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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12

13 ALIONA BRICHKOV,
14 Plaintiff,
15 v.
16 JUUL LABS, INC. and DOES 1-100,
17 Defendants.
18

Case No.

CGC-19-579614

COMPLAINT

DEMAND FOR JURY TRIAL

ENDORSED
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San Francisco County Superior Court

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1 Plaintiff, Aliona Brichkov, by and through her undersigned counsel, brings this complaint
2 against Defendant JUUL Labs, Inc. and Defendants Does and alleges as follows:

3 **I. INTRODUCTION**

4 1. Ms. Brichkov was a healthy and active 18-year-old college student who suffered
5 spontaneous lung collapse on May 29, 2019, in Marin County, California, after becoming
6 addicted to JUUL, an electronic nicotine delivery system (“ENDS”) or e-cigarette. Defendants’
7 wrongful conduct in marketing, promoting, manufacturing, advertising, designing, and selling
8 JUUL substantially contributed to Ms. Brichkov’s serious and devastating injuries.

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

17 3. JUUL was designed perfectly for teenagers. It doesn’t look or smell like a
18 cigarette, or make the smoker smell or taste of cigarettes. It is a sleek, high-tech youth-friendly
19 battery-powered device that looks like a USB drive. The JUUL device heats a nicotine-filled
20 liquid JUULpod, sold separately in fun flavors like mango and cool mint, delivering powerfully
21 potent doses of nicotine, along with aerosol and other toxic chemicals into the lungs, body and
22 brain. Unlike noxious cigarette smoke, when a JUUL user exhales, the smoke is undetectable.
23 JUUL is small, easily concealable and can be used practically anywhere without parents or
24 teachers knowing; Googling “hiding JUUL in school” or “how to ghost rip JUUL” returns
25 hundreds of videos on how to JUUL anywhere without detection. This is part of the appeal,
26 fostered and bolstered by JUUL’s viral marketing campaigns using young models and popular
27 young celebrities to make the products look cool and stylish.
28

1 4. Defendant designed and developed JUUL to addict young people in order to once
2 again make the tobacco market flourish.

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

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

16 7. Nicotine addiction causes repeated exposure to the toxins and aerosols contained
17 in JUUL’s vapor.

18 8. Several studies, including one recently released by the American Stroke
19 Association, have shown that e-cigarettes increase the risk of stroke, heart attack and coronary
20 artery disease.¹

21 9. Other studies have shown that e-cigarettes containing nicotine significantly
22 increase blood pressure, heart rate and arterial stiffness, and also cause vascular damage, which
23 can lead to strokes and other cardiovascular injuries as well as lung problems.²

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

27 ² Bhatta and Glantz, *Electronic cigarette use and myocardial infarction among adults in the US*
population assessment of tobacco and health, J. of Am. Heart Assoc. (2019); Caporale, *et al.*,
28 *Acute effects of electronic cigarette aerosol inhalation on vascular function detected at*
quantitative MRI, Radiology (2019); Franzen, *et al.*, *E-cigarettes and cigarettes worsen*

Footnote continued on next page

1 10. These studies build on the well-established research that nicotine increases blood
2 pressure.³

3 11. There has been a significant spike in particularly unusual lung collapses in very
4 young users of JUUL, like Plaintiff.

5 12. The United States Surgeon General has concluded that e-cigarettes, including
6 JUUL, are not safe for anyone under age 26.⁴

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

14 14. At the time Ms. Brichkov used JUUL, none of JUUL's advertising, marketing,
15 promotion, packaging or website disclosed any of the dangerous health effects and risks that
16 JUUL knew or should have known would occur from use of its products. These dangerous and
17 potentially lethal risks include nicotine addiction, significant increases in blood pressure, vascular
18 damage, increased risk of stroke, heart attacks and other cardiovascular injuries, permanent brain
19 changes, mood disorders, heightened risk of cancer, and other harms. JUUL never disclosed that

20 _____
21 *Footnote continued from previous page*
22 *peripheral and central hemodynamics as well as arterial stiffness, Vasc. Med. (2018); Lee, et al.,*
23 *Modeling cardiovascular risks of e-cigarettes with human-induced pluripotent stem cell-derived*
24 *endothelial cells, J. Am College of Cardiology (2019); Middlekauff, Cardiovascular impact of*
25 *electronic cigarette use, Trends in Cardiovascular Medicine (2019); Ndunda, et al., Abstract 9:*
26 *Electronic cigarette use is associated with a higher risk of stroke, Abstract 9 (2019);*
27 *Vlachopoulos, et al., Electronic cigarette smoking increases aortic stiffness and blood pressure*
28 *in young smokers: increased aortic stiffness and blood pressures in young smokers, J. Am. Coll.*
Cardiol. (2016).

³ Vlachopoulos, et al., *Electronic cigarette smoking increases aortic stiffness and blood pressure in young smokers: increased aortic stiffness and blood pressures in young smokers, J. Am. Coll. Cardiol. (2016).*

⁴ U.S Surgeon General and U.S. Centers for Disease Control & Prevention, Office on Smoking and Health, *Know the risks: E-cigarettes and young people* (2019) <https://e-cigarettes.surgeongeneral.gov/> (as of Sept. 25, 2019).

1 its products were unsafe for anyone under age 26. Instead, the imaging, advertising, promotion,
2 packaging and overall marketing represented the product as safe, fun, and not harmful. As one of
3 the JUUL founders has said: “We don’t think a lot about addiction here because we’re not trying
4 to design a cessation product at all...anything about health is not on our mind”.⁵

5 15. Since 2015 when JUUL hit the market, JUUL has become pervasive in schools
6 across the country and adolescent use is rampant. JUUL not only dominates the multi-billion
7 dollar e-cigarette market, but has expanded the size of that market significantly—mostly via
8 young non-smokers. The cigarette company Altria acquired a 35% stake in JUUL for \$12.8
9 billion, giving Altria access to the new generation of customers JUUL has groomed.⁶

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

18 17. As a result of Defendant’s conduct, Plaintiff has suffered catastrophic personal
19 injuries and seeks all appropriate remedies and relief.

22 ⁵ Tiku, *Startup behind the Lambo of vaporizers just launched an intelligent e-cigarette: Surprise, it's a rectangle*, The Verge (Apr. 21, 2015) <https://www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul> (as of Sept. 25, 2019).

24 ⁶ LaVito, *Tobacco giant Altria takes 35% stake in Juul, valuing e-cigarette company at \$38 billion*, CNBC (Dec. 20, 2018) www.cnbc.com/2018/12/20/altria-takes-stake-in-juul-a-pivotal-moment-for-the-e-cigarette-maker.html (as of Sept. 25, 2019).

26 ⁷ *Surgeon General releases advisory on E-cigarette epidemic among youth*, U.S. Department of Health & Human Services (Dec. 18, 2018) www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html (as of Sept. 25, 2019).

28 ⁸ Boyles, *Surgeon general calls for new e-cig restrictions: ‘I am officially declaring e-cigarette use among youth an epidemic*, MedPage Today (Dec. 18, 2018) www.medpagetoday.com/primarycare/smoking/77000 (as of Sept. 25, 2019).

1 **II. JURISDICTION AND VENUE**

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

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

11 **III. THE PLAINTIFF**

12 20. Plaintiff, Aliona Brichkov, is 19 years old and a citizen of San Diego County,
13 California.

14 21. Beginning in June 2017, when she was approximately 16 years old, Ms. Brichkov
15 was exposed to JUUL's advertising and promotional efforts via many sources, including social
16 media, direct emails, and at gas stations where she purchased JUUL products near her home and
17 school.

18 22. Ms. Brichkov regularly purchased and consumed JUUL products, including JUUL
19 devices and JUULpods, between June 2017 through May 2019, primarily in San Diego County,
20 Marin County, and San Francisco County, California.

21 23. Ms. Brichkov was initially attracted to JUUL's flavors and sleek, discreet design.
22 She particularly liked and smoked the mint and mango flavors.

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

27 25. Ms. Brichkov became powerfully addicted to JUUL, causing her to increase her
28 use over time. By 2019, Ms. Brichkov was consuming up to one and a half JUULpods per day,

1 about eight JUULpods per week, using JUUL first thing in the morning and the last thing before
2 bed.

3 26. In May of 2019, after approximately two years of JUUL use, Ms. Brichkov
4 suffered a spontaneous lung collapse, resulting in devastating injuries.

5 27. JUUL was a substantial factor in causing Ms. Brichkov's injuries.

6 **IV. THE DEFENDANTS**

7 **A. JUUL Labs, Inc.**

8 28. Defendant JUUL is a Delaware corporation, having its principal place of business
9 in San Francisco, California.

10 29. JUUL originally operated under the name PLOOM, then changed its name to PAX
11 Labs, Inc. In 2017, it was renamed JUUL Labs, Inc.

12 30. JUUL manufactures, designs, sells, markets, promotes and distributes JUUL e-
13 cigarettes.

14 31. JUUL ratified each and every act or omission alleged herein in proximately
15 causing the injuries and damages alleged herein.

16 **B. Does 1-25**

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

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

23 **C. Does 26-50**

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

27 35. Upon information and belief, Defendants Does 26 through 50 provided marketing
28 services, including, but not limited to, market analyses, advertising consultations, advertisement

1 design, marketing tools and techniques, marketing strategies, data on potential target consumer
2 populations, and other services enabling and in furtherance of JUUL’s manufacturing, design,
3 sale, marketing, promotion, and distribution of JUUL e-cigarettes.

4 **D. Does 51-100**

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

8 37. Upon information and belief, Defendants Does 51 through 100 are members of the
9 e-cigarette industry that conspired with JUUL to fraudulently conceal and downplay the risks of
10 e-cigarettes, engage in a campaign of doubt and confusion, and overstate the benefits of e-
11 cigarettes and nicotine.

12 **V. FACTUAL ALLEGATIONS**

13 **A. JUUL Seeks to Re-create the “Magic” of the Cigarette, the “Most Successful**
14 **Consumer Product of All Time”, using Big Tobacco’s Playbook.**

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

19 39. Monsees saw “a huge opportunity for products that speak directly to those
20 consumers who aren’t perfectly aligned with traditional tobacco products.”¹¹ With a focus on
21 recreating the “ritual and elegance that smoking once exemplified,”¹² Monsees and JUUL co-
22

23 ⁹ Chaykowski, *Billionaires-to-be: Cigarette breakers—James Monsees and Adam Bowen have*
24 *cornered the US e-cigarette market with Juul. Up next: The world*, FORBES (Sept. 27, 2018),
www.forbesindia.com/article/leaderboard/billionairestobe-cigarette-breakers/51425/1 (as of
25 Sept. 25, 2019).

26 ¹⁰ 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-](http://www.solidsmack.com/design/ploom-modeltwo-slick-design-tobacco-pods/)
27 [pods/](http://www.solidsmack.com/design/ploom-modeltwo-slick-design-tobacco-pods/) (as of Sept. 25, 2019).

28 ¹¹ *Id.*

¹² *James Monsees—Co-founder and CEO of Ploom*, IDEAMENSCH (Apr. 11, 2014),
<https://ideamensch.com/james-monsees/> (as of Sept. 25, 2019).

1 founder Adam Bowen set out to “meet the needs of people who want to enjoy tobacco but don’t
2 self-identify with — or don’t necessarily want to be associated with — cigarettes.”¹³

3 40. JUUL used the cigarette industry’s prior practices as a playbook. Monsees has
4 publicly admitted that JUUL built its e-cigarette business by first consulting cigarette industry
5 documents, including board meeting minutes, made public under the Master Settlement
6 Agreement that had been reached between the cigarette industry, governmental officials, and
7 injured smokers. “[Industry documents] became a very intriguing space for us to investigate
8 because we had so much information that you wouldn’t normally be able to get in most industries.
9 And we were able to catch up, right, to a huge, huge industry in no time. And then we started
10 building prototypes.”¹⁴

11 41. JUUL researched how cigarette companies had chemically manipulated nicotine
12 content to maximize delivery: “We started looking at patent literature. We are pretty fluent in
13 ‘Patentese.’ And we were able to deduce what had happened historically in the tobacco
14 industry.”¹⁵ Among the documents it is believed that JUUL found were those documenting how
15 to manipulate nicotine pH to maximize the delivery of nicotine in a youth-friendly vapor that
16 delivers minimal “throat hit”—a combination that creates unprecedented risks of nicotine abuse
17 and addiction, as detailed further below.

18 42. JUUL also engaged former cigarette industry researchers to consult on the design
19 of their product. JUUL’s founder James Monsees noted in WIRED magazine that “people who
20 understood the science and were listed on previous patents from tobacco companies aren’t at
21 those companies anymore. If you go to Altria’s R&D facility, it’s empty.” The WIRED article
22 stated that “some of those people are now on Pax’s team of advisers, helping develop JUUL.”¹⁶

23
24 ¹³ *Id.*

25 ¹⁴ Montoya, *Pax Labs: Origins with James Monsees*, Social Underground,
26 <https://socialunderground.com/2015/01/pax-ploom-origins-future-james-monsees/> (as of
Sept. 25, 2019).

27 ¹⁵ *Id.*

28 ¹⁶ Pierce, *This might just be the first great e-cig*, *WIRED* (Apr. 21, 2015),
www.wired.com/2015/04/pax-juul-ecig/ (as of Sept. 25, 2019).

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

6 44. JUUL just replaced its CEO Kevin Burns with a veteran of the cigarette industry,
7 K.C. Crosthwaite. Crosthwaite was a top official at Altria, the company that bought a 35% share
8 in JUUL for \$12.8 billion last December.¹⁸

9 45. JUUL achieved its vision. Since its launch in 2015, JUUL has become the
10 dominant e-cigarette manufacturer in the United States. Its revenues grew by 700% in 2017.
11 According to a recent Wells-Fargo report, JUUL owns three-quarters of the e-cigarette market.¹⁹

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

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

19 47. The thin, rectangular JUUL e-cigarette device consists of an aluminum shell, a
20 battery, a magnet (for the USB-charger), a circuit board, an LED light, and a pressure sensor.
21 Each JUULpod is a plastic enclosure containing 0.7 milliliters of JUUL’s patented nicotine liquid

22
23 ¹⁷ Jackler *et al.*, *JUUL advertising over its first three years on the market*, Stanford research into
24 *the impact of tobacco advertising*, Stanford University School of Medicine (Jan. 31, 2019),
http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (as of
Sept. 25, 2019).

25 ¹⁸ Kaplan, *JUUL replaces its C.E.O. with a tobacco executive*, N.Y. Times (Sept. 25, 2019),
26 <https://www.nytimes.com/2019/09/25/health/juul-vaping.html> (as of Sept. 25, 2019).

