

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

CHRISTIAN FOSS, on behalf of himself and
on behalf of those similarly
situated,

CLASS ACTION COMPLAINT
CLASS REPRESENTATION

Plaintiff,

DEMAND FOR JURY TRIAL

JUUL LABS INC., ALTRIA GROUP,
INC., and PHILIP MORRIS USA, INC.,

Defendants.

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COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff, CHRISTIAN FOSS, by and through his undersigned counsel, brings this class action complaint against Defendants JUUL Labs, Inc., Altria Group, Inc., and Philip Morris USA, Inc., on behalf of himself and those similarly situated, and alleges as follows:

INTRODUCTION

2. Plaintiff is only 19 years old yet he is addicted to JUUL, an e-cigarette. He also suffers from exasperated asthma, a known complication of nicotine ingestion. The federal Food & Drug Administration (FDA) just announced it was studying the association between seizures and e-cigarettes. Health authorities consider youth e-cigarette use an epidemic. Defendants are to blame. Mimicking Big Tobacco's past marketing practices, Defendants prey on youth for financial gain. And now that Philip Morris, seller of Marlboro, the country's most popular cigarette especially among youth, partnered with JUUL, the country's lead e-cigarette seller, progress in nicotine cessation stands to erode. Defendants use the very fraudulent and deceptive youth marketing business practices adjudged to violate federal racketeering laws:



Plaintiff brings this lawsuit to redress the harm already sustained and to prevent future harm to others.

PARTIES, JURISDICTION, AND VENUE

3. Plaintiff resides in Cook County, Illinois, and is a citizen of the State of Illinois. Plaintiff, who is 19 years old, began using and purchasing JUUL vaping products when he was 16. Plaintiff was unaware that JUUL contained more nicotine than a cigarette when he first began “JUULing.” Plaintiff still does not know how much nicotine JUUL contained or that JUUL was specifically developed to create and sustain a nicotine addiction. Plaintiff was attracted to and most often used the mango, cucumber, and mint flavors. From his use of the JUUL device, Plaintiff became addicted to the nicotine contained in JUUL.

4. Plaintiff reasonably fears that the Defendants listed below are working in concert to market and advertise JUUL to youth and teenagers and that Defendants’ association and marketing efforts increase the likelihood that minor children, like Plaintiff, will begin using e-cigarettes and become addicted. Unless these Defendants are enjoined from their unlawful acts

as described below, the harms will continue as minor children will continue to be exposed to their deceptive youth marketing campaigns.

5. Defendant JUUL Labs, Inc. (“JUUL”), is a Delaware corporation, having its principal place of business in San Francisco, California. JUUL originally operated under the name PAX Labs, Inc. In 2017, it was renamed JUUL Labs, Inc. JUUL manufactures, designs, sells, markets, promotes and distributes JUUL e-cigarettes.

6. Defendant, Altria Group, Inc. (“Altria”), is a Virginia corporation, having its principal place of business in Richmond, Virginia.

7. Defendant, Philip Morris USA, Inc. (Philip Morris), is a wholly-owned subsidