencers the people they selected are always the youngest.<sup>42</sup> They look for young people that have large groups of friends so [the social media promotional message] gets expanded more and more.” Id. Another influencer allegedly stated that “we had a training session with the person of charge of marketing in Marlboro, she talked to us about how difficult it was for them to advertise due to all the laws in place. She also talked to us about . . . [linking] the brand to certain colors or situations.” Id. (brackets in original).

125. A study carried out by the campaign for tobacco-free kids, report that “tobacco companies are secretly paying social media stars to flood your newsfeed with images of their cigarette brands.” Id.

126. Similarly, in 1988 the R.J. Reynolds Tobacco Company introduced the infamous Joe Camel cartoon campaign, which faced instant criticism due to how appealing the cartoon animal was to children and teens. Joe Camel was drawn as sleek, metropolitan figure, typically wearing sunglasses or a tuxedo, or was depicted driving convertibles, gambling, or playing pool. The ads often used the phrase “Smooth Character,” which to teenagers, meant he had a slick, cool personality. That in turn led to an association between smoking and coolness in the minds of young people. To ensure that message stuck, R.J. Reynolds put up billboards featuring Joe Camel near schools, and printed Joe Camel Shirts, hats, and other paraphernalia, ensuring the campaign would be carried far and wide. Only three years after the campaign began, in 1991, the Journal of the American Medical Association published a study showing that by age six nearly as many children could correctly respond that “Joe Camel” was associated with cigarettes as could respond

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<sup>42</sup> <https://www.takeapart.org/wheretheressmoke/>



that the Disney Channel logo was associated with Mickey Mouse, and it alleged that the “Joe Camel” campaign was targeting children, despite R. J. Reynolds’ claim (similar to the claim of Defendants here) that the campaign was directed only to adults who were already smokers of other brands.<sup>43</sup> At that time researchers estimated that 32.8% of all cigarettes sold illegally to underage buyers were Camels.<sup>44</sup> The Joe Camel campaign ended under the pressure of an impending civil trial brought by the City Attorney in San Francisco, Congressional investigation, and public pressure.<sup>45</sup>

127. Cigarette companies have also known for decades that flavored products are key to nicotine adoption by youth. A 1972 Brown & Williamson internal memorandum titled “Youth Cigarette – New Concepts,” observed that “it’s a well-known fact that teenagers like sweet products.”<sup>46</sup>

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

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

129. Under the Tobacco Master Settlement Agreement (“MSA”), reached in 1998, participating manufacturers agreed not to “take any action, directly or indirectly, to target Youth within any Settling State in the advertising, promotion or marketing of Tobacco Products, or take any action the primary purpose of which is to initiate, maintain or

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<sup>43</sup> 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](http://www.ncbi.nlm.nih.gov/pubmed/1956101) (as of July 5, 2019).

<sup>44</sup> DiFranza et al., RJR Nabisco’s cartoon camel promotes camel cigarettes to children (Dec 11, 1991) JAMA 266(22):3149-53, [www.ncbi.nlm.nih.gov/pubmed/1956102](http://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.)

<sup>45</sup> Joe Camel, Wikipedia [https://en.wikipedia.org/wiki/Joe\\_Camel#cite\\_note-8](https://en.wikipedia.org/wiki/Joe_Camel#cite_note-8) (as of January 21, 2020)

<sup>46</sup> 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](http://www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf) (as of July 5, 2019).

increase the incidence of Youth smoking within any Settling State.” MSA, § III(a).

130. In 2009, the FDA banned flavored cigarettes pursuant to its authority under the Family Smoking Prevention and Tobacco Control Act of 2009. Then-FDA commissioner Dr. Margaret A. Hamburg announced the ban because “flavored cigarettes are a gateway for many children and young adults to become regular smokers.”<sup>47</sup>

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

132. Following the successful model of its predecessors, since 2015, Defendant JUUL, in conjunction and in concert with Defendants Altria, PAX and Fictitious Defendants 1-14 involved in providing marketing services to JUUL, has been operating a long-term viral marketing campaign aimed at teenagers and young adults. This campaign extends and expands upon deceptive advertising tropes used by tobacco companies to exploit the psychological needs of consumers—especially youth—to convert them into smokers.

133. 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

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<sup>47</sup> Harris, *Flavors Banned From Cigarettes to Deter Youth* (Sep 22, 2009), The New York Times, [www.nytimes.com/2009/09/23/health/policy/23fda.html](http://www.nytimes.com/2009/09/23/health/policy/23fda.html) (as of July 5, 2019).

attractiveness, stylishness, sex appeal, fun, “belonging,” relaxation, and sensory pleasure, including taste.

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

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

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

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

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

139. To announce the JUUL's release in June 2015, JUUL launched the "Vaporized" advertising campaign that was aimed at a youth audience.<sup>48</sup> The campaign used young, stylish models, bold colors, and memorable imagery.

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

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

142. Often the Vaporized ads contained the phrase "Smoking Evolved," so that consumers, and in particular youth, would associate JUUL with high tech and the latest

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<sup>48</sup> 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).

generation of cool products, like iPhones and MacBooks.