27 ¹⁹ Durbin *et al.*, *Durbin & Senators to JUUL: You are more interested in profits than public*
28 *health*, Durbin Newsroom (Apr. 8, 2019), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-and-senators-to-juul-you-are-more-interested-in-profits-than-public-health> (as of
Sept. 25, 2019).

1 and a coil heater. When a sensor in the JUUL e-cigarette detects the movement of air caused by
2 suction on the JUULpod, the battery in the JUUL device activates the heating element, which in
3 turn converts the nicotine solution in the JUULpod into a vapor consisting principally of nicotine,
4 benzoic acid, glycerin, and propylene glycol. A light embedded in the JUUL device serves as a
5 battery level indicator and lights up in a “party mode” display of rainbow of colors when the
6 device is waved around.



14 48. JUUL manufactures and distributes its nicotine formulation as JUULpods, which
15 contain JUUL’s nicotine liquid. JUUL exclusively sells its pods in four-packs, in a variety of
16 flavors, many of which have no combustible cigarette analog, including mango, “cool” cucumber,
17 fruit medley, “cool” mint, and crème brulee. According to a recent survey of more than 1,000 12
18 to 17 year-olds, 6.5% admitted to using a JUUL e-cigarette. Of those, 86% of users most recently
19 used fruit medley, mango, cool mint, or crème brulee.²⁰



27 ²⁰ Willett, *JUUL: Recognition, use and perceptions*, Public Health Law Center (Apr. 26, 2018),
28 www.publichealthlawcenter.org/sites/default/files/JUUL-Webinar-Slides-Apr262018.pdf
(as of Sept. 25, 2019).

1 49. The physical design of the JUUL device (including its circuit board) and JUULpod
2 determines the amount of aerosolized nicotine the JUUL emits. By altering the temperature,
3 maximum puff duration, or airflow, among other things, Defendant can finely tune the amount of
4 nicotine vapor the JUUL delivers.²¹

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

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

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

13 51. Nicotine fosters addiction through the brain's "reward" pathway. A stimulant and
14 a relaxant, nicotine affects the central nervous system; increases in blood pressure, pulse, and
15 metabolic rate; constricts blood vessels of the heart and skin, and causes muscle relaxation. When
16 nicotine is inhaled it enters the bloodstream through membranes in the mouth and upper
17 respiratory tract and through the lungs. Once nicotine in the bloodstream reaches the brain, it
18 binds to receptors, triggering a series of physiologic effects in the user that are perceived as a
19 "buzz" that includes pleasure, happiness, arousal, and relaxation of stress and anxiety. These
20 effects are caused by the release of dopamine, acetylcholine, epinephrine, norepinephrine,
21 vasopressin, serotonin, and beta endorphin. With regular nicotine use, however, these feelings
22 diminish and the user must consume increasing amounts of nicotine to achieve the same
23 pleasurable effects.²²

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26 ²¹ Talih *et al.*, *Characteristics and toxicant emissions of JUUL electronic cigarette*, Tob. Control
(Feb. 11, 2019), www.ncbi.nlm.nih.gov/pubmed/30745326/ (as of Sept. 25, 2019).

27 ²² Benowitz, *Pharmacology of nicotine: Addiction, smoking-induced disease, and therapeutics*
28 Annual Rev. Pharmacol. Toxicol. (Sept. 27, 2009),
www.ncbi.nlm.nih.gov/pmc/articles/PMC2946180/ (as of Sept. 25, 2019).

1 52. The neurological changes caused by nicotine create addiction. Repeated exposure
2 to nicotine causes neurons in the brain to adapt to the action of the drug and return brain function
3 to normal. This process, called neuroadaptation, leads to the development of tolerance in which a
4 given level of nicotine begins to have less of an effect on the user.²³

5 53. Once a brain is addicted to nicotine, the absence of nicotine causes compulsive
6 drug-seeking behavior, which, if not satisfied, results in withdrawal symptoms including anxiety,
7 tension, depression, irritability, difficulty in concentrating, disorientation, increased eating,
8 restlessness, headaches, sweating, insomnia, heart palpitations and tremors – and intense cravings
9 for nicotine. Though smokers commonly report pleasure and reduced anger, tension, depression
10 and stress after smoking a cigarette, many of these effects are actually due to the relief of
11 unpleasant withdrawal symptoms that occur when a person stops smoking and deprives the brain
12 and body of nicotine. Studies have found that most smokers do not like smoking most of the time
13 but do so to avoid withdrawal symptoms.²⁴

14 54. Nicotine causes permanent brain changes and damage. The effects of nicotine
15 exposure on the brain of youth and young adults include addiction, priming for use of other
16 addictive substances, reduced impulse control, deficits in attention and cognition, and mood
17 disorders.²⁵

18 55. Nicotine is also associated with cardiovascular, reproductive, and
19 immunosuppressive problems, and is also a carcinogen.²⁶ Nicotine adversely affects the heart,
20 eyes, reproductive system, lung, and kidneys. It is well-established that nicotine increases blood
21

22 ²³ *Id.*

23 ²⁴ Rigotti, *Strategies to help a smoker who is struggling to quit*, (Oct. 17, 2012) JAMA 308 (15):
24 1573–1580, www.ncbi.nlm.nih.gov/pmc/articles/PMC4562427/ (as of Sept. 25, 2019); Paolini &
De Biasi, *Mechanistic insights into nicotine withdrawal* (Oct. 15, 2011) Biochem Pharmacol
82(8): 996–1007, www.ncbi.nlm.nih.gov/pmc/articles/PMC3312005/ (as of Sept. 25, 2019).

25 ²⁵ Yuan *et al.*, *Nicotine and the adolescent brain* (May 27, 2015) The Journal of Physiology 593
(Pt 16): 3397–3412, www.ncbi.nlm.nih.gov/pmc/articles/PMC4560573/ (as of Sept. 25, 2019);
26 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/](https://e-cigarettes.surgeongeneral.gov/) (as of Sept. 25, 2019).

27 ²⁶ Mishra *et al.*, *Harmful Effects of Nicotine* (2015) Indian J. Med. Paediatr. Oncol., 36(1): 24–
28 31, www.ncbi.nlm.nih.gov/pmc/articles/PMC4363846/ (as of Sept. 25, 2019).

1 pressure. Exposure to nicotine from sources such as nicotine gum still produces an increased risk
2 of coronary vascular disease (CVD) by producing acute myocardial ischemia, as well as an
3 increased risk of peripheral arterial disorders. Aside from its use as a stimulant, the only other
4 known use of nicotine is as an insecticide.²⁷

5 56. Several studies have shown that e-cigarettes increase the risk of strokes and heart
6 attacks.²⁸

7 57. Research has also demonstrated that e-cigarettes significantly increase blood
8 pressure and arterial stiffness, which increases the risk for strokes and heart attacks.²⁹

9 58. Further, scientists have found that e-cigarettes also cause oxidative stress, which
10 leads to vascular disease and damage, known risk factors for strokes.³⁰

11 59. With respect to JUUL products in particular, one recent study found that “the
12 concentrations of nicotine and some flavor chemicals (e.g. ethyl maltol) are high enough to be
13 cytotoxic in acute in vitro assays”.³¹

14 ²⁷ *Id.*

15 ²⁸ *E-cigarettes linked to higher risk of stroke, heart attack, diseased arteries* (Jan. 30, 2019)
16 American Stroke Association News Release, Abstract 9, Session A2,
17 [https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries)
18 [diseased-arteries](https://newsroom.heart.org/news/e-cigarettes-linked-to-higher-risk-of-stroke-heart-attack-diseased-arteries) (as of Sept. 25, 2019); Vindhya et al., *Impact on cardiovascular outcomes*
19 *among e-cigarette users: a review from National Health Interview Surveys* (2019) Journal of the
20 American College of Cardiology, Vol. 73, Iss. 9, Suppl. 2,
21 www.onlinejacc.org/content/73/9_Supplement_2/11 (as of Sept. 25, 2019); Ndunda & Muutu,
22 *Electronic cigarette use is associated with a higher risk of stroke* (Jan 30, 2019) International
23 Stroke Conference 2019 Oral Abstracts. Community/risk factors, Vol. 50, Suppl. 1, Abst. 9,
24 www.ahajournals.org/doi/10.1161/str.50.suppl_1.9 (as of Sept. 25, 2019); Bhatta & Glantz,
25 *Electronic cigarette use and myocardial infarction among adults in the US population assessment*
26 *of tobacco and health* (Jun. 18, 2019) Journal of the American Heart Association, Vol. 8, Iss. 12,
27 www.ahajournals.org/doi/10.1161/JAHA.119.012317 (as of Sept. 25, 2019).

28 ²⁹ Vlachopoulos et al., *Electronic cigarette smoking increases aortic stiffness and blood pressure*
in young smokers (Sept. 10, 2017) J. Am. Col.l Cardiol. 67:2802–2803,
www.sciencedaily.com/releases/2017/09/170910232512.htm (as of Sept. 25, 2019).

³⁰ Thompson, *Vaping may hurt the lining of your blood vessels*, (May 28, 2019) WebMD
HealthDay Reporter [www.webmd.com/mental-health/addiction/news/20190528/vaping-may-hurt-](http://www.webmd.com/mental-health/addiction/news/20190528/vaping-may-hurt-the-lining-of-your-blood-vessels#1)
the-lining-of-your-blood-vessels#1 (as of Sept. 25, 2019). JUUL e-cigarettes and JUULpods
deliver dangerous toxins and carcinogens to users. The ingredients in JUULpods include glycerol,
propylene glycol, nicotine, benzoic acid, and flavoring chemicals.
www.juul.com/learn/pods (as of Sept. 25, 2019).

³¹ Omaiye et al., *High-nicotine electronic cigarette products: Toxicity of JUUL fluids and*
aerosols correlates strongly with nicotine and some flavor chemical concentrations, (Apr. 17,
2019) Chem Res Toxicol 17;32(6):1058-1069 www.ncbi.nlm.nih.gov/pubmed/30896936 (as of
Sept. 25, 2019).

60. Ultrafine metal particles from the heating device have been found in e-cigarette aerosol, and in e-cigarette user's lungs.³²

61. The flavoring compounds used in e-cigarettes include chemicals known to be toxins if inhaled, such as diacetyl, acetyl propionyl, and benzaldehyde. These chemicals are linked to serious lung disease.³³

62. Recent studies have linked lung inflammation, poor immune response, weakened lung structure, 'liquid pneumonia,' chest abnormalities, and clinical respiratory symptoms, some requiring intubation and mechanical ventilation, to e-cigarette use.³⁴

63. Recent case reports have linked spontaneous pneumothorax (lung collapse) to vaping and use of e-cigarettes.³⁵

64. Nicotine affects neurological development in adolescents, and exposure to nicotine during adolescence produces an increased vulnerability to nicotine addiction.³⁶ Adolescent nicotine addiction causes "substantial neural remodeling" including those parts of the brain

³² Caporale, *et al.*, *Acute effects of electronic cigarette aerosol inhalation on vascular function detected at quantitative MRI*, Radiology (2019).

³³ Centers for Disease Control & Prevention, *Flavorings-Related Lung Disease* (2017), <https://www.cdc.gov/niosh/topics/flavorings/default.html> (as of Sept. 25, 2019); Lee, *et al.*, *Modeling cardiovascular risks of e-cigarettes with human-induced pluripotent stem cell-derived endothelial cells*, J. Am College of Cardiology (2019); Kaplan, *et al.*, *Mysterious vaping illness that's 'becoming an epidemic'*, N.Y. Times (2019), <https://www.nytimes.com/2019/08/31/health/vaping-marijuana-ecigarettes-sickness.html?auth=login-email&login=email> (as of Sept. 25, 2019).

³⁴ Henry, *et al.*, *Imaging of vaping-associated lung disease*, New England J. of Med. (2019), <https://www.nejm.org/doi/full/10.1056/NEJMc1911995> (as of Sept. 25, 2019); Layden, *et al.*, *Pulmonary illness related to e-cigarette use in Illinois and Wisconsin—Preliminary report*, New England J. of Med. (2019), <https://www.nejm.org/doi/full/10.1056/NEJMoa1911614> (as of Sept. 25, 2019); Maddock, *et al.*, *Electronic cigarettes disrupt lung lipid homeostasis and innate immunity independent of nicotine*, J. Clinical Investigation (2019), <https://www.ncbi.nlm.nih.gov/pubmed/31483291> (as of Sept. 25, 2019); Maddock, *et al.*, *Pulmonary lipid-laden macrophages and vaping*, New England J. of Med. (2019), <https://www.nejm.org/doi/full/10.1056/NEJMc1912038> (as of Sept. 25, 2019); Martin, *et al.*, *E-cigarette use results in suppression of immune and inflammatory-response genes in nasal epithelial cells similar to cigarette smoke*, Am. J. of Physiology (2016), <https://www.ncbi.nlm.nih.gov/pubmed/27288488> (as of Sept. 25, 2019).

³⁵ Bonilla, *et al.*, *Recurrent spontaneous pneumothoraces and vaping in an 18-year-old man: a case report and review of the literature*, J. of Med. Case Reports (2019), <https://doi.org/10.1186/s13256-019-2215-4> (as of Sept. 25, 2019).

³⁶ Arain *et al.*, *Maturation Of The Adolescent Brain*, (Apr. 25, 2013), Neuropsychiatric Disease and Treatment, 9:449–461 <http://doi.org/10.2147/NDT.S39776> (as of Sept. 25, 2019).

1 governed by dopamine or acetylcholine, which play central roles in reward functioning and
2 cognitive function, including executive function mediated by the prefrontal cortex. A “clear-cut
3 relationship” between adolescent smokers and diminished neural responses has been observed
4 such that addicts exhibit diminished sensitivity to non-drug rewards (e.g., financial rewards). This
5 relationship becomes even more severe in adolescents who smoke more than 5 cigarettes a day. In
6 sum, “the use of extremely rewarding drugs, such as nicotine, may decrease the pleasure obtained
7 from non-drug rewards.” *Id.* These changes occur in “early phases of smoking.” *Id.* Other brain
8 changes from nicotine include increased sensitivity to other drugs and heightened impulsivity.³⁷
9 “Brain imaging on adolescents suggest that those who begin smoking regularly at a young age
10 have markedly reduced activity in the prefrontal cortex and perform less well on tasks related to
11 memory and attention compared to people who don’t smoke.”³⁸

12 65. Public health authorities have concluded that e-cigarettes are unsafe for anyone
13 under age 26.³⁹

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

16 66. According to the National Institutes of Health, the “amount and speed of nicotine
17 delivery . . . plays a critical role in the potential for abuse of tobacco products.”⁴⁰ The cigarette
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19
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22 ³⁷ University of Warwick, *Different brain areas linked to smoking and drinking* (Jan. 8, 2019)
23 ScienceDaily, www.sciencedaily.com/releases/2019/01/190108095119.htm (as of Sept. 25, 2019).