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

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

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

**JUUL Gave Away Free Products to Get New Consumers Hooked**

146. JUUL distributed free starter packs at live social events, conduct forbidden for a cigarette company under the Tobacco Master Settlement Agreement, because it lured young people into nicotine addiction and related harms. BeCore, one of the firms responsible for designing and implementing JUUL's live events reported that "on average, BeCore exceeded the sampling goals set by JUUL . . . average number of samples/event distributed equals 5,000+."<sup>49</sup> (emphasis added). At these events, BeCore distributed the appropriately-named JUUL "Starter Kits," which contain a JUUL and 4 JUULpods of varying flavors. If BeCore indeed gave away 5,000 Starter Kits per event, JUUL effectively distributed the nicotine equivalent of 20,000 packs of cigarettes at each

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<sup>49</sup> 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](http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf) (as of July 5, 2019).

of the 25 events described above—or the equivalent of 500,000 packs of cigarettes at all 25 events.

147. 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 Plaintiff, who used the products, became addicted to nicotine and suffered severe health consequences.

#### **JUUL Portrayed Its Products as Status Symbols**

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

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

disclosed the dangers of using JUUL.

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

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

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

153. Third, where JUUL’s advertisements appeared to contain such a disclaimer, this disclaimer was not typically seen when viewing social media due to the way the posts appear in phones and browsers. In particular, Facebook and Instagram typically only present to users the image and a couple lines of text, and viewers who want to see the

entire post must click on it to open it up and read the rest.

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

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

156. Even JUUL’s newer “alternative for adult smokers” tagline suggests to adolescents that JUUL-use is a symbol of status as an adult, which happens to be an advertising theme cigarette companies peddled to youth for decades.

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

157. The cigarette industry spends about 8.6 billions a year in point of sale promotions.

158. Studies show that tobacco use is associated with exposure to retail advertising and relative ease of in-store access to tobacco products. Some studies have shown that youth who were frequently exposed to point of sale tobacco marketing were twice as



likely to try or initiate smoking than those who were not as frequently exposed. Frequent exposure to tobacco product advertising and marketing at retail normalizes tobacco and smoking for youth over time and makes them more likely to smoke. POS marketing is also associated with youth brand preference. Research shows that young adult smokers prefer the tobacco brands marketed most heavily in the convenience store closest to their schools. Before its launch in 2015, JUUL and Cult Collective developed innovative packaging and creative in-store displays that would carry their message into stores.

159. In particular, they designed bright, white packages. The packaging looked similar to iPhone packaging, which JUUL knew would resonate with young people, and because it was solid white, the packaging stood out and caught people's eyes when displayed in store shelves. This packaging buttresses Defendants' online marketing of JUUL e-cigarette as "the i-Phone of Ecigs," thereby framing them as a cool, fashionable item to own and use. JUUL posters and signs at the point of sale also promoted JUUL's flavors. From 2015 through late 2018, JUUL promoted JUUL products and JUUL flavors at the point of sale without disclosing that the products contained nicotine or warning that the products could lead to addiction. Instead, JUUL's promotions displayed the colorful JUULpod caps and their food-based names while omitting that JUUL delivers nicotine, is addictive, carries risks of stroke and other cardiovascular events, and is unsafe for anyone under the age of 26.

160. JUUL's point of sale materials provided an introduction to the brand. JUUL's POS materials omitted the most material features of JUUL's product—that it is a powerfully addictive nicotine delivery system, unsafe for anyone under age 26—adolescents who saw JUUL's POS and were later offered a JUUL would have no reason

to think that what they were being offered by JUUL contained nicotine, or posed risks of addiction, or was unsafe.

**JUUL used Social Media to Inundate and Target Consumers, Particularly Youth**

161. JUUL not only designed its advertising with an eye to what might be appealing to young people, but set about disseminating those ads to ensure that young people see them.

162. On information and belief, JUUL maintains active accounts on most social media platforms, including Instagram, Facebook, and Twitter, where JUUL tweeted nearly 5,000 times in 2017 alone. As of 2016, 76 percent of American teens age 13-17 used Instagram, 66 percent of teens use Facebook, and 44 percent of teens use Twitter.<sup>50</sup> While JUUL continues to maintain its Twitter page, it deleted nearly all content from its Instagram and Facebook pages around November of 2018, in response to lawsuits.

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

164. JUUL also disseminated Unpaid Advertising across social media through its use of hashtags. Hashtags are simple phrases preceded by a #, and they operate as a way of cataloguing posts. Authors of posts use hashtags if they want their posts to be discovered

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<sup>50</sup> Snapchat And Instagram Are The Most Popular Social Media Platforms Among American Teens, The Associated Press-NORC Center for Public Affairs Research, <http://apnorc.org/projects/Pages/HTML%20Reports/instagram-and-snapchat-are-most-popular-social-networks-for-teens.aspx> (as of July 5, 2019).

and seen by people outside of their networks. On most social media platforms, users can find information by doing a search for a hashtag with that key word. Thus, people interested in JUUL, could enter into the search bar on most Social Media Platforms “#JUUL” to find posts that include that hashtag. Instagram takes it one step farther and allows users to set up their accounts so that posts with a certain hashtag are automatically delivered to their feed.

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

166. JUUL relentlessly advertised to its targeted audience across all Social Media Platforms. Young people could see JUUL advertising on a near daily basis, regardless of what platform used. The continual use of Paid Advertising increases the pressure to buy, and it makes quitting harder due to exposure to the advertising all day long through phones and other personal electronic devices.