24 ³⁸ Brodwin, *An e-cigarette with twice the nicotine of comparable devices is taking over high schools - and scientists are sounding the alarm* (Apr 30, 2018) Business Insider,
25 www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3 (as of July 5, 2019).

26 ³⁹ U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on
27 Smoking and Health, *Know The Risks: E-cigarettes and Young People* (2019) [https://e-](https://e-cigarettes.surgeongeneral.gov/)
28 [cigarettes.surgeongeneral.gov/](https://e-cigarettes.surgeongeneral.gov/) (as of July 5th, 2019).

⁴⁰ How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-
Attributable Disease: A Report of the Surgeon General, Chapter 4, Nicotine Addiction: Past and
Present (2010), www.ncbi.nlm.nih.gov/books/NBK53017/ (as of July 5th, 2019).

1 industry has long known that “nicotine is the addicting agent in cigarettes”⁴¹ and that “nicotine
2 satisfaction is the dominant desire” of nicotine addicts.⁴²

3 67. For this reason, cigarette companies spent decades manipulating nicotine in order
4 to foster and maintain addiction in their customers. For example, R.J. Reynolds Tobacco
5 Company (“RJR”) developed and patented nicotine salt additives such as nicotine benzoate to
6 increase nicotine delivery in cigarette smoke. As detailed in an RJR memorandum titled
7 “Cigarette concept to assure RJR a larger segment of the youth market,” manipulating the pH of
8 nicotine was expected to give cigarettes an “additional nicotine ‘kick’.”⁴³ This kick was attributed
9 to increased nicotine absorption associated with lower pH.⁴⁴

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

16 69. In a 2015 interview, Ari Atkins, a JUUL research & development engineer and one
17 of the inventors of the JUUL device said this about the role of acids: “In the tobacco plant, there
18 are these organic acids that naturally occur. And they help stabilize the nicotine in such a way that
19 makes it ...” He pauses. “I’ve got to choose the words carefully here: Appropriate for
20 inhalation.”⁴⁵

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22 ⁴¹ Brown & Williamson official A.J. Mellman, (1983) Tobacco Industry Quotes on Nicotine
23 Addiction, [www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes
24 %20on%20Nicotine%20Addiction.pdf](http://www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf) (as of July 5, 2019).

25 ⁴² *Id.*, R.J. Reynolds Tobacco Co. marketing memo, 1972.

26 ⁴³ *Id.*, 1973 R.J. Reynolds Tobacco Co. memo titled, “Cigarette concept to assure RJR a larger
27 segment of the youth market.”

28 ⁴⁴ Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine
Psychopharmacology (Oct. 13, 2010), *Handb Exp Pharmacol* 192:29–60,
www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/ (as of July 5, 2019).

⁴⁵ Pierce, *This Might Just Be The First Great E-Cig* (Apr 21, 2015) WIRED,
www.wired.com/2015/04/pax-juul-ecig/ (as of July 5, 2019).

70. 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 be 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 JUUL contains almost no freebase (i.e., non-salt form) nicotine.⁴⁶

71. 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.⁴⁷

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

73. 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.*

74. 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

⁴⁶ Lauterbach, One More Time Unprotonated Nicotine in E-Cigarette Aerosols: Is It Really There? (2018) www.coresta.org/sites/default/files/abstracts/2018_TSRC83_Lauterbach.pdf (as of July 5, 2019); other studies have 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/ (as of July 5th, 2019).

⁴⁷ *Id.*, Duell Study, Fig. 3.

1 into associating the “throat hit” with getting their nicotine fix. Minimizing the throat “hit” of
2 JUUL e-cigarettes is therefore unnecessary to providing an alternative for adult smokers, but is
3 crucial to luring a new generation of users.

4 75. The Duell study concluded that JUUL’s use of nicotine salts “may well contribute
5 to the current use prevalence of JUUL products among youth.”⁴⁸

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

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

18 78. Blood plasma studies in the ‘895’ patent⁴⁹ show that vaping nicotine benzoate
19 increases nicotine delivery compared to cigarettes or vaporized solutions of freebase nicotine. In
20 fact, nicotine uptake was up to four times higher for nicotine salt formulations than traditional
21 cigarettes (approximately 4 ng/mL/min compared to approximately 1 ng/mL/min). JUUL’s data
22 also indicates that nicotine salt solutions produce a higher heart rate in a shorter amount of time (a
23 50 beats/minute increase within 2 minutes for nicotine salt, versus a 40 beats/minute increase in
24 2.5 minutes for a Pall Mall cigarette). Nicotine salts also cause a faster and more significant rise
25 in heart rate than placebo or vaporized freebase nicotine.

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27 ⁴⁸ *Id.*, Duell Study (citing Willett, *et al.*, Recognition, use and perceptions of JUUL among youth
and young adults, Tobacco, Tob Control. 2019 Jan;28(1):115-116.)

28 ⁴⁹ See U.S. Patent No. 9, 215, 895.

1 79. JUUL's '895 patent shows that a 4% solution of benzoic acid nicotine salt causes a
2 peak nicotine-blood concentration ("Cmax") of approximately 15 ng/mL, compared to a Cmax of
3 11 ng/mL for a Pall Mall cigarette.⁵⁰

4 80. As high as the reported nicotine dose reported for JUULpods is, the actual dose is
5 likely higher. Though the strongest benzoic acid concentration mentioned in the '895 patent is 4%
6 (i.e., 40 mg/mL of benzoic acid), one study tested four flavors of JUULpods and found a 4.5%
7 benzoic acid (44.8 ± 0.6) solution.⁵¹ That study found that JUULpods contained a concentration
8 of 6.2% nicotine salt (about 60 mg/mL), rather than the 5% nicotine (about 50 mg/mL)
9 advertised. JUULpods containing an absolute nicotine concentration 1.2% higher than the stated
10 5% on the label (a relative increase of over 20%) coupled with more benzoic acid than listed in
11 the '895 patent produce higher nicotine absorption than expected for the advertised formulation.

12 81. Other studies have reported even higher actual concentrations of nicotine in
13 JUULpods. Some experts estimate that JUULpods deliver the same nicotine as two packs of
14 cigarettes.⁵²

15 82. In any event, JUUL is delivering doses of nicotine that are materially higher than
16 delivered by combustible cigarettes. As a paper published by the European Union citing the
17 United Kingdom Medicines and Healthcare Products Regulatory Agency notes, "an e-cigarette
18 with a concentration of 20 mg/ml delivers approximately 1 milligram of nicotine in 5 minutes (the
19 time needed to smoke a traditional cigarette, for which the maximum allowable delivery is 1 mg
20 of nicotine)."⁵³ With at least 59 mg/mL of nicotine delivered in a salt form that increases the rate
21 and efficiency of uptake (and even with a lower mg/mL amount), a JUULpod will easily exceed
22 the nicotine dose of a traditional cigarette. Not surprisingly, the European Union has banned all e-

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24 ⁵⁰ '895 Patent, at col. 26, ll. 33-50.

25 ⁵¹ Pankow *et al.*, Benzene formation in electronic cigarettes (Mar 8, 2017) PLoS One. 2017;
12(3): e0173055 www.ncbi.nlm.nih.gov/pmc/articles/PMC5342216/ (as of July 5, 2019).

26 ⁵² 6 important facts about JUUL, Truth Initiative, [https://truthinitiative.org/research-
resources/emerging-tobacco-products/6-important-facts-about-juul](https://truthinitiative.org/research-resources/emerging-tobacco-products/6-important-facts-about-juul) (as of July 5, 2019)

27 ⁵³ "E-Cigarettes" https://ec.europa.eu/health/sites/health/files/tobacco/docs/fs_ecigarettes_en.pdf
28 (as of July 5, 2019) (citing United Kingdom Medicines and Healthcare Products Regulatory
Agency and industry reports).

1 cigarette products with a nicotine concentration of more than 20 mg/ml nicotine, and Israel is
2 seeking to do the same.⁵⁴ As Israel's Deputy Health Minister has noted, "a product that contains a
3 concentration of nicotine that is almost three times the level permitted in the European Union
4 constitutes a danger to public health and justifies immediate and authoritative steps to prevent it
5 from entering the Israeli market."⁵⁵

6 83. Comparison of available data regarding per puff nicotine intake corroborates the
7 other JUUL studies (mentioned above), indicating that JUUL delivers about 30% more nicotine
8 per puff. Specifically, a recent study of JUULpods found that "[t]he nicotine levels delivered by
9 the JUUL are similar to or even higher than those delivered by cigarettes."⁵⁶ The Reilly study
10 tested JUUL's Tobacco, Crème Brulee, Fruit Punch, and Mint flavors and found that a puff of
11 JUUL delivered 164 ± 41 micrograms of nicotine per puff. By comparison, a 2014 study using
12 larger 100 mL puffs found that a Marlboro cigarette delivered 152—193 $\mu\text{g/puff}$.⁵⁷ Correcting to
13 account for the different puff sizes between the Reilly and Schroeder studies, this suggests that, at
14 75ml/puff, a Marlboro would deliver between 114 and 144 $\mu\text{g/puff}$. In other words, empirical data
15 suggests that JUUL delivers up to 36% more nicotine per puff than a Marlboro.

16 84. Because "nicotine yield is strongly correlated with tobacco consumption,"⁵⁸ a
17 JUULpod with more nicotine will strongly correlate with higher rates of consumption of
18 JUULpods, generating more revenue for JUUL. For example, a historic cigarette industry study
19 looking at smoker employees found that "the number of cigarettes the employees smoked per day

20 ⁵⁴ Belluz, *Juul, the Vape Device Teens are Getting Hooked On, Explained* (Dec 20, 2018) Vox
21 <https://www.vox.com/science-and-health/2018/5/1/17286638/juul-vaping-e-cigarette> (as of July
22 5, 2019).

23 ⁵⁵ Linder-Ganz, *JUUL Warns It Will Fight Israel Over Its Potential Ban on E-Cigarettes* (Jan 30,
2018), HAARETZ, [www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-](http://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058)
24 [potential-ban-on-its-e-cigarettes-1.6140058](http://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058) (as of July 5, 2019).

25 ⁵⁶ Reilly *et al.*, Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic
26 Cigarettes (Oct 20, 2018) Nicotine Tob Res. 3 (the "Reilly study")
27 <https://www.ncbi.nlm.nih.gov/pubmed/30346584> (as of July 5, 2019).

28 ⁵⁷ Schroeder & Hoffman, Electronic Cigarettes and Nicotine Clinical Pharmacology (May 2014)
Tobacco Control 2014: 23:ii30-ii35, www.ncbi.nlm.nih.gov/pmc/articles/PMC3995273/ (as of
July 5, 2019).

⁵⁸ Jarvis *et al.*, Nicotine Yield From Machine Smoked Cigarettes and Nicotine Intakes in
Smokers: Evidence From a Representative Population Survey (Jan 2001), JNCI Vol. 93, Issue 2,
134–138 <https://academic.oup.com/jnci/article/93/2/134/2906355> (as of July 6, 2019)

1 was directly correlated to the nicotine levels.”⁵⁹ In other words, the more nicotine in the
2 cigarettes, the more cigarettes a person smoked.

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

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

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

13 88. At the same time, as discussed above, the throat “hit” from nicotine salts is much
14 lower than that for combustible tobacco products, making it easier to inhale. According to
15 researchers, the “high total nicotine level (addictive delivery)” of a JUUL coupled with its easily
16 inhalable nicotine vapor is “likely to be particularly problematic for public health.”⁶⁰

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

20 90. In addition to its nicotine content, the “Cool” Mint pods pose additional risks. The
21 FDA’s Tobacco Products Scientific Advisory Committee in March 2011 issued a report on
22 menthol cigarettes, concluding that the minty additive was not just a flavoring agent but had drug-
23 like effects, including “cooling and anesthetic effects that reduce the harshness of cigarette
24 smoke.”⁶¹ Mint could also “facilitate deeper and more prolonged inhalation,” resulting in “greater
25 smoke intake per cigarette.” *Id.* at 500-501.

26 ⁵⁹ UCSF Library, 1003285443-5443 (US 85421).

27 ⁶⁰ Duell Study, 431

28 ⁶¹ Proctor, *Golden Holocaust: Origins of the Cigarette Catastrophe and the Case for Abolition*,
500 (1st ed. 2011).

91. 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.

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

92. JUUL’s design offers no benefit to young people like Ms. Brichkov, who was not addicted to cigarettes before she started using JUUL.

F. 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.

93. 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 Defendants Does 51-100, 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.

94. 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.⁶² In another article, she lauded efforts by JUUL and others to develop nicotine-related products, and cast any doubters as hysterical and creating a “panic”.⁶³

95. 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.

⁶² Satel, *Nicotine Itself Isn't The Real Villain* (Jun 19, 2015), Forbes, www.forbes.com/sites/sallysatel/2015/06/19/nicotine-can-save-lives/#60379f766f43 (as of July 5, 2019).

⁶³ Satel, *Why The Panic Over JUUL And Teen Vaping May Have Deadly Results* (Apr 11, 2018), Forbes, www.forbes.com/sites/sallysatel/2018/04/11/why-the-panic-over-juul-and-teen-vaping-may-have-deadly-results/#6b1ec693ea48 (as of July 5, 2019).

1 96. During each of its multiple fundraising rounds, JUUL assured potential investors
2 that addiction to something that is not harmful is not harmful, suggesting that JUUL was no more
3 harmful than coffee.

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

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

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

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

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

24 101. From JUUL's pre-release announcements to this day, JUUL, along with unnamed
25 Defendants Does 25 through 50 that provided marketing services to JUUL, has continuously
26 falsely represented that each pod contains only as much nicotine as a pack of cigarettes. JUUL
27 repeats these claims widely in advertisements, press releases, on its packaging, and on its web
28 site. For example, some JUUL advertisements and JUUL's website currently provides that each

1 “JUULpod is designed to contain approximately 0.7mL with 5% nicotine by weight at time of
2 manufacture which is approximately equivalent to 1 pack of cigarettes or 200 puffs.”

3 102. This statement is false and seriously misleading because, as JUUL knows, it is not
4 just the amount of nicotine, but the efficiency with which the product delivers nicotine into the
5 bloodstream, that determines the product’s narcotic effect, risk of addiction, and other health
6 risks.