**JUUL exploited Social Media Influencers To Target Young People**

167. To broaden the reach of its campaign, JUUL used “influencers” to push the product to young people.
168. Viewed as tastemakers and trendsetters by their followers, influencers are prized sources of brand promotion on social media networks. Companies seeking to market products often will pay influencers to advertise their products, similar to the ways in which they utilize “product placement” in movies. They seek out influencers with large amounts of followers in their target demographic, and will offer these influencers money or other deals to promote their products.
169. The influencer then will create various posts on social media using the product. Typically, these posts are images of them using the product, but sometimes these posts will include videos, reviews, and other information about the product.
170. JUUL used or ratified multiple accounts across many social media sites to reach young people, even encouraging users to JUUL at school.
171. JUUL also enjoyed the benefits of third-party promoters who reached hundreds of thousands of young people. Cigarette companies are prohibited from conducting any of the practices described above under the Tobacco Master Settlement Agreement. Activities such as product placement in performances and professional videos have been identified as against public policy for nicotine products.

**JUUL knew that its Scheme to Attract Young Smokers Like Plaintiff had Worked**

172. Within a few months of JUUL’s commercial release in June of 2015, a former

JUUL executive reportedly told the New York Times that JUUL “quickly realized that teenagers were, in fact, using JUULs because they posted images of themselves vaping JUULs on social media.”<sup>51</sup>

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

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

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

**JUUL Created an Youth Vaping Epidemic and Exposed a New Generation to The Dangers of Nicotine Products.**

176. JUUL’s marketing and product design efforts have been wildly successful.

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

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<sup>51</sup> Richtel & Kaplan, *Did Juul Lure Teenagers and Get ‘Customers for Life’?: The e-cigarette company says it never sought teenage users, but the F.D.A. is investigating whether Juul intentionally marketed its devices to youth* (Aug 27, 2018), *The New York Times*, [www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html](http://www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html) (as of July 5, 2019).

178. The vaping epidemic caused by JUUL has swept the entire nation in a short period of time. On December 28, 2018, the University of Michigan’s National Adolescent Drug Trends for 2018 reported that increases in adolescent Electronic Nicotine Delivery System (“ENDS”) vaping from 2017 to 2018 were the “*largest ever recorded in the past 43 years for any adolescent substance use outcome in the U.S.*”<sup>52</sup>

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

180. FDA Commissioner Dr. Scott Gottlieb has described the increase in e-cigarette consumption as an “almost ubiquitous – and dangerous – trend” that is responsible for an “epidemic” of nicotine use among teenagers.<sup>53</sup> The rapid –indeed infectious- adoption of e- cigarettes “reverse[s] years of favorable trends in our nation’s fight to prevent youth addiction to tobacco products.” *Id.* The Commissioner identified the two primary forces driving the epidemic as “youth appeal and youth access to flavored tobacco products.” *Id.*

181. Within days of the FDA’s declaration of an epidemic, Surgeon General Dr.

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<sup>52</sup> Prieur, National Adolescent Drug Trends in 2018 (Dec 17, 2018), Institute For Social Research, The University of Michigan, <https://isr.umich.edu/news-events/news-releases/national-adolescent-drug-trends-in-2018/> (as of July 5, 2019).

<sup>53</sup> FDA launches new, comprehensive campaign to warn kids about the dangers of e-cigarette use as part of agency’s 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](http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620788.htm) (as of July 5, 2019)

Jerome Adams also warned that the “epidemic of youth e-cigarette use” could condemn a generation to “a lifetime of nicotine addiction and associated health risks.”<sup>54</sup>

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

**JUUL Implemented its Advertising Strategy with the Advice and Services of other Defendants.**

183. In order to implement such a wide-ranging advertising scheme, JUUL worked in concert with an array of marketing, research, and distribution professionals.

184. JUUL’s advertising and marketing relied on the ideas, strategies, and advice of marketing and public relations entities.

185. These entities, Defendant Altria and Fictitious Defendants 1-13, willingly and knowingly provided advertising expertise to JUUL, fully aware that JUUL would use these advertisements to target, sell to, and ultimately increase the number of young people consuming nicotine via its products.

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<sup>54</sup> 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](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/surgeon-general-advisory/index.html) (as of July 5, 2019).

186. Defendant Altria and Fictitious Defendants 1-13 provided their marketing services knowing that the marketing slogans, advertisements, and advertising methods they created were deceptive, provided no meaningful warning to users, and would necessarily mislead or otherwise falsely suggest that JUUL's e-cigarette products were not harmful, not addictive, or otherwise safe for use.
187. Defendants expended time, money, and effort in order to design, create, and implement and pervasive advertising scheme the sole purpose of which was to exploit and influence the minds of young adults into associating social status, popularity, desirability, and success with the purchase and consumption of JUUL's e-cigarette products.
188. Defendants essentially used the playbook of cigarette and tobacco product advertising implemented by companies such as Defendant Philip Morris, in order to market JUUL e-cigarette products to young adults.

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

189. The teen vaping epidemic was by design, not by accident.
190. When JUUL was first developed, the FDA's regulations on tobacco products were vague as to whether they applied to vaping devices. Because the regulations did not explicitly identify electronic vaping devices that dispensed tobacco and nicotine as a regulated product, JUUL interpreted those regulations to mean that it could sell its dangerous products to anyone, regardless of their age, and that it did not have to comply with the advertising and labeling restrictions that restricted other tobacco companies.
191. As other vaping companies began to enter the market, JUUL no doubt knew that this gray area was unlikely to stay gray for long. Knowing that the clock was ticking,



JUUL went on a wild spree to get as many young people addicted as possible while it still viewed itself as “unregulated.” The aggressive advertising described above was designed not just to sell the products to teenagers, but to sell the product to as many teenagers as possible. By hooking teens, JUUL not only ensured it would have loyal consumers for decades, but those teens would influence their friends.

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

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

194. In 2018, after the FDA opened an investigation and lawsuits were filed, JUUL set out to rewrite its history. It has removed from its website and much of the internet images of glamorous young models seductively exhaling clouds of vapors. JUUL’s website now pictures middle-age adults in non-glamorous settings and suggests that JUUL solely exists for the benefit of adult smokers looking for an alternative. Although JUUL now markets its product as a smoking cessation device (“Switch to JUUL”), it has not received FDA approval as a modified risk tobacco product or as a nicotine replacement therapy, and JUUL’s e-cigarette has not participated in any FDA approval process analyzing its risks and benefits. While JUUL has also announced some half-hearted

voluntary measures to reduce access to young people, the cat cannot go back in the bag. The viral marketing campaign and images live on, the candy flavors are still available, and the product remains designed to maximize the nicotine delivery for young people, leading to devastating health consequences.

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

**JUUL's Conduct Harmed R.G.**

196. Starting JUUL in late 2017, when he was approximately 16, Plaintiff had been seeing and hearing about JUUL through his friends at school, as the product had heavily and thoroughly infiltrated his high school. He saw ads and promotions in gas stations and on gas station pumps. These ads and promotions made JUULing seem fun, healthy and cool.

197. R.G. first tried JUUL in or around August of 2017, when the device became especially ubiquitous among his high school friends.

198. Plaintiff started using JUUL largely because it had a cool design, appealing flavors, and was fun to use. Part of the attraction for R.G. was the discreet slick design that would avoid detection from teachers, coaches or other authority figures.

199. Before R.G. tried JUUL, he was not addicted to nicotine, nor had he tried cigarettes.

200. R.G. initially was attracted to JUUL's green apple flavor, and a tried number of others. Once retail stores no longer carried mango flavor, R.G. began purchasing the mint flavor. R.G. and his friends purchased JUUL devices and pods at various stores throughout Charleston South Carolina. At these tobacco and electronic cigarette retailers,

R.G. was exposed to JUUL's point of sale advertising, promotions and messaging by the display such materials in these respective stores.

201. Like the majority of young people surveyed, R.G. was not aware when he first began "JUULing" how much nicotine the device contained, or that it carried any health risks.

202. R.G. relied to his detriment on JUUL's representations and/or lack of representations that the product was safe, not harmful, and fun.

203. JUUL never warned R.G. that JUUL was addictive, dangerous, could cause him to suffer cardiovascular injuries, mood disorders, or would permanently alter his brain.

204. Had R.G. known that JUUL was overly addictive, carried health risks, and would cause the problems it has in his health and personal life, he never would have tried it.

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

206. JUUL never instructed R.G. that the product was unsafe for him, nor how much JUUL was safe to consume.

207. Had R.G. known that JUUL was not safe, was addictive, dangerous, could cause cardiovascular issues, could permanently alter his brain and impair his mood and mind, affect his academic performance negatively, that JUUL had manipulated nicotine to maximize addiction, or that each JUULpod delivered substantially more nicotine than a pack of cigarettes, he would not have used or continued to use JUUL.

208. Within a very short period of time using JUUL, R.G. became addicted to nicotine

and he had to get one for himself. His use steadily increased, until he began using JUUL immediately upon waking, all throughout the day, and then just before going to sleep. He would JUUL every chance he got, at home, while driving, during school, practically anywhere that he could get away with it. He struggled to function without nicotine, and when he tried to quit using the product, he would shake, have mood swings, and severe headaches. The level of nicotine his body required increased over time, and before long he was consuming up to two Pods per day – as many pods as he could afford.

209. Before he started to use JUUL, R.G. was a healthy and intelligent student. He was a leader within his school and excelled in athletics. He exhibited no signs or indications that he had an addictive personality.

210. As a direct and proximate result of JUUL’s defective design, misrepresentations, omissions, failures to warn, and negligent and willful conduct, R.G. suffered life- altering and permanent cardiovascular injuries, including: severe nicotine addiction, acute respiratory distress syndrome (ARDS); mediastinal emphysema (pneumomediastinum); secondary spontaneous pneumothorax; acute respiratory failure with hypoxia, dyspnea, lymphopenia, hyponatremia, hypogammaglobulinemia, and SIADH ((syndrome of inappropriate ADH production).

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

211. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

212. At all relevant times, JUUL Labs, in concert and aided by Fictitious Defendants 1- 13, designed, engineered, developed, manufactured, fabricated, assembled, equipped, tested or failed to test, inspected or failed to inspect, labeled, advertised, promoted,

marketed, supplied, distributed, wholesaled and/or sold the JUUL Devices and Pods (“JUUL Products”) that Plaintiff consumed and which were intended by Defendants to be used as a method of ingesting nicotine and the other aerosolized constituents of JUUL’s nicotine solution.