7 103. Defendant knows that benzoic acid affects pH and “absorption of nicotine across
8 biological membranes.”⁶⁴

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

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

14 106. Typically, a cigarette that delivers around one milligram of nicotine in smoke
15 retains “about 14-20 milligrams of nicotine in the unsmoked rod,” *USA v. Philip Morris, Inc.*
16 (D.D.C. 2006) 449 F.Supp.2d 1, 567, for an overall delivery of 5-7% of the cigarette’s actual
17 nicotine content. A study by the Center for Disease Control found that in “commercial cigarette
18 brands, nicotine concentrations ranged from 16.2 to 26.3 mg nicotine/g tobacco (mean 19.2 mg/g;
19 median 19.4 mg/g).”⁶⁵ Assuming an average of 19 milligrams of nicotine per cigarette, an average
20 pack of cigarettes contains 380 milligrams of nicotine, or six times as much nicotine as the 62
21 milligrams reported for each JUULpod. Yet the average pack would be expected to deliver only
22 5-7% (19-27 mg) of its nicotine content to the user. In line with this expectation, a study of
23 thousands of smokers found smokers intaking between 1.07 to 1.39 milligrams per cigarette
24

25 ⁶⁴ Benowitz *et al.*, Nicotine Chemistry, Metabolism, Kinetics and Biomarkers, Nicotine
26 Psychopharmacology (Oct 12, 2010), Handb Exp Pharmacol 192: 29–60
www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/ (as of July 5, 2019).

27 ⁶⁵ Lawler *et al.*, Surveillance of Nicotine and pH in Cigarette and Cigar Filler (Apr 1, 2018), Tob
28 Regul Sci. 3(Suppl 1): 101–116, www.ncbi.nlm.nih.gov/pmc/articles/PMC5628511/ (as of July 5
2019).

(21.4-27.8 mg per pack).⁶⁶ This is less than half of the amount of 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.

107. 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, 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 is as much as twice as high as that via cigarettes. This fact is never mentioned by JUUL or Does 1-100.

108. 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.

109. 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.

110. 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

⁶⁶ Jarvis *et al.*, Nicotine Yield From Machine-Smoked Cigarettes and Nicotine Intakes in Smokers: Evidence From a Representative Population Survey (Jan 17, 2001), JNCI, Vol. 93, 2:134–138, www.ncbi.nlm.nih.gov/pubmed/11208883 (as of July 5 2019).

1 puff. JUUL's products thus have the foreseeable effect of luring youth, who react positively to a
2 strong nicotine "kick," and exacerbating nicotine addiction and adverse health effects associated
3 with nicotine consumption.

4 111. Thus, JUUL is more harmful when compared to cigarettes, in that the
5 extraordinarily high levels of nicotine can cause heightened blood pressure and stroke, and the
6 repetitive exposure to the toxins and chemicals in JUUL can also cause vascular damage and
7 stroke.

8 **H. Defendants Never Warned Ms. Brichkov that JUUL's Products Were Unsafe,**
9 **Addictive, and Dangerous.**

10 112. At no time before Ms. Brichkov suffered her spontaneous pneumothorax (lung
11 collapse) did JUUL, nor any of the other unnamed Defendants involved in the research,
12 development, marketing and distribution of JUUL products provide any warnings about the risks
13 of addiction, pneumothorax, lung collapse, or other brain damage.

14 113. At no time before Ms. Brichkov suffered her spontaneous pneumothorax (lung
15 collapse) did JUUL or any other Defendants warn Ms. Brichkov that JUUL products were unsafe
16 for her and anyone under age 26, nor instruct her on how much JUUL would be safe to consume.

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

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

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

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

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

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

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

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

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

21 **I. Despite Knowledge That Its Products Were Unsafe for Anyone Under Age 26,**
22 **JUUL Deployed a Deceptive and Unfair Viral Marketing Campaign to Entice**
23 **Young People to Start JUULing.**

24 120. As described further below, Defendant has used the same strategies perfected by
25 the cigarette industry to sell JUUL products to young people. In particular, JUUL has both
26 exploited regulatory loopholes and relied heavily on social media and other viral advertising tools
27 to hook people, and in particular young persons, on its addictive e-cigarettes.
28

121. To accomplish this, JUUL adopted the same themes used by 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.

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

2. Overview of Viral Marketing Campaigns and Online Marketing

123. “Viral marketing” is defined as “marketing techniques that seek to exploit preexisting social networks to produce exponential increases in brand awareness, through processes similar to the spread of an epidemic.”⁶⁷ Viral marketing is a form of word-of-mouth recommendation that harnesses the network effect of the internet to rapidly reach a large number of people. Because the goal in a viral marketing campaign is to turn customers into salespeople who repeat a company’s representations on its behalf, a successful viral marketing campaign may look like millions of disconnected, grassroots communications, when in fact they are the result of carefully orchestrated corporate advertising campaign.

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

125. Typically, a viral marketing campaign will begin with a “push” by the company seeking to advertise the product, and since the advent of social media, that push is typically done through the creation of new content on a social media platform, such as Instagram, YouTube, Twitter, Facebook or other similar platform (“Social Medial Platforms”).⁶⁸ A company that wants

⁶⁷ Larson, The Rise of Viral Marketing through the New Media of Social Media (2009), Liberty University Pub., https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1009&context=busi_fac_pubs (as of July 5, 2019).

⁶⁸ Skrob, The viral marketing concept as a model for open source software to reach the critical mass for global brand awareness based on the example of TYPO3 (Aug 2005), University of Applied Science Kufstein, Austria, <http://citeseerx.ist.psu.edu/viewdoc/>

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

8 126. Companies seeking to advertise new products or reach a new demographic have
9 discovered the power of the “like” and “share” features on social media, which allow users to
10 promote content to their own audiences. As Mark Zuckerberg, founder and Chief Executive
11 Officer of Facebook explained: “[n]othing influences people more than a recommendation from a
12 trusted friend...A trusted referral is the Holy Grail of advertising.”⁶⁹

13 127. With the advent of social media, viral marketing campaigns have become a
14 particularly effective way to reach young people, particularly teenagers. Teenagers tend to use
15 social media far more than adults, and tend to be more susceptible to peer pressure. 95% of teens
16 report having use of a smart phone.⁷⁰ 45% report being online “constantly.” *Id.* 85% use
17 YouTube. *Id.* 72% use Instagram, and 69% use Snapchat. *Id.* Adolescents also have a far
18 stronger herding instinct than adults. The desire to fit in and look cool means that adolescents
19 drive new trends online. As many businesses know, young people are often skeptical of
20 traditional advertising and the tactics of large corporations. Thus, by pushing a viral marketing
21 campaign, these businesses can reach consumers who might ignore typical advertising and are
22

23 *Footnote continued from previous page*

24 [download?doi=10.1.1.494.8779&rep=rep1&type=pdf](https://www.ft.com/content/01341240-8cbd-11dc-b887-0000779fd2ac) (as of July 5, 2019).

25 ⁶⁹ <https://www.ft.com/content/01341240-8cbd-11dc-b887-0000779fd2ac> (last accessed Dec. 13,
26 2018). See also Perkins v. LinkedIn Corp. (N.D. Cal. 2014) 53 F.Supp.3d 1190, 1210 (“One of
the principal reasons such viral marketing is superior to other forms of marketing is the source:
viral marketing comes from a friend or contact with whom the recipient is familiar and trusts as
opposed to an unfamiliar or untrusted source.”).

27 ⁷⁰ Anderson & Jiang, Teens, Social Media & Technology 2018 (May 31 2018), Pew Research
28 Center, www.pewinternet.org/2018/05/31/teens-social-media-technology-2018/ (as of July 5,
2019).

1 more likely to respond to an advertisement that does not look or feel like an advertisement, but
2 instead is a message shared by a friend, a peer, or some other person influential to the viewer.

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

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

9 129. To remain profitable, the tobacco industry must continue to woo new customers:
10 some existing customers wean themselves from addiction and the others eventually die, so
11 replacement customers are needed. In recent years, tobacco usage in the United States has fallen
12 dramatically, with particularly large decreases in the youth smoking rates, which cigarette
13 companies have been vigorously trying to counteract. The cigarette industry knows that the
14 younger a person starts smoking, the longer they will have a customer. Historically, cigarette
15 companies fought to increase share penetration among the 14-24 age group because “young
16 smokers have been the critical factor in the growth” of tobacco companies, and “the 14-18 year
17 old group is an increasing segment of the smoking population.”⁷¹ The importance of the youth
18 market was illustrated in a 1974 presentation by RJR’s Vice-President of Marketing who
19 explained that the “young adult market . . . represent[s] tomorrow’s cigarette business. As this 14
20 24 age group matures, they will account for a key share of the total cigarette volume - for at least
21 the next 25 years.”⁷²

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

24 131. Because teenagers are at a stage in their psychosocial development when they are
25 struggling to define their own identities, they are particularly vulnerable to image-heavy
26 advertisements providing cues for the “right” way to look and behave amongst peers. *Id.* at 578.

27 ⁷¹ Memo to: C.A. Tucker from: J.F. Hind Re: "Meet the Turk" (January 23, 1978)
<http://legacy.library.ucsf.edu/tid/lve76b00> (last visited June 5, 2018).

28 ⁷² Mr. C.A. Tucker Presentation to RJRI BOFD - 9/30/74 (740930), “Marketing Plan” (1974),
www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=ypmw0091 (as of July 5, 2019)

1 Advertisements that map onto adolescent aspirations and vulnerabilities drive adolescent tobacco
2 product initiation. *Id.* at 570, 590. By making smoking a signifier of a passage into adulthood,
3 tobacco companies turned smoking into a way for teenagers to enhance their image in the eyes of
4 their peers. *Id.* at 1072

5 132. The landmark *USA v. Philip Morris* case revealed that tobacco companies targeted
6 adolescents for decades by: “(1) employ[ing] the concept of peers in order to market to teenagers;
7 (2) us[ing] images and themes in their marketing that appeal to teenagers; and (3) employ[ing]
8 advertising and promotion strategies to knowingly reach teenagers.” No. 99-cv-2396, ECF 5732,
9 ¶ 2682 (D.D.C. 2008). In terms of images and themes that cater to adolescents, the court found
10 “overwhelming” evidence that tobacco companies intentionally exploited adolescents’
11 vulnerability to imagery by creating advertising emphasizing themes of “independence,
12 adventurousness, sophistication, glamour, athleticism, social inclusion, sexual attractiveness,
13 thinness, popularity, rebelliousness, and being ‘cool.’” *Id.* at ¶ 2674.

14 133. Thus, the industry has long used viral marketing campaigns to push its products on
15 children, teens, and young adults. Prior to the advent of the Internet, cigarette companies engaged
16 in “viral advertising” or “influential seeding” by paying “cool people” to smoke in select bars and
17 clubs, with the “idea being that people will copy this fashion, which would then spread as if by
18 infection.”⁷³ By simply paying some attractive, stylish third parties to use the product in trendy
19 public places, tobacco companies were able to create buzz and intrigue. As word spread, the
20 public would develop a strong association that smoking was what young, cool adults were doing.

21 134. Today, cigarette manufacturers like Altria are limited in their ability to advertise in
22 the United States, but actively use viral marketing techniques outside of the United States. For
23 example, Japan Tobacco International, one of JUUL’s early investors, launched social media
24 campaigns including a “Freedom Music Festival” promoting Winston cigarettes in Kazakhstan
25 Kyrgyzstan, and Jordan. Similarly, Phillip Morris International, a spin-off of Altria, JUUL’s
26 largest stakeholder, has used influencer campaigns in multiple countries. A campaign in

27 ⁷³ Golden Holocaust, 119 (citing Ted Bates and Co., Copy of a Study of Cigarette Advertising
28 Made by J.W. Burgard; 1953, (Lorillard), n.d., Bates 04238374-8433.

1 Indonesia called “I Decide To” has been viewed more than 47 million times online. A hashtag
2 marketing campaign called #NightHunters in Uruguay used paid influencers to pose with menthol
3 cigarettes and was seen by nearly ten percent of Uruguay’s population.⁷⁴

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

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

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

27 ⁷⁴ *New Investigation Exposes How Tobacco Companies Market Cigarettes on Social Media in the*
28 *U.S. and Around the World* (Aug 27, 2019) Campaign For Tobacco-Free Kids
www.tobaccofreekids.org/press-releases/2018_08_27_ftc (as of July 5, 2019).

1 was associated with cigarettes as could respond that the Disney Channel logo was associated with
2 Mickey Mouse, and it alleged that the “Joe Camel” campaign was targeting children, despite R. J.
3 Reynolds’ claim (similar to the claim of Defendants here) that the campaign was directed only to
4 adults who were already smokers of other brands.⁷⁵ At that time researchers estimated that 32.8%
5 of all cigarettes sold illegally to underage buyers were Camels.⁷⁶ The Joe Camel campaign ended
6 under the pressure of an impending civil trial brought by the City Attorney in San Francisco,
7 Congressional investigation, and public pressure.⁷⁷

8 138. Cigarette companies have also known for decades that flavored products are key to
9 nicotine adoption by youth. A 1972 Brown & Williamson internal memorandum titled “Youth
10 Cigarette – New Concepts,” observed that “it’s a well known fact that teenagers like sweet
11 products.”⁷⁸ A 1979 Lorillard memorandum found “younger” customers would be “attracted to
12 products with ‘less tobacco taste,’” and suggested investigating the “possibility of borrowing
13 switching study data from the company which produces ‘Life Savers’ as a basis for determining
14 which flavors enjoy the widest appeal” among youth.⁷⁹ A 2008 study found that 17-year-old
15 smokers were more than three times as likely as those over the age of 25 to smoke flavored
16 cigarettes, and they viewed flavored cigarettes as safer.⁸⁰ Cigarette companies also used
17 advertisements that paired cigarettes with foods, to make it seem like cigarettes were part of a
18 healthy meal.

19
20 ⁷⁵ Fischer *et al.*, Brand Logo Recognition by Children Aged 3 to 6 Years (Dec 11, 1991), JAMA
266(22):3145-8, www.ncbi.nlm.nih.gov/pubmed/1956101 (as of July 5, 2019).

21 ⁷⁶ DiFranza *et al.*, RJR Nabisco’s cartoon camel promotes camel cigarettes to children (Dec 11,
22 1991) JAMA 266(22):3149-53, www.ncbi.nlm.nih.gov/pubmed/1956102 (as of July 5, 2019).
(The JUULs represent an even higher percentage of all cigarettes and e-cigarettes sold to minors.)

23 ⁷⁷ Joe Camel, Wikipedia https://en.wikipedia.org/wiki/Joe_Camel#cite_note-8 (as of July 5, 2019).

24 ⁷⁸ Brown & Williamson official A.J. Mellman, (1983) Tobacco Industry Quotes on Nicotine
Addiction, www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf (as of July 5, 2019).

25 ⁷⁹ Flavored Tobacco FAQs, Students Working Against Tobacco, (citing, Sedgefield Idea Sessions
26 790606-790607. June 8, 1979. Bates No. 81513681/3691)
<http://swatflorida.com/uploads/fightresource/Flavored%20Tobacco%20Industry%20Quotes%20and%20Facts.pdf> (as of July 5, 2019)

27 ⁸⁰ Klein *et al.*, Use of flavored cigarettes among older adolescent and adult smokers: United
28 States, 2004-2005. (Jul 2008) Nicotine Tob Res. 10(7):1209-14,
<http://www.ncbi.nlm.nih.gov/pubmed/18629731> (as of July 5, 2019).

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

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

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

10 a. using outdoor advertising such as billboards,
11 b. sponsoring events,
12 c. giving free samples,
13 d. paying any person “to use, display, make reference to or use as a prop any
14 Tobacco Product, Tobacco Product package . . . in any “Media,” which includes “any motion
15 picture, television show, theatrical production or other live performance,” and any “commercial
16 film or video,”; and

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

19 141. In 2009, the FDA banned flavored cigarettes pursuant to its authority under the
20 Family Smoking Prevention and Tobacco Control Act of 2009. Then-FDA commissioner
21 Dr. Margaret A. Hamburg announced the ban because “flavored cigarettes are a gateway for
22 many children and young adults to become regular smokers.”⁸¹

23 142. The Tobacco Control Act of 2009 also prohibited sales of cigarettes to minors,
24 tobacco-brand sponsorships of sports and entertainment events or other social or cultural events,
25 and free giveaways of sample cigarettes and brand-name non-tobacco promotional items.
26

27 ⁸¹ Harris, *Flavors Banned From Cigarettes to Deter Youth* (Sep 22, 2009), The New York Times,
28 www.nytimes.com/2009/09/23/health/policy/23fda.html (as of July 5, 2019).

143. A study of the cigarette flavor ban in 2017 found that the flavor ban was effective in lowering the number of smokers and the amount smoked by smokers, but also was associated with an increased use of menthol cigarettes.⁸² The same study reported that 85% of adolescents who use e-cigarettes use flavored varieties.

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

144. Following the successful model of its predecessors, since 2015, JUUL, in conjunction and in concert with unnamed Defendants Does 25 through 50 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.



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

146. 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

⁸² Courtemanche *et al.*, Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use (May 2017), Am J Prev Med 52(5):e139-e146, www.ncbi.nlm.nih.gov/pubmed/28081999 (as of July 5, 2019)

1 to convince young people to purchase its products. JUUL's advertisements presented images
2 depicting an idealized future self that adolescents could achieve by taking up JUUL products.

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

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

17 **2. JUUL Advertising Used Imagery that Exploited Young People's**
18 **Psychological Vulnerabilities.**

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

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

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

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

152. To announce the JUUL’s release in June 2015, JUUL launched the “Vaporized” advertising campaign that was aimed at a youth audience.⁸³ The campaign used young, stylish models, bold colors, and memorable imagery. The models were often using hand gestures or poses that mimicked teenagers.



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

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

⁸³ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with ‘Vaporized’ Campaign* (Jun 23, 2015) ADAGE, <http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/> (as of July 5, 2019).

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

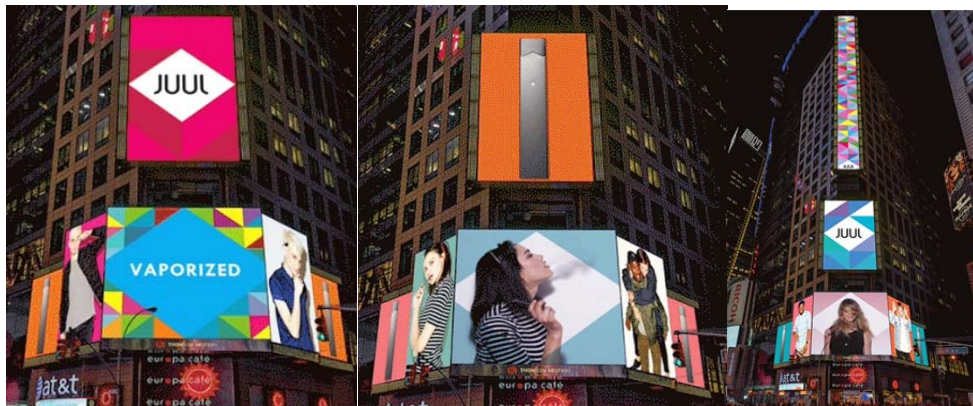
3 155. Often the Vaporized ads contained the phrase “Smoking Evolved,” so that
4 consumers, and in particular youth, would associate JUUL with high tech and the latest
5 generation of cool products, like iPhones and MacBooks.

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

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

11 158. As the Cult Collective creative director explained, “We created ridiculous
12 enthusiasm for the hashtag ‘Vaporized,’ and deployed rich experiential activations and a brand
13 sponsorship strategy that aligned perfectly with those we knew would be our best customers.”⁸⁴

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



16 160. Billboard advertising of cigarettes has for years been unlawful under the Master
17 Settlement Agreement reached between 46 states’ attorneys general and cigarette companies, but
18 JUUL took advantage of that agreement’s failure to foresee the rise of vaping products to
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26 ⁸⁴ Jackler *et al.*, JUUL Advertising Over its First Three Years on the Market (Jan 31, 2019)
27 Stanford Research into the Impact of Tobacco Advertising, Stanford University School of
28 Medicine, http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf
(as of July 5, 2019). (Citing, Cult Creative JUUL case study. <http://cultideas.com/case-study/juul>
(last accessed September 21, 2018)). (emphasis added)

1 advertise its nicotine products in a manner that had already been deemed against public policy for
2 other nicotine products.

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



17 162. JUUL's chief marketing officer, Richard Mumby said, "while other campaigns
18 tend to be 'overtly reliant on just the product,' [JUUL's] effort features diverse 20-to-30-year-
19 olds using the product."⁸⁵ This reliance on images of young, diverse users was specifically aimed
20 at convincing young people who were not previously addicted cigarette smokers to purchase
21 JUUL products; to make the use of JUUL appear fun and without long-term negative
22 consequences; to position the JUUL e-cigarette as the e-cigarette of choice for young adults; and,
23 to introduce youth to the "illicit pleasure" of using the JUUL products.⁸⁶

25 ⁸⁵ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with 'Vaporized' Campaign* (June 23, 2015),
26 AdAge, [http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-](http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/)
[campaign/299142/](http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/) (as of July 5, 2019)

27 ⁸⁶ Additional images and videos are available at
28 http://tobacco.stanford.edu/tobacco_main/subtheme_pods.php?token=fm_pods_mt068.php (as of
July 5, 2019).

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

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

12 165. John Schachter, director of state communications for Campaign for Tobacco-Free
13 Kids, expressed "concern about the JUUL campaign because of the youth of the men and women
14 depicted in the campaign, especially when adjoined with the design." Mr. Schachter said "the
15 organization has noticed obvious trends that appeal to adolescents in e-cigarette campaigns such
16 as celebrity endorsements, sponsorships and various flavors."⁸⁷

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

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

23 167. JUUL distributed free starter packs at the live social events described above in
24 paragraph 125—conduct that was expressly forbidden for a cigarette company under the Tobacco
25 Master Settlement Agreement, because it lured young people into nicotine addiction and related
26 harms. BeCore, one of the firms responsible for designing and implementing JUUL's live events

27 ⁸⁷ Harty, *JUUL Hopes to Reinvent E-Cigarette Ads with 'Vaporized' Campaign* (June 23, 2015),
28 AdAge, <http://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142/> (as of July 5, 2019)

1 reported that “on average, BeCore exceeded the sampling goals set by JUUL . . . average number
2 of samples/event distributed equals 5,000+.”⁸⁸ At these events, BeCore distributed the
3 appropriately-named JUUL “Starter Kits,” which contain a JUUL and 4 JUULpods of varying
4 flavors. If BeCore indeed gave away 5,000 Starter Kits per event, JUUL effectively distributed
5 the nicotine equivalent of 20,000 packs of cigarettes at each of the 25 events described above—or
6 the equivalent of 500,000 packs of cigarettes at all 25 events.



⁸⁸ Jackler *et al.*, JUUL Advertising Over its First Three Years on the Market, Stanford Research into the Impact of Tobacco Advertising, Stanford University School of Medicine (Jan 31, 2019), http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (as of July 5, 2019).

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

4 169. The effect—and purpose—of JUUL’s Vaporized giveaways was to flood major
5 cities with free product which by its addictive nature would hook tens or hundreds of thousands
6 of new users, and to generate buzz for the brand among urban trendsetters who would then spread
7 JUUL’s message to their friends via word of mouth and social media. Similar campaigns have
8 long been used by drug cartels. This campaign unconscionably flooded cities with free samples of
9 an addictive product, with distribution focusing on the youth market. As a foreseeable result,
10 JUUL products ended up in the hands of non-smokers and youth, like Plaintiff, who used the
11 products, became addicted to nicotine and suffered severe health consequences.

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

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

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

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

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

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

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

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

23 177. JUUL’s Instagram advertisements obscure those nicotine warnings by placing
24 them in a location that requires the user to open up the post and read it. As can be seen in JUUL’s
25 Instagram ads, the company consistently used brief text at the beginning of a post so that it would
26 to be a complete sentence with no further content. Thus, the disclaimer was never visible to
27 anyone viewing the posts in their main feed, and it was only seen by a limited number of people
28 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.

178. Third, 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.

179. 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.

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

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



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

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

183. The use of flavors that appeal to youth has a marked effect on e-cigarette adoption by young "vapers." A national survey found that that 81 percent of youth aged 12-17 who had

1 ever used e-cigarettes had used a flavored e-cigarette the first time they tried the product, and that
2 85.3 percent of current youth e-cigarette users had used a flavored e-cigarette in the past month.

3 184. Moreover, 81.5 percent of current youth e-cigarette users said they used e-
4 cigarettes “because they come in flavors I like.”⁸⁹ Another peer-reviewed study concluded that
5 “Young adults who use electronic cigarettes are more than four times as likely to begin using
6 regular cigarettes as their nonvaping peers, a new study has found.”⁹⁰

7 185. Research also shows that when youth see flavored ENDS liquids advertisements,
8 they believe the advertisements and products are intended for them.⁹¹

9 186. The use of attractive flavors foreseeably increases the risk of nicotine addiction,
10 and e-cigarette related injuries, as traditional cigarette product designs aimed at reducing the
11 unpleasant characteristics of cigarette smoke (e.g., addition of menthol to mask unpleasant
12 flavors) have previously been shown to contribute to the risk of addiction.⁹² Worse still,
13 adolescents whose first tobacco product was flavored are more likely to continue using tobacco
14 products than those whose first product was tobacco-flavored.

15 187. JUUL’s kid-friendly flavors included Mango, “Cool” Mint, and Menthol. 74% of
16 youth surveyed in a recent study indicated that their first use of a JUUL was of a flavored pod.⁹³
17 More than half of teens in a nationwide survey by the Wall Street Journal stated that they use
18 ENDS because they like the flavors.

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20
21 ⁸⁹ Ambrose *et al.*, Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-
22 2014 (Oct 26, 2015), JAMA 314(17):1871-1873
<https://jamanetwork.com/journals/jama/fullarticle/2464690>

23 ⁹⁰ Primack *et al.*, Initiation of Traditional Cigarette Smoking after Electronic Cigarette Use
24 Among Tobacco-Naïve US Young Adults (Apr 2018), Vol. 131, Issue 4, 443.e1–443.e9,
[www.amjmed.com/article/S0002-9343\(17\)31185-3/fulltext](http://www.amjmed.com/article/S0002-9343(17)31185-3/fulltext)

25 ⁹¹ McKelvey *et al.*, Youth say ads for flavored e-liquids are for them (Aug 29, 2018), Addict
26 Behav. 91:164-170, www.ncbi.nlm.nih.gov/pubmed/30314868 (as of July 5, 2019)

27 ⁹² How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-
28 Attributable Disease: A Report of the Surgeon General, Chapter 4, Nicotine Addiction: Past and
Present (2010) www.ncbi.nlm.nih.gov/books/NBK53017/ (as of July 5th, 2019).

⁹³ McKelvey *et al.*, Adolescents and young adults use in perceptions of pod-based electronics
cigarettes (Oct 19, 2018), JAMA Netw Open. 1(6): e183535
www.ncbi.nlm.nih.gov/pmc/articles/PMC6324423/ (as of July 5, 2019).

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

189. JUUL’s Mango pods quickly became the runaway favorite among youth. The Mango pods are so popular that, incredibly, they noticeably increased the use of the word “mango” on the internet as a whole. Starting in early 2017, Google Trends reports a nearly five percent increase in year-over-year use of the word “mango” online.⁹⁴

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

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

192. JUUL similarly promoted the Fruit Medley pods using images of ripe berries. JUUL described its “Cool” Mint pods as having a “crisp peppermint taste with a pleasant aftertaste” and encouraged consumers to “Beat The August Heat With Cool Mint,” and in a Facebook advertisement dated July 10, 2017, JUUL urged customers to “start your week with cool mint juulpods.”⁹⁵ Along with the bright green caps of the “Cool” Mint JUULpods, the Facebook ad included an image of a latte and an iPad. *Id.*

⁹⁴ <https://trends.google.com/trends/explore?date=2014-06-01%202018-12-05&geo=US&q=mango>

⁹⁵ <https://airtable.com/tblkPVYIp5AFNLrTy/viwwFFlmOJSzXHskhz/recEYkrXbuSCdZB0h>

193. JUUL even hired celebrity chefs to provide pairing suggestions for JUUL flavors. On Instagram and Twitter, JUUL boasted about “featured chef” Bobby Hellen creating a “seasonal recipe to pair with our bruule pod.” On Facebook, JUUL posted a link to an article on porhomme.com about “what our featured chefs created to pair with our pod flavors.”⁹⁶ JUUL tweeted repeatedly about its flavors and encouraged its social media followers to share their preferred pairings.