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

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

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

216. JUUL products are inherently defective because they contain and deliver significantly more nicotine than JUUL represents and significantly more nicotine than traditional cigarettes. Moreover, JUUL is unreasonably dangerous and therefore defective in design because it is made to create and sustain addiction. JUUL designed the product to contain more nicotine than necessary to satisfy a cigarette smoker’s nicotine craving

with the intention of creating addiction. JUUL's nicotine salts enhance the risk and severity of addiction; it supplies nicotine at high levels without any of the intake harshness associated with other nicotine products. Furthermore, JUUL is defectively designed in that it uses flavors that appeal to minors and enhances minors' ability to intake dangerous amounts of nicotine. The risks inherent in the design of JUUL outweigh significantly any benefits of such design.

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

218. JUUL products are inherently defective because they contain and deliver significantly more nicotine than JUUL represents and significantly more nicotine than traditional cigarettes. Moreover, JUUL is unreasonably dangerous and therefore defective

in design because it is made to create and sustain addiction. JUUL designed the product to contain more nicotine than necessary to satisfy a cigarette smoker's nicotine craving with the intention of creating addiction. JUUL's nicotine salts enhance the risk and severity of addiction; it supplies nicotine at high levels without any of the intake harshness associated with other nicotine products. Furthermore, JUUL is defectively designed in that it uses flavors that appeal to minors and enhances minors' ability to intake dangerous amounts of nicotine.

219. The risks inherent in the design of JUUL outweigh significantly any benefits of such design.

220. As a direct and proximate result of JUUL's defective design of its e-cigarettes, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**SECOND CAUSE OF ACTION**  
**Strict Products Liability - Failure to Warn**

221. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

222. At all times relevant, Defendants, in concert, and aided by Fictitious Defendants 1- 14, manufactured, marketed, distributed, and/or sold the JUUL Products that Plaintiff consumed.

223. At all times relevant, Defendants were well-aware that JUUL is a dangerous product that contains highly addictive levels of nicotine and subjects users to severe nicotine addiction and other serious medical conditions, as described in this Complaint. Further, the JUUL products that plaintiff consumed had other potential risks that were known or were knowable in light of the scientific and medical knowledge that was generally accepted in the scientific community well before and at the time of manufacture,

market, distribution, and sale.

224. Despite having that knowledge, Defendants failed to adequately warn the minor Plaintiff of the dangerous, addictive nature of JUUL as well as the multitude of health risks it posed.

225. The potential risks presented a substantial danger when the JUUL Products were used by R.G. in an intended or reasonably foreseeable way.

226. At all times relevant, Plaintiff did not recognize the risks of using a JUUL device with a JUUL pod because Defendant JUUL has intentionally downplayed, misrepresented, concealed, and failed to warn of the heightened risks of nicotine exposure and addiction. The Altria Defendants partnered with JUUL, and they too have since intentionally downplayed, misrepresented, concealed and failed to warn Plaintiff and the general public of the heightened risks of nicotine exposure and addiction.

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

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

229. Instead, as described herein, Defendants marketed their products to young people



and made them available in youth-friendly colors and flavors. Defendants also designed their products to be more palatable to youth and nonsmokers by increasing JUUL's inhale-ability, incorporating appealing flavors, and increasing the level of nicotine that is absorbed by users, making them even more addictive and dangerous.

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

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

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

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

234. As a direct and proximate result of Defendants' failures to warn, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**THIRD CAUSE OF ACTION**  
**Negligence And/Or Gross Negligence**

235. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

236. Defendants had a duty and owed a duty to Plaintiff to exercise a degree of reasonable care including, but not limited to: ensuring that JUUL marketing does not target minors such as Plaintiff R.G.; ensuring that JUUL devices and JUULpods are not sold and/or distributed to minors; and are not designed in a manner that makes them unduly attractive to minors; designing a product that is not defective and unreasonably dangerous; designing a product that will not addict youth or other users to nicotine; adequately warn of any reasonably foreseeable adverse events with respect to using the product. Defendants designed, produced, manufactured, assembled, packaged, labeled, advertised, promoted, marketed, sold, supplied and/or otherwise placed JUUL Products into the stream of commerce, and therefore owed a duty of reasonable care to avoid causing harm

to those consumed it, such as Plaintiff.

237. JUUL's Products endangered Plaintiff and other consumers, and were negligently made, promoted, or distributed. Defendants knew the risks that young people like Plaintiff would be attracted to their electronic cigarette devices and JUULpods and knew or should have known the importance of ensuring that the products were not sold and/or distributed to anyone under age 26, but especially to minors.

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

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

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

241. Defendants were negligent, reckless and careless and failed to take the reasonable care owed to Plaintiff, and breached the duty owed to Plaintiff, thereby causing Plaintiff to suffer harm. The negligence and extreme carelessness of Defendants includes, but is not limited to, the following: Failure to perform adequate testing of the JUUL

Products prior to marketing to ensure safety, including long-term testing of the product, and testing for injury to the brain and cardiovascular systems, and other related medical conditions; Failure to take reasonable care in the design of JUUL's Products; Failure to use reasonable care in the production of JUUL's Products; Failure to use reasonable care in the manufacture of JUUL's Products; Failure to use reasonable care in the assembly of JUUL's Products; Failure to use reasonable care in supplying JUUL's Products; Failure to use reasonable care in distributing JUUL's Products; Failure to use reasonable care in advertising, promoting, and marketing JUUL's Products; negligent promotion of JUUL to young people under age 26, and especially to minors; Negligent use of flavors and design to appeal to young people under age 26, and especially to minors, in that the products smell good, look cool and are easy to conceal from parents and teachers; Failure to prevent JUUL from being sold to young people under age 26, particularly to minors; Failure to prevent JUUL use among young people under age 26, particularly for minors; Failure to curb JUUL use among young people under age 26, particularly for minors; Failure to develop tools or support to help people addicted to JUUL cease using the product, including manufacturing lesser amounts of nicotine; Failure to reasonably and properly test and properly analyze the testing of JUUL's Products under reasonably foreseeable circumstances.