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

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

196. By modeling its nicotine pods’ flavor profiles on sweets, naming its nicotine pods after those sweets, and using images of the sweets in JUULpod advertisements, JUUL conditioned viewers of its advertisements to associate JUUL with those foods. Through this conditioning process, Defendant sought to link the sight or mention of JUUL products to mental

⁹⁶ Facebook 10, <https://airtable.com/tblkPVYIp5AFNLrTy/viivFFlmOJSzXHskhz/rec0vT9owbjQeVUuY>.

1 images of the fruits and desserts in JUUL’s advertising, which would in turn trigger food-based
2 physiological arousal including increased salivation and heart rate. These physiological
3 responses, in turn, would make JUUL use more appealing.

4 197. By 2017, JUUL knew that the foreseeable risks posed by fruit and candy-flavored
5 e-liquids had materialized. A significant percentage of JUUL’s customers included adolescents
6 who overwhelmingly preferred Fruit Medley and Crème Brulee over Tobacco or Menthol.⁹⁷
7 Instead of taking corrective action or withdrawing the sweet flavors, JUUL capitalized on youth
8 enthusiasm for its products.

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

16 199. In November 2018, in response to litigation and other mounting public pressures,
17 JUUL announced that it had “stopped accepting retail orders” for many of its flavored JUULpods,
18 such as mango, crème brulee, and cucumber.⁹⁸ But JUUL’s promise is misleading. JUUL has
19 only refused to sell them directly to retailers, but it still manufactures and sells the JUULpods.
20 The pods can still be purchased on its website by persons under age 26. JUUL also continues to
21 sell “Cool” Mint in gas stations knowing that the flavor is incredibly popular with youth and will
22 become the de facto favorite if access to other flavors is removed.

23 200. The only responsible solution to prevent flavored JUULpods from getting into the
24 hands of young people is to stop manufacturing them.

25 ⁹⁷ Truth Initiative, *JUUL fails to remove all of youth’s favorite flavors from stores* (Nov 15,
26 2018), <https://truthinitiative.org/news/juulfails-remove-all-youths-favorite-flavors-stores> (as of
27 July 5, 2019).

28 ⁹⁸ Kaplan & Hoffman, *Juul Suspends Selling Most E-Cigarette Flavors in Stores* (Nov 13, 2018),
The New York Times, [www.nytimes.com/2018/11/13/health/juul-ecigarettes-vaping-
teenagers.html](http://www.nytimes.com/2018/11/13/health/juul-ecigarettes-vaping-teenagers.html) (as of July 5, 2019).

1 7. **JUUL Developed Point-of-Sale Advertising That Emphasized the**
2 **Products’ Positive Image Without Adequately Disclosing Its Dangers**
3 **and Risks.**

4 201. The cigarette industry spends \$8.6 billion a year in point-of-sale (“POS”) promotions—or almost \$990,000 every hour.⁹⁹ In a 2009 study of adult daily smokers, unintended cigarette purchases were made by 22 percent of study participants, and POS displays caused nearly four times as many unplanned purchases as planned purchases. *Id.* at 4. Younger smokers, in particular, are more likely to make unplanned tobacco purchases in the presence of POS advertising. *Id.*

9 202. 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 POS 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 through into stores.

19 203. 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 Defendant’s 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

27 ⁹⁹ *The Truth About Tobacco Industry Retail Practices*, Truth Initiative,
28 https://truthinitiative.org/sites/default/files/media/files/2019/03/Point-of-Sale-2017_0.pdf (as of July 5, 2019)

1 promotions displayed the colorful JUULpod caps and their food-based names while omitting that
2 JUUL delivers nicotine, is addictive, carries risks of stroke and other cardiovascular events, and is
3 unsafe for anyone under age 26.



13 204. For many, JUUL's POS materials provided an introduction to the brand. Because
14 JUUL's POS materials omitted the most material features of JUUL's product—that it is a
15 powerfully addictive nicotine delivery system, unsafe for anyone under age 26—adolescents who
16 saw JUUL's POS and were later offered a JUUL would have no reason to think that what they
17 were being offered JUUL contained nicotine, or posed risks of addiction, or was unsafe.

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

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

24 206. On information and belief, JUUL maintains active accounts on most social media
25 platforms, including Instagram, Facebook, and Twitter, where JUUL tweeted nearly 5,000 times
26 in 2017 alone. As of 2016, 76 percent of American teens age 13-17 used Instagram, 66 percent of
27
28

1 teens use Facebook, and 44 percent of teens use Twitter.¹⁰⁰ While JUUL continues to maintain its
2 Twitter page, it deleted nearly all content from its Instagram and Facebook pages around
3 November of 2018, in response to lawsuits.

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

9 208. With respect to Unpaid Advertising, Instagram was the centerpiece of JUUL’s
10 teen-focused advertising blitz. Instagram is used overwhelmingly by teenagers. At least 72% of
11 teenagers in the United States have an Instagram account, and at least 63% of teenagers between
12 the ages of 13 and 17 use Instagram every day.¹⁰¹ While increasingly more adults are using
13 Instagram, this has been a recent development, and thus, advertisers typically only use Instagram
14 if they are interested in marketing to young people, especially teenagers.

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

18 210. JUUL also disseminated Unpaid Advertising across social media through its use of
19 hashtags. Hashtags are simple phrases preceded by a #, and they operate as a way of cataloguing
20 posts. Authors of posts use hashtags if they want their posts to be discovered and seen by people
21 outside of their networks. On most social media platforms, users can find information by doing a
22 search for a hashtag with that key word. Thus, people interested in JUUL, could enter into the

23
24 ¹⁰⁰ Snapchat And Instagram Are The Most Popular Social Media Platforms Among American
25 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](http://apnorc.org/projects/Pages/HTML%20Reports/instagram-and-snapchat-are-most-popular-social-networks-for-teens.aspx) (as of July 5, 2019)

26 ¹⁰¹ Smith & Anderson, Social Media Use in 2018: A majority of Americans use Facebook and
27 YouTube, but young adults are especially heavy users of Snapchat and Instagram (Mar 1, 2018),
Pew Research Center, www.pewinternet.org/2018/03/01/social-media-use-in-2018/ (as of July 5,
28 2019).

1 search bar on most Social Media Platforms “#JUUL” to find posts that include that hashtag.
2 Instagram takes it one step farther and allows users to set up their accounts so that posts with a
3 certain hashtag are automatically delivered to their feed.

4 211. JUUL’s hashtag marketing played a central role in the viral spread of JUUL
5 between teenagers. The use of hashtags in social media advertisements “can be used to get your
6 content in front of a bigger audience, raise awareness about your brand, target a very specific
7 group of people, boost your SEO, and use hot trends and topics to your advantage.”¹⁰² Hashtags
8 are “the best weapon in your arsenal, aside from influencer marketing” for getting content “in
9 front of its intended audience.” *Id.* Through hashtag marketing, brands can Join in on trending
10 topics, engaging “an insane amount of readers” by using “hashtags which aren’t closely related to
11 your industry” by, e.g., using holiday-related hashtags. *Id.* By using “branded hashtags” that
12 include the company’s name or a specific product, advertisers can monitor the performance of
13 specific campaigns. Another advantage of branded hashtags is user-generated content: “Every
14 time a user puts one of your branded hashtags inside one of their posts, they are increasing your
15 presence on social media” by promoting the branded hashtag, and the related content, to the
16 user’s followers. *Id.* Through successful hashtag marketing campaign, brands can create
17 communities through which “followers will not only be able to communicate via chat or
18 messages, but also connect with each other by using your hashtag.” *Id.*

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

27 ¹⁰² Ryan, *Hashtag Marketing: How to Use Hashtags for Better Marketing Campaigns*, Mention,
28 [https://mention.com/blog/hashtag-marketing-how-to-use-hashtags-for-better-marketing-](https://mention.com/blog/hashtag-marketing-how-to-use-hashtags-for-better-marketing-campaigns/)
[campaigns/](https://mention.com/blog/hashtag-marketing-how-to-use-hashtags-for-better-marketing-campaigns/) (as of July 5, 2019).

1 hashtags that would be used by teenagers to push their product to them across social media, such
2 as #icymi (“in case you missed it”).

3 213. JUUL also used hashtags to convert young users into salespersons through unpaid
4 viral marketing.

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

15 215. While JUUL’s precise targeting methods are unknown, on information and belief,
16 young people like Plaintiff are known to have been exposed to JUUL’s Paid Advertising while on
17 social media, suggesting that JUUL did not narrow its target audience to adult smokers

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

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

26 217. JUUL was able to line up celebrity and other popular and pretty young people to
27 work as “influencers” to promote its products to teenagers, by spreading pictures of cool, young
28 people using JUUL.

1 218. To broaden the reach of its campaign, JUUL used “influencers” to push the
2 product to young people. Influencers are “high-social net worth” individuals who have developed
3 large social media followings – i.e., the “cool kids” of the social media world. People follow
4 influencers because they tend to deliver lots of high quality, interesting photos and content, and
5 because they are known to be trend-setters.

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

19 220. JUUL relied on influencers to carry out its viral marketing campaign. JUUL’s
20 reliance on influencers appears to have begun around June 2015, when JUUL listed a position on
21 its website for a three-month Influencer Marketing Intern.¹⁰³ JUUL described the position as
22 follows: “The Influencer Marketing Intern will create and manage blogger, social media and
23 celebrity influencer engagements. . . to build and nurture appropriate relationships with key
24 influencers in order to drive positive commentary and recommendations through word of mouth
25 and social media channels, etc.” (*Id.*). JUUL’s efforts to solicit influencers appears to have been
26 underway for years; until December 2018, JUUL’s website still called for individuals to “Join the

27 ¹⁰³ <https://www.internships.com/marketing/influencer-marketing-intern-i7391759> (last accessed
28 Nov 14, 2018).

1 JUUL influencers.” Applicants were required to disclose their profile information for Instagram,
2 Twitter, and Facebook, as well as various other blog and vlog platforms, suggesting that JUUL
3 was interested in understanding whether the influencers could help JUUL reach its targeted youth
4 demographic.

5 221. JUUL used or ratified multiple accounts across many social media sites to reach
6 young people, even encouraging users to JUUL at school.

7 222. JUUL also enjoyed the benefit of third-party promoters who reached hundreds of
8 thousands of young people.

9 223. JUUL allowed third parties, like @JUULnation to use its trademark.
10 @JUULnation’s Instagram post included tips on how to conceal JUUL in school supplies and
11 ridiculed efforts to combat JUUL use among young people. JUUL promoted @JUULnation on
12 its own Instagram account.

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

17 225. One recent study concluded that JUUL was “taking advantage” of the reach and
18 accessibility of multiple social media platforms to “target the youth and young adults . . . because
19 there are no restrictions,” on social media advertising.¹⁰⁴

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

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

26
27 ¹⁰⁴ Kelley, *JUUL Sales Among Young People Fueled by Social Media, Says Study* (Jun 4, 2018),
28 The Washington Times, www.washingtontimes.com/news/2018/jun/4/juul-sales-among-young-people-fueled-by-social-med/ (as of July 5, 2019).

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

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

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

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

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

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

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

1 **L. JUUL Knew that its Scheme to Attract Young Smokers Like Plaintiff had**
2 **Worked.**

3 233. Within a few months of the JUUL’s commercial release in June 2015, a former
4 JUUL executive reportedly told the New York Times that JUUL “quickly realized that teenagers
5 were, in fact, using [JUULs] because they posted images of themselves vaping JUULs on social
6 media.”¹⁰⁵

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

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

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

15 **M. JUUL Created a Youth Vaping Epidemic and Exposed a New Generation to**
16 **the Dangers of Nicotine Products.**

17 237. JUUL’s marketing and product design efforts have been wildly successful. Since
18 its launch, JUUL is now the fastest growing e-cigarette in the country. Because the JUUL delivers
19 more nicotine in a shorter amount of time than any other product, delivers that nicotine in a
20 sweetened vapor that causes no irritation, and does so through a concealable device that can be
21 consumed discretely in class, at home, and in the car, nicotine naïve users like Plaintiff frequently
22 spiral into patterns of addiction with no historical precedent. It is not uncommon for teenagers,
23 like Plaintiff, to consume two JUULpods a day, the nicotine equivalent of at least as many—and
24 likely more—packs of cigarettes.

25
26
27 ¹⁰⁵ Richtel & Kaplan, *Did Juul Lure Teenagers and Get ‘Customers for Life’?: The e-cigarette*
28 *company says it never sought teenage users, but the F.D.A. is investigating whether Juul*
intentionally marketed its devices to youth (Aug 27, 2018), The New York Times,
www.nytimes.com/2018/08/27/science/juul-vaping-teen-marketing.html (as of July 5, 2019).

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

7 239. The vaping epidemic caused by JUUL has swept the entire nation in a short period
8 of time. On December 28, 2018, the University of Michigan’s National Adolescent Drug Trends
9 for 2018 reported that increases in adolescent Electronic Nicotine Delivery System (“ENDS”)
10 vaping from 2017 to 2018 were the “*largest ever recorded in the past 43 years for any adolescent*
11 *substance use outcome in the U.S.*”¹⁰⁶

12 240. The percentage of 12th grade students who reported vaping nicotine almost
13 doubled between 2017 and 2018, rising from 11% to 21%. The ten-percentage-point increase in
14 12th grade students who reported vaping nicotine (an indicator of nicotine addiction) is “twice as
15 large as the previous record for largest-ever increase among past 30-day outcomes in 12th grade.”
16 *Id.* “One in five 12th graders vaped nicotine in the last 30 days in 2018.” *Id.* And because JUUL
17 controls over 50% of the e-cigarette market, and was released immediately prior to the jump in
18 vaping prevalence from 11% of teens to 21%, the entire increase in vaping prevalence since 2016
19 is attributable to JUUL.

20 241. Former FDA Commissioner Dr. Scott Gottlieb has described the increase in e-
21 cigarette consumption as an “almost ubiquitous – and dangerous – trend” that is responsible for
22 an “epidemic” of nicotine use among teenagers.¹⁰⁷ The rapid –indeed infectious- adoption of e-
23 cigarettes “reverse[s] years of favorable trends in our nation’s fight to prevent youth addiction to
24

25 ¹⁰⁶ Prieur, National Adolescent Drug Trends in 2018 (Dec 17, 2018), Institute For Social
26 Research, The University of Michigan, <https://isr.umich.edu/news-events/news-releases/national-adolescent-drug-trends-in-2018/> (as of July 5, 2019).

27 ¹⁰⁷ FDA launches new, comprehensive campaign to warn kids about the dangers of e-cigarette use
28 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 (as of July 5, 2019)

1 tobacco products.” *Id.* The Commissioner identified the two primary forces driving the epidemic
2 as “youth appeal and youth access to flavored tobacco products.” *Id.*

3 242. Within days of the FDA’s declaration of an epidemic, Surgeon General Dr. Jerome
4 Adams also warned that the “epidemic of youth e-cigarette use” could condemn a generation to “a
5 lifetime of nicotine addiction and associated health risks.”¹⁰⁸

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

12 244. Moreover, many medications for breaking nicotine addictions are approved only
13 for adults.

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

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

25 246. In order to implement such a diverse, wide-ranging advertising scheme, designed
26 for the sole purpose of delivering its JUUL e-cigarette products to young consumers, JUUL

27 ¹⁰⁸ Surgeon General’s Advisory on E-cigarette Use Among Youth (last updated Apr 9, 2019),
28 CDC, www.cdc.gov/tobacco/basic_information/e-cigarettes/surgeon-general-advisory/index.html
(as of July 5, 2019).

1 worked in concert with an array of marketing, research and development, and distribution
2 professionals.

3 247. JUUL's advertising and marketing relied on the ideas, strategies, and advice of
4 marketing and public relations entities.

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

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

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

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

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

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

28 253. The teen vaping epidemic was by design, not by accident.

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

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

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

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

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

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

7 **P. JUUL's Conduct Harmed Ms. Brichkov.**

8 259. Starting in June 2017, when she was approximately 16 years old, through May
9 2019, Plaintiff was exposed to advertising and promotions for JUUL on her cell phone, on social
10 media such as Instagram, through email targeted ads and company messages, through JUUL store
11 displays, through displays at the gas stations near her home and school, and via print and other
12 sources. These ads and promotions made JUULing seem fun, healthy and cool.

13 260. Plaintiff first tried JUUL in or around June 2017, when the device became
14 ubiquitous among her friends.

15 261. Plaintiff started using JUUL with her friends, largely because she had seen it on
16 the internet and seen all the ads of the "cool kids" using it, it had a cool design, appealing flavors,
17 and was fun to use. Part of the attraction for Ms. Brichkov was the discreet slick design that
18 would avoid detection from teachers, coaches or other authority figures.

19 262. Before Ms. Brichkov tried JUUL, she was not addicted to nicotine.

20 263. Ms. Brichkov initially was attracted to JUUL's flavors, particularly the mint and
21 mango flavors.

22 264. Plaintiff purchased JUUL devices and pods at gas stations and smoke shops in San
23 Diego, Marin, and San Francisco. One San Diego smoke shop regularly sent her JUUL discount
24 coupons via text message, and she often bought her JUULpods there. Ms. Brichkov was part of
25 JUUL rewards program, providing additional opportunities and reminders for her to keep buying
26 JUULpods. At the smoke shop and gas stations where she purchased her JUUL products, Ms.
27 Brichkov was exposed to JUUL's point of sale advertising, promotions and messaging.
28

1 265. Ms. Brichkov also received free JUUL samples at Outside Lands in San Francisco,
2 California, from a JUUL representative who handed JUULpods to her without asking for
3 identification or checking her age.

4 266. She was particularly influenced by the JUUL “Vaporized” and “Flavors” ads
5 which she saw in emails, on social media, in gas stations, and at the smoke shop. She was
6 influenced by the mango pod advertisements and the ads on Instagram, in emails, in gas stations,
7 and at the smoke shop depicting young, attractive, well-dressed models holding JUULs, blowing
8 smoke out of their mouths.

9 267. Plaintiff was not aware when she first began “JUULing” that the device contained
10 nicotine. She did not know how much nicotine the device contained, that it was addictive, or that
11 it carried any health risks.

12 268. Ms. Brichkov relied to her detriment on JUUL’s representations in its ads and
13 labeling that the product was safe, not harmful, fun, and that each JUULpod contained no more
14 nicotine than approximately a pack of cigarettes.

15 269. JUUL never warned Ms. Brichkov that JUUL was addictive, dangerous, could
16 cause her to suffer lung collapse, or would permanently alter her brain.

17 270. Had Ms. Brichkov known that JUUL was addictive or increased her risk for
18 having her lung collapse, she never would have tried it.

19 271. JUUL never disclosed that it had manipulated the nicotine in JUUL to deliver
20 massive doses of nicotine that could addict her quickly, fill her lungs with chemicals and toxins,
21 and cause spontaneous pneumothorax (lung collapse).

22 272. JUUL never instructed Ms. Brichkov that the product was unsafe for her, nor how
23 much JUUL was safe to consume.

24 273. Had Ms. Brichkov known that JUUL was not safe, was addictive, dangerous,
25 could cause lung collapse, could permanently alter her brain and impair her mood and mind, that
26 JUUL had manipulated nicotine to maximize addiction, or that each JUULpod delivered
27 substantially more nicotine than a pack of cigarettes, she would not have used or continued to use
28 JUUL.

1 274. Ms. Brichkov became addicted to nicotine. Her use steadily increased, until she
2 began using JUUL immediately upon waking, throughout the day, and then just before going to
3 sleep. The level of nicotine her body required increased over time, and by 2019, she was
4 consuming up to one and a half pods per day.

5 275. On May 29, 2019, Ms. Brichkov suffered a left pneumothorax (lung collapse).
6 That morning, she had used her JUUL, like she did every morning, and was watching TV when
7 and noticed chest pain. Even though she was lying down, her chest continued to feel worse. Her
8 mother called an ambulance, and Ms. Brichkov was hospitalized and required a chest tube. The
9 chest tube was not removed by surgery until June 3, 2019.

10 276. Before she started to use JUUL, Ms. Brichkov was a healthy, active, and ambitious
11 student. She exhibited no signs or indications that she was at risk for lung collapse.

12 277. As a direct and proximate result of JUUL's conduct, Ms. Brichkov suffered severe
13 injuries, including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and
14 resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal
15 symptoms, and anxiety.

16 278. As a result of her injuries caused by JUUL, Ms. Brichkov has incurred and will
17 incur significant medical expenses, pain and suffering, and emotional distress.

18 **VI. CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**

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

21 279. Plaintiff incorporates the above and below allegations by reference.

22 280. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25,
23 manufactured, distributed, and/or sold the JUUL Devices and Pods ("JUUL Products") that
24 Plaintiff consumed.

25 281. JUUL Products were defective in design in that they did not perform as safely as
26 an ordinary consumer would have expected them to perform when used in an intended or
27 reasonably foreseeable way.
28

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

7 283. As a result of JUUL's conduct, Plaintiff was harmed as described herein,
8 including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and
9 resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal
10 symptoms, and anxiety.

11 284. As a result of his injuries caused by JUUL, Ms. Brichkov has incurred and will
12 incur significant medical expenses, pain and suffering, emotional distress, and lost time at school.

13 285. The defect(s) in JUUL Products was a substantial contributing factor in causing
14 the harms and losses that Ms. Brichkov has suffered.

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

17 286. Plaintiff incorporates the above and below allegations by reference.

18 287. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25
19 manufactured, distributed, and/or sold the JUUL Products that Plaintiff consumed.

20 288. The benefits of JUUL Products' design are not outweighed by their risks,
21 considering the gravity of the potential harm resulting from the use of the products, the
22 likelihood that the harm would occur, the feasibility and cost of an alternative safer design at the
23 time of manufacture, and the disadvantages of an alternative design. Instead, as described
24 herein, Defendants JUUL and Does 1 through 25 made their products available in youth-friendly
25 colors and flavors. Defendants also designed their products to be more palatable to youth and
26 nonsmokers by increasing JUUL's inhale-ability, and increased the level of nicotine that is
27 absorbed by users, making them even more addictive and dangerous. There were and are
28 alternative designs available to JUUL. For example, Defendants could have designed the

1 product to appeal to adult smokers over age 26 who smoked conventional cigarettes without
2 using the flavors or reduced “harshness” to attract young people and create their addiction to
3 nicotine. Further, Defendants could have significantly lowered the nicotine content, while still
4 delivering sufficient levels to cigarette smokers, to reduce the risks from high exposure to
5 nicotine and repeated exposures to the toxic chemicals in JUUL.

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

12 290. As a result of the defect in JUUL’s Products, Plaintiff was harmed as described
13 herein, including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and
14 resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal
15 symptoms, and anxiety.

16 291. As a result of his injuries caused by JUUL, Ms. Brichkov has incurred and will
17 incur significant medical expenses, pain and suffering, emotional distress, and lost time at school.

18 292. The defect(s) in JUUL Products was a substantial contributing factor in causing
19 the harms and losses that Ms. Brichkov has suffered.

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

22 293. Plaintiff incorporates the above and below allegations by reference.

23 294. At all relevant times, JUUL Labs, in concert and aided by Does 1 through 25
24 manufactured, distributed, and/or sold the JUUL Products that Plaintiff consumed.

25 295. The JUUL Products that Plaintiff consumed had potential risks that were known
26 or knowable in light of the scientific and medical knowledge that was generally accepted in the
27 scientific community at the time of manufacture, distribution, or sale.

1 296. The potential risks presented a substantial danger when the JUUL Products were
2 used or misused in an intended or reasonably foreseeable way.

3 297. The ordinary consumer of JUUL Products would not have recognized the
4 potential for risks.

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

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

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

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

26 302. As a result of JUUL's failures to adequately warn and/or instruct, Plaintiff was
27 harmed as described herein, including: spontaneous pneumothorax (lung collapse) requiring
28

1 chest tube placement and resulting in a surgical scar, continued chest pain and shortness of
2 breath, irritability, withdrawal symptoms, and anxiety.

3 303. As a result of his injuries caused by JUUL, Ms. Brichkov has incurred and will
4 incur significant medical expenses, pain and suffering, emotional distress, and lost time at school.

5 304. The defect(s) in JUUL Products was a substantial contributing factor in causing
6 the harms and losses that Ms. Brichkov has suffered.

7 305. The lack of sufficient instructions and warnings was a substantial contributing
8 factor in causing Plaintiff's harm and losses.

9 **FOURTH CAUSE OF ACTION**
10 **Negligence and/or Gross Negligence**
(against JUUL and Defendants Does 1 through 50)

11 306. Plaintiff incorporates the above and below allegations by reference.

12 307. Defendant JUUL and/or their predecessors-in-interest, in concert with and aided
13 by Does 1 through 50 designed, produced, manufactured, assembled, packaged, labeled,
14 advertised, promoted, marketed, sold, supplied and/or otherwise placed JUUL Products into the
15 stream of commerce, and therefore owed a duty of reasonable care to avoid causing harm to
16 those consumed it, such as Plaintiff.

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

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

24 310. As a powerfully addictive and dangerous nicotine-delivery device, Defendants
25 knew or should have known that JUUL Products needed to be researched, tested, designed,
26 advertised, marketed, promoted, produced, packaged, labeled, manufactured, inspected, sold and
27 supplied properly, without defects and with due care to avoid needlessly causing harm.

1 Defendants knew or should have known that its JUUL Products could cause serious risk of harm,
2 particularly to young persons like Plaintiff.

3 311. JUUL and/or their predecessors-in-interest, along with Defendants Does 1
4 through 100, were negligent, reckless and careless and failed to take the care and duty owed to
5 Plaintiff, thereby causing Plaintiff to suffer harm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 n. Failure to develop tools or support to help people addicted to JUUL cease
27 using the product;
28

1 o. Failure to reasonably and properly test and properly analyze the testing of
2 JUUL's Products under reasonably foreseeable circumstances;

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

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

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

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

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

18 u. Failure to take necessary steps to modify JUUL's Products to avoid
19 delivering high doses of nicotine to young people and repeatedly exposing them to toxic
20 chemicals;

21 v. Failure to recall JUUL's Products; and

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

24 313. Defendants' acts and omissions constitute gross negligence, because they
25 constitute a total lack of care and an extreme departure from what a reasonably careful person
26 would do in the same situation to prevent foreseeable harm to young persons, like Plaintiff.

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

315. As a result of Defendants' negligence and/or gross negligence, Plaintiff was harmed as described herein, including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal symptoms, and anxiety.

316. As a result of his injuries caused by JUUL, Ms. Brichkov has incurred and will incur significant medical expenses, pain and suffering, emotional distress, and lost time at school.

317. Defendants' negligence and/or gross negligence were a contributing substantial factor in causing Plaintiff's harms and losses.

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

318. Plaintiff incorporates the above and below allegations by reference.

319. JUUL acted negligently by failing to recall, prior to Plaintiff's spontaneous pneumothorax (lung collapse) in May 2019, the JUUL Products.

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

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

322. After JUUL Products were placed on the market in 2015, and before July 8, 2017, JUUL knew or reasonably should have known its Products were being consumed by young people under age 26, that such use was unsafe, that its Products delivered excessive doses of nicotine, significantly increase blood pressure, cause vascular damage, cause addiction,

1 permanent brain changes, mood disorders, strokes, heart attacks, and other cardiovascular
2 injuries. Nevertheless, at no point during this time period did JUUL recall, repair, or warn of the
3 danger posed by Products.

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

7 324. JUUL's failure to timely recall its Products was a substantial factor in causing
8 harm to Plaintiff. Had JUUL recalled its Products when it knew or should have known of the
9 risks to young people like Plaintiff, she would not have used it, and she would not have become
10 so powerfully addicted to the product and would not have suffered spontaneous pneumothorax
11 (lung collapse).

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

14 325. Plaintiff incorporates the above and below allegations by reference.

15 326. Defendants had a duty to disclose material facts about JUUL to Plaintiff, as:

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

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

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

24 328. Defendants fraudulently and deceptively downplayed or minimized any risk
25 associated with e-cigarettes generally and JUUL in particular for young persons under age 26. At
26 all relevant times, Defendant JUUL represented its products on its website as a "smarter" choice.
27 Defendant JUUL pitched investors by claiming that the product was not harmful, and therefore
28 any concern about addiction was irrelevant. Defendants and/or others worked together to pitch

1 news stories or other media content designed to downplay the risks of e-cigarettes, suggesting that
2 any concern was overblown, or a panic. These tactics mimic those used by the tobacco industry
3 to sow seeds of doubt and confusion among the public, to initiate new users, to keep customers
4 buying JUUL products, and to avoid regulation or legislative efforts to control sales.

5 329. Defendants failed to disclose to Plaintiff that the JUUL significantly increases
6 blood pressure, and can cause strokes and other adverse health effects.

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

10 331. At all times relevant to Plaintiff, Defendants failed to disclose that JUUL was
11 addictive.

12 332. Defendants also failed to disclose to Plaintiff that the JUUL nicotine salts
13 purchased were highly addictive in nature, making it extremely difficult for one to cease
14 purchasing JUULpod refills.