242. Defendants breached the duties they owed to Plaintiff and in doing so, were wholly unreasonable. A responsible company, whose primary purpose is to help adult smoker, would not design a product to appeal to minors and nonsmokers nor market their products to minors and nonsmokers. Defendants were aware of the dangers of smoking and nicotine ingestion and that JUULS products would be harmful for young people and

nonsmokers to use.

243. But for Defendants' duties and breaches thereof, Plaintiff would not have been harmed as alleged in the Complaint.

244. Plaintiff was harmed directly and proximately by Defendants' negligence. Such harm includes significant exposure to toxic substances, which caused or contributed to causing disease; severe nicotine addiction, permanent injuries that R.G. will now struggle with for the rest of his life; as well as extensive medical expenses, impaired earnings capacity, and other such damages as may be proved at trial.

245. Upon information and belief, R.G.'s exposure to such a high content of nicotine has also affected his brain development at such a crucial age, an injury that cannot be undone; and economic harm in the money spent on JUUL products.

246. As a direct and proximate result of Defendants' negligence, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**FOURTH CAUSE OF ACTION**  
**Negligence – Wanton and Willful Conduct**

247. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

248. Defendants had a duty and owed a duty to Plaintiffs to exercise a degree of reasonable certainty including, but not limited to: ensuring that JUUL marketing does not target minors, and ensuring that JUUL devices and JUULpods are not sold and/or distributed to minors such as Plaintiff, R.G. The totality of the Plaintiff's age, maturity level, capacity and intelligence heighten the duty Defendants owed to Plaintiff. Defendants knew the risks that minors would be attracted to their electronic cigarette devices and JUULpods and knew or should have known the importance of ensuring that

the products were not sold and/or distributed to minors and young people.

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

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

251. Defendants' acts and omissions had a great probability of causing significant harm and in fact resulted in such harm.

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

253. Plaintiff was harmed directly and proximately by Defendants' negligence and willful and wanton conduct. Such harm include significant exposure to toxic substances, which caused or contributed to causing disease; severe nicotine addiction, permanent injuries that R.G. will now struggle with for the rest of his life; R.G.'s exposure to such a high content of nicotine has also affected his brain development as such a crucial age, an injury that cannot be undone; and economic harm in that he would not have been able to purchase JUUL if Defendant had properly utilized the state's age safeguard to protect minors. Nor would R.G. have purchased JUUL products had he known of the dangers. R.G. has paid and will continue to pay a premium because of Defendants' negligence.

254. As a direct and proximate result of Defendants' negligence, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**FIFTH CAUSE OF ACTION**

**Fraud**

255. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

256. At all times relevant, Defendants fraudulently and deceptively sold or partnered to sell products to Plaintiff as non-addictive nicotine delivery systems, or less addictive nicotine products than cigarettes, when Defendant knew it to be untrue.

257. Defendants had a duty to disclose material facts about JUUL to Plaintiff; however, Defendants intentionally and deliberately failed to disclose material facts about the nature and safety of JUUL products that were known only to Defendants and that Defendants knew Plaintiff could not have known or reasonably discovered.

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

259. Defendants fraudulently and deceptively downplayed or minimized any risk associated with e-cigarettes generally and JUUL in particular for young persons under age 26, especially minors. At all relevant times, Defendant JUUL represented its products on its website as a "smarter" choice. Defendant JUUL pitched investors by claiming that the product was not harmful, and therefore any concern about addiction was irrelevant. Defendants and/or others worked together to pitch news stories or other media content designed to downplay the risks of e-cigarettes, suggesting that any concern was overblown, or a panic. These tactics mimic those used by the tobacco industry to sow

seeds of doubt and confusion among the public, to initiate new users, to keep customers buying JUUL products, and to avoid regulation or legislative efforts to control sales.

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

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

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

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

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

265. Plaintiff did not know of the facts that Defendants concealed.

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

267. Defendants had a duty to accurately provide this information to Plaintiff. In not



so informing Plaintiff, Defendants breached their duty. Defendants also gained financially from, and as a result of their breach.

268. Plaintiff relied to his detriment on Defendants' fraudulent misrepresentations and omissions. Had Plaintiff been adequately informed of the material facts concealed from him regarding the safety of JUUL, and not intentionally been deceived by Defendants, he would not have purchased or used JUUL products. Plaintiff was fraudulently induced to use JUUL products based upon the foregoing misrepresentations and omissions by the Defendants.