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

20 334. Defendants fraudulent misrepresented to users the amount of nicotine consumed
21 by using JUUL. As previously explained, Defendant JUUL claims that one JUULPod is
22 “approximately equivalent to about 1 pack of cigarettes,” but that is false and misleading. The
23 amount of nicotine consumed from one JUULPod is actually equivalent to the amount of nicotine
24 consumed through at least two packs of traditional cigarettes.

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

1 336. Plaintiff did not know of the facts that Defendants concealed.

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

3 338. Defendants had a duty to accurately provide this information to Plaintiff. In not so
4 informing Plaintiff, Defendants breached their duty. Defendants also gained financially from, and
5 as a result of their breach.

6 339. Defendants had ample opportunities to disclose these facts to Plaintiff, through
7 packaging, advertising, retail outlets, on its website, via emails to Plaintiff, and on social media.
8 Defendants concealed material information at all relevant times, through today. Defendants have
9 yet to disclose the truth about JUUL products.

10 340. Plaintiff relied to her detriment on Defendants' fraudulent omissions. Had Plaintiff
11 been adequately informed of the material facts concealed from her regarding the safety of JUUL,
12 and not intentionally deceived by Defendants, she would not have purchased or used JUUL
13 products.

14 341. Defendants' fraudulent concealment was a substantial factor in Plaintiff's harm as
15 described herein, including: spontaneous pneumothorax (lung collapse) requiring chest tube
16 placement and resulting in a surgical scar, continued chest pain and shortness of breath,
17 irritability, withdrawal symptoms, and anxiety. She also suffered economic harm in that she
18 would not have purchased JUUL if she had known the true facts.

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

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

26 343. Plaintiff incorporates the above and below allegations by reference.

27 344. During all relevant times, including before Plaintiff consumed JUUL, Defendant
28 JUUL was part of a conspiracy with tobacco and e-cigarette industry players, Does 51 through

1 100, to fraudulently conceal, misrepresent, and downplay the risks of e-cigarettes to boost profits
2 at the expense of public health. Does 51 through 100, for research and development, marketing,
3 and distribution purposes, engaged consultants, pundits, academics, lobbyists, media
4 personalities, reporters, researchers and other influencers to tout the safety of e-cigarettes, and
5 benefits of nicotine, while minimizing or downplaying the dangers, particularly to those under
6 age 26. These tactics mimic those used by the tobacco industry to sow seeds of doubt and
7 confusion among the public, to initiate new users, to keep customers buying JUUL products, and
8 to avoid regulation or legislative efforts to control sales.

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

13 346. JUUL agreed with others in the e-cigarette and tobacco industry, Does 51 through
14 100, and intended that the conspiracy to commit fraudulent concealment be committed.

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

19 348. JUUL's participation in this conspiracy was a substantial factor in causing
20 Plaintiff's harm as alleged herein.

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

26 **EIGHTH CAUSE OF ACTION**
27 **Intentional Misrepresentation**
(against Defendants JUUL and Does 1 through 50)

28 350. Plaintiff incorporates the above and below allegations by reference.

1 351. At all times relevant, Defendants represented to Plaintiff via the media,
2 advertising, website, social media, packaging, and promotions that:

- 3 a. JUUL products were safe or not harmful; and
4 b. That one JUULPod is “approximately equivalent to about 1 pack of
5 cigarettes”

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

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

13 354. Defendants intended for Plaintiff to rely on these representations.

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

17 356. Defendants have yet to disclose correct these misrepresentations about JUUL
18 products.

19 357. Plaintiff reasonably relied on these representations and was harmed as described
20 herein. Plaintiff’s reliance on Defendants’ representations was a substantial factor in causing her
21 harms, including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and
22 resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal
23 symptoms, and anxiety. Had Defendants told Plaintiff the truth about the safety and composition
24 of JUUL’s products, she would not have purchased them.

25 358. Defendants’ fraud was a substantial factor in Plaintiff’s harm as described herein,
26 including: spontaneous pneumothorax (lung collapse) requiring chest tube placement and
27 resulting in a surgical scar, continued chest pain and shortness of breath, irritability, withdrawal
28

1 symptoms, and anxiety. She also suffered economic harm in that she would not have purchased
2 JUUL if she had known the true facts.

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

8 **NINTH CAUSE OF ACTION**
9 **Violations of the Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200 *et seq.***
10 **(against Defendants JUUL, and Does 26 through 100)**

11 360. Plaintiff incorporates the above and below allegations by reference.

12 361. The UCL prohibits acts of "unfair competition," including any "unlawful, unfair
13 or fraudulent business act or practice."

14 362. Defendants have engaged in unlawful, unfair and fraudulent business acts and
15 practices in violation of the UCL. Defendants conduct violates the UCL in at least the following
16 ways:

17 a. By violating the California Consumer Legal Remedies Act, as described
18 below;

19 b. By concealing the health risks associated with JUUL products, including,
20 but not limited to, increased blood pressure, strokes, heart attacks and other cardiovascular events,
21 addiction, permanent brain changes, mood disorders and learning and cognitive impairments;

22 c. By concealing that JUUL is unsafe for anyone under age 26;

23 d. By downplaying and minimizing the risks of JUUL products and
24 promoting them as safe and not harmful;

25 e. By conspiring with others in the tobacco industry to downplay and
26 minimize the risks of e-cigarette products, create confusion and doubt in the public regarding the
27 safety of e-cigarettes, overstate the benefits of nicotine and e-cigarette products, and undermine
28 the public health efforts to prevent and curb use of e-cigarettes by those under age 26;

1 f. By misrepresenting the delivery of nicotine as “approximately equivalent
2 to one pack of cigarettes” when in fact, as consumed, JUUL products deliver much higher
3 quantities of nicotine;

4 g. By concealing that JUUL is designed to create and sustain addiction among
5 young people rather to transition adult smokers from conventional cigarettes;

6 h. By knowingly and intentionally designing the JUUL device and JUUL
7 pods in a way that deliberately appeals to young people:

8 i. Making the pods available in flavors that JUUL knew that teens
9 would find irresistible and would not associate with tobacco or smoking;

10 ii. Intentionally advertising and marketing its products in ways that
11 make the device appear deceptively harmless, including concealing that product is highly
12 addictive, poses long-term risks to developing brains (mood disorders, permanent impairment of
13 impulse control, concentration and learning), significantly increases blood pressure, causes
14 repeated exposure to toxic chemicals and can cause cardiovascular events, such as strokes and
15 heart attacks;

16 iii. Designing the JUUL so that it maximizes nicotine delivery, while
17 minimizing “harshness”, so as to recruit and retain young people as the next generation of
18 customers;

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

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

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

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

1 363. Defendants' unfair and fraudulent business acts and practices caused Plaintiff to
2 purchase the JUUL device and/or JUUL pods.

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

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

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

20 367. Accordingly, Plaintiff has suffered injury in fact including lost money as a result
21 of Defendants' unlawful, unfair and fraudulent business practices.

22 368. Plaintiff seeks to enjoin further unlawful, unfair and fraudulent acts or practices by
23 Defendants under Bus. & Prof. Code § 17200.

24 369. Plaintiff requests that this Court enter such orders or judgments as may be
25 necessary to enjoin Defendants from continuing their unfair and deceptive practices and to restore
26 to Plaintiff any money it acquired by unfair competition, including restitution and/or
27 disgorgement, as provided in Bus. & Prof. Code § 17203 and Bus. & Prof. Code § 3345; and for
28 such other relief set forth below.

1 370. Defendants' conduct, as described herein, is unfair because it is immoral,
2 unethical, unscrupulous, oppressive, and substantially injurious. Under the auspices of creating
3 an alternative for adult cigarette smokers, Defendants developed a highly addictive and
4 dangerous product and marketed it to young people as cool, fun, and harmless. Their scheme
5 worked, attracting millions and millions of teens, including Plaintiff, who have become
6 powerfully addicted to their product and have been exposed to massive amounts of nicotine and
7 other toxic chemicals. As a result of Defendants' conduct, Plaintiff suffered harms as described
8 herein, and others are at risk of the same or similar injuries. Defendants created this epidemic
9 and bear responsibility for its consequences.

10 371. The gravity of the harm resulting from Defendants' conduct far outweighs any
11 conceivable utility of this conduct. There are reasonably available alternatives that would further
12 Defendants' legitimate business interests in offering an alternative to adult cigarette smokers
13 over age 26, including, but not limited to: using only tobacco flavoring, designing the products to
14 deliver far less nicotine—only as much as would be sufficient to attract a nicotine-addicted
15 cigarette smoker—so as to reduce the nicotine-related harms and reduce the exposure to other
16 toxic chemicals, and offering the products “behind the counter” at pharmacies. Instead,
17 Defendants used kid-friendly flavors and design, promoted the products as harmless and cool,
18 conspired with others in the industry to downplay the risks and inflate the benefits, and has done
19 nothing to curb or prevent young people from starting and continuing to use its products, despite
20 the known risks of harm.

21 372. Plaintiff could not have reasonably avoided injury from Defendants' unfair
22 conduct. Plaintiff did not know, and had no reasonable means of learning, that JUUL could
23 harm her as it did. Nor did Plaintiff know that JUUL had been designed to lure and trap her into
24 becoming a customer for life.

25 373. Plaintiff was harmed, and Defendants' misleading statements and omissions were
26 a substantial factor in causing Plaintiff's harm.

1 374. The requested injunction under the UCL will primarily benefit the interests of the
2 general public. It will have the primary purpose and effect of prohibiting acts that threaten injury
3 to members of the public who have or will be exposed to JUUL's conduct.

4 **TENTH CAUSE OF ACTION**
5 **Violations of the Consumer Legal Remedies Act, Civ. Code § 1750 *et seq.***
6 **(against Defendants JUUL, and Does 26 through 100)**

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

8 376. JUUL is a "person" as defined by Civil Code §§ 1761(c) and 1770 and has
9 provided "goods" as defined by Civil Code §§ 1761(a) and 1770.

10 377. Defendants Does 1 through 100 are each a "person" as defined by Civil Code
11 §§ 1761(c) and 1770 and has provided "goods" as defined by Civil Code §§ 1761(a) and 1770.

12 378. Plaintiff is a "consumer" as defined by Civil Code §§ 1761(d) and 1770 and
13 entered into transactions as defined by Civil Code §§ 1761(e) and 1770.

14 379. Defendants' acts and practices were intended to and did result in the continued
15 sale of goods to Plaintiff, and those acts and practices violated Civil Code § 1770, including by:

16 a. representing that their goods had characteristics, ingredients, uses, benefits,
17 or quantities that they did not have;

18 b. representing that their goods were of a particular standard, quality, or
19 grade, when they were not; and

20 c. advertising goods with intent not to sell them as advertised.

21 380. Defendants' acts and practices violated the Consumer Legal Remedies Act in the
22 following ways:

23 a. Defendants represented through public statements, marketing, advertising,
24 via social media, and on JUUL's website (among other places) that its products were safe and/or
25 not harmful, when in fact its products were unsafe for persons under age 26;

26 b. Defendants represented that each JUUL pod contained approximately the
27 same amount of nicotine as one pack of cigarettes, when in fact it delivered much more than that;
28

1 c. Defendants represented that they had developed JUUL products only as an
2 alternative for adult cigarette smokers, when in fact they designed and marketed JUUL's
3 products to young people to create and sustain addiction so as to build customers for life; and

4 d. Defendants concealed material facts from Plaintiff, including that JUUL is
5 highly addictive, significantly increases blood pressure, causes repeated exposure to toxic
6 chemicals, causes vascular damage, causes strokes, heart attacks and other cardiovascular risks,
7 and causes permanent brain changes, mood disorders and learning and cognitive impairments.

8 381. Defendants had ample means and opportunities to tell the truth and to alert
9 Plaintiff regarding the dangers of JUUL's product and to instruct her not to use it, but did not.

10 382. Had Defendants not engaged in their scheme of misrepresentations and omissions,
11 Plaintiff would not have purchased, or continued purchasing JUUL and would not have been
12 harmed.

13 383. Defendants had a duty to disclose material facts regarding the risks of JUUL to
14 Plaintiff, because they had made partial representations that were made misleading by omissions,
15 and also because Defendants had exclusive knowledge of these facts, while Plaintiff could not
16 have known or reasonably discovered them.

17 384. Plaintiff was harmed, and Defendants' misleading statements and omissions were
18 a substantial factor in causing Plaintiff's harm. If Plaintiff had known the information that was
19 concealed, she would not have used JUUL, and would not have been harmed as described herein.
20 In the meantime, Defendants generated more revenue than they otherwise would have, unjustly
21 enriching themselves.

22 385. Plaintiff accordingly is entitled to equitable relief, reasonable attorneys' fees and
23 costs, declaratory relief, and a permanent injunction enjoining Defendants from their unlawful,
24 fraudulent, and deceitful activity.

25 386. Pursuant to Civ. Code § 1782(a), Plaintiff sent a letter to JUUL regarding their
26 CLRA violations and affording them the opportunity to correct their business practices and
27 rectify the harm they caused. Plaintiff sent the CLRA notice via certified mail, return receipt
28

1 requested, to JUUL's principal places of business. Plaintiff reserves the right to amend this
2 complaint to seek money damages under the CLRA.

3 387. In accordance with Civ. Code § 1780(d), Plaintiff's CLRA venue declaration is
4 attached to this Complaint.

5 388. Defendants' conduct as set forth herein was reprehensible and subjected Plaintiff
6 to cruel and unjust hardship in conscious disregard of her rights, constituting oppression, for
7 which Defendants should be punished by punitive and exemplary damages in an amount
8 according to proof. Defendants' behavior evidences a conscious disregard for Plaintiff's safety,
9 health and well-being. Defendants' conduct was and is despicable conduct and constitutes
10 malice under Section 3294 of the California Civil Code. An officer, director, or managing agent
11 of each of Defendants JUUL and Does 1 through 100 personally committed, authorized, and/or
12 ratified the reprehensible conduct set forth herein. Plaintiff thus seeks an award of punitive
13 damages sufficient to penalize Defendants.

14 **VII. PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff respectfully requests that the Court:

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

19 a. General Damages;

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

22 2. Award prejudgment interest as permitted by law;

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

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

27 5. Enter other appropriate equitable relief;

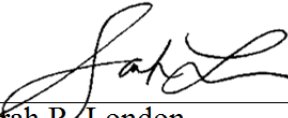
28 6. Award reasonable attorneys' fees and costs, as provided for by law; and

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

2 **VIII. JURY TRIAL DEMAND**

3 Plaintiff demands a trial by jury.

4
5 Dated: September 27, 2019



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