269. Plaintiff was harmed directly and proximately by Defendants' fraud. Such harm includes significant exposure to toxic substances, which caused or contributed to causing disease; severe nicotine addiction, and permanent injuries that R.G. now struggle with for the rest of his life; R.G.'s exposure to such a high content of nicotine has also affected his brain development at such a crucial age, an injury that cannot be undone; and economic harm in that he would not have purchased JUUL if he had known the true facts and that he has paid a high premium as a result of Defendants' fraud.

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

271. As a direct and proximate result of Defendants' fraud, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**SIXTH CAUSE OF ACTION**  
**Civil Conspiracy**

272. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.
273. During all relevant times, including before Plaintiff consumed JUUL, Defendant JUUL was part of a conspiracy and combination with tobacco and e-cigarette industry players, Altria Group, PAX Labs, Inc. and Fictitious Defendants 1-13, to fraudulently conceal, misrepresent, and downplay the risks of e-cigarettes to boost profits at the expense of public health. Defendants, for research and development, marketing, and distribution purposes, engaged consultants, pundits, academics, lobbyists, media personalities, reporters, researchers and other influencers to tout the safety of e-cigarettes, and benefits of nicotine, while minimizing or downplaying the dangers, particularly to those under age 26, playing on the vulnerabilities of young people. These tactics mimic those used by the tobacco industry to sow seeds of doubt and confusion among the public, to initiate new users, to keep customers buying JUUL products, and to avoid regulation or legislative efforts to control sales.
274. JUUL was aware that others in the e-cigarette and tobacco industry, Defendant Altria Group, PAX and Fictitious Defendants planned to engage in a campaign of doubt to mislead, downplay, and deflect concerns about the risks of e-cigarettes and nicotine, and to fraudulently conceal material information about the safety of these products and compounds.
275. JUUL agreed and combined with others in the e-cigarette and tobacco industry, Defendants Altria Group, PAX and Fictitious Defendants and intended that the conspiracy to commit fraudulent concealments, omissions and misrepresentations for the purposes of

injuring the American youth, including Plaintiff, R.G.

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

277. Defendants' participation in this conspiracy was a substantial factor in causing Plaintiff's harm and special damages as alleged herein, and the Defendants committed the foregoing overt and covert acts in furtherance of the said conspiracy, combination and agreement.

278. Defendants' acts and omissions as described herein were committed maliciously, oppressively, deliberately, with intent to defraud, and in reckless disregard of Plaintiff's rights, interests, and well-being to enrich Defendants.

279. As a direct and proximate result of Defendants' fraud, Plaintiff R.G. was severely injured, has incurred extensive medical expenses, future medical expenses, loss of potential earnings, and special damages to be proven at trial.

280. Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

**SEVENTH CAUSE OF ACTION**  
**Outrage**

281. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

282. Defendants' conduct as described herein was so extreme and outrageous that it exceeded all bounds of decency, and was atrocious and utterly intolerable in today's

society.

283. Defendants' acts and omissions as described herein were committed maliciously, oppressively, intentionally, deliberately, and in reckless disregard of Plaintiff's rights, interests, and well-being to enrich Defendants. Defendants' abusive conduct inflicted severe physical injuries and emotional distress on the Plaintiff, and Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

284. Plaintiff R.G. has suffered severe emotional distress and physical injuries as a result of Defendants' outrageous, intentional, and reckless conduct. Defendant interjected their product and themselves into R.G.'s life, home, family, and relationships causing stress and putting a strain on his relationships. His life revolves around being able to JUUL. R.G.'s addiction is a physical injury that has damaged and altered his developing brain. His addiction is no accident; rather, it is the result of Defendants' intentional, calculated behavior to addict her to nicotine to create a life-long customer. Now, for the rest of his life, R.G. will either fight a nicotine addiction or sustain a nicotine addiction and treat his permanent physical injuries, all because of Defendants' outrageous conduct. Defendants' intentional and utterly outrageous, intolerable, abusive and reckless conduct caused, and continues to cause, severe emotional distress on Plaintiff.

285. As a direct and proximate result of Defendants' outrageous conduct, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**EIGHT CAUSE OF ACTION**  
**Negligent Misrepresentation**

286. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

287. At all times relevant, Defendants falsely represented to Plaintiff via the media, advertising, website, social media, packaging, and promotions that: JUUL products were safe or not harmful; and, that one JUULPod is “approximately equivalent to about 1 pack of cigarettes.”

288. The Defendants had a pecuniary interest in making the materially false representations and omissions as set forth herein.

289. These negligent representations and omissions were false. JUUL is unsafe for anyone under age 26, especially minors. The amount of nicotine consumed from one JUULPod is actually equivalent to the amount of nicotine consumed through at least two packs of traditional cigarettes. The Defendants made negligent omissions to the Plaintiff and the general public by failing to disclose the harmful effects of the JUUL Products which were known to the Defendants.

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

291. Defendants intended for Plaintiff to rely on these negligent misrepresentations and omissions, and the Plaintiff did in fact justifiably rely on these negligent misrepresentations and omissions.

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

293. Defendants have yet to disclose or correct these negligent misrepresentations and omissions about JUUL products.

294. Defendants had a duty of care to see that truthful information was communicated to the Plaintiff.

295. The Defendants negligently breached the duty of care owed to Plaintiff by failing to exercise due care in making the said false misrepresentations and omissions.

296. Plaintiff justifiably and reasonably relied on these false representations and omissions, and was harmed as described herein. Plaintiff's reliance on Defendants' false representations and omissions was justified and a substantial factor in causing his harms, including becoming powerfully addicted to JUUL and lifelong cardiovascular injuries. Had Defendants told Plaintiff the truth about the safety and composition of JUUL's products, he would not have purchased them.

297. Defendants' negligent misrepresentations and omissions were a substantial factor in Plaintiff's harm as described herein, including that he became severely addicted to the nicotine and incurred permanent medical damage, resulting in irreversible, life-altering injuries. He also suffered economic harm in that he would not have purchased JUUL or would have paid less for it if he had known the true facts and that he has paid a high premium as a result of Defendants' fraud.

298. Defendants' false representations and omissions as described herein were negligent, grossly negligent, and in reckless disregard of Plaintiff's rights, interests, and well-being, with a purpose to enrich Defendants. Defendants' negligent and grossly negligent conduct warrants an assessment of punitive damages in an amount sufficient to deter such conduct in the future, which amount is to be determined according to proof.

299. As a direct and proximate result of Defendants' negligent and grossly negligent false misrepresentations and omissions, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof.

**NINTH CAUSE OF ACTION**  
**Unjust Enrichment**

300. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

301. As described in this Complaint, Defendants knowingly sold or partnered to sell JUUL products to Plaintiff in a manner that was unfair, unreasonable, unconscionable, and oppressive.

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

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

**TENTH CAUSE OF ACTION**  
**Violation of the South Carolina Unfair Trade Practices Act (SCUTPA)**

304. Plaintiff incorporates the above and below allegations and paragraphs by reference as fully set forth herein.

305. Defendants have engaged, and continue to engage, in unfair, unlawful and deceptive trade and commerce practices in South Carolina by engaging in the unfair, unlawful, and deceptive business practices and methods outlined in this Complaint.

306. In particular, Defendants have engaged, and continue to engage in, unfair,

unlawful and deceptive trade and commerce practices in South Carolina by, without limitation: falsely and deceptively marketing, advertising and selling JUUL E-cigarettes and JUULpods for use in South Carolina as safe and not harmful; falsely and deceptively marketing, advertising and selling JUUL E-cigarettes and JUULpods for use in South Carolina without disclosing to consumers the extent of addiction associated with use of JUUL's nicotine salts; fraudulently and deceptively marketing, advertising and selling its products to Plaintiff as a non-addictive nicotine delivery system, or less addictive nicotine product than cigarettes, when Defendants knew it to be untrue; and by fraudulently and deceptively downplaying or minimizing the risk associated with its products in particular for young persons under age 26, especially minors; and knowingly violating other legal and regulatory standards set forth above.

307. The Defendants' deceptive, unfair and fraudulent marketing practices for JUUL Products affected the public interest and these unlawful practices not only had the potential for repetitions but, in fact, said deceptive methods and practices were repeatedly made to, or hoisted upon, the general public and the Plaintiff.

308. Defendants' false and fraudulent misrepresentations and omissions in the marketing of JUUL Products had the capacity, effect and tendency to deceive the general public, including the Plaintiff, and did in fact deceive the general public and the Plaintiff.

309. Plaintiff relied to his detriment on Defendants' unfair, unlawful, and deceptive business and marketing practices and methods. Had Plaintiff, and those similarly situated, been adequately informed rather than intentionally deceived by Defendants, he would have acted differently by, without limitation: not purchasing a JUUL E-cigarette or JUULpod.



310. Defendants engaged in these unfair, fraudulent and deceptive practices and methods to increase their profits. Accordingly, Defendants have engaged in unlawful trade and commerce practices, as defined and prohibited by Tile 39, Chapter 5 of the South Carolina Code of Laws.

311. The aforementioned unfair trade practices, which Defendants have used, and continue to use, to their significant financial gain, also constitute unlawful competition and provide an unlawful advantage over Defendants' competitors as well as injury to the general public.

312. Plaintiff seeks full restitution of monies, as necessary and according to proof, to restore any and all monies acquired by Defendants from Plaintiff, the general public, and/or those similarly situated by means of the unfair and/or deceptive trade practices complained of herein, plus interest thereon.

313. Plaintiffs seek an injunction to prohibit Defendants from continuing to engage in the unfair trade practices complained of herein.

314. As a direct and proximate result of Defendants' unfair and deceptive trade practices and methods, Plaintiff R.G. was severely injured and is entitled to recover damages as a result thereof, including treble damages and attorney's fees.

315. The deceptive and unlawful acts and omissions complained of herein occurred within three (3) years preceding the filing of this Complaint.

**PRAYER FOR RELIEF**

316. WHEREFORE, Plaintiff respectfully requests that the Court:

317. Grant Plaintiff judgment on each claim and award Plaintiff compensatory, restitutionary, rescissory, general, consequential, punitive and exemplary damages in an amount to be determined at trial, and also including, but not limited to: General Damages;

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

318. Award prejudgment interest as permitted by law;
319. Enter an appropriate injunction against Defendants;
320. Appoint a monitor and retain jurisdiction to ensure that Defendants comply with the injunctive provisions of any decree of this Court;
321. Enter other appropriate equitable relief;
322. Award reasonable attorneys' fees and costs, as provided for by law; and
323. Grant such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMAND**

324. Plaintiff demands trial by jury.

[Signature block on page below]

Respectfully submitted,

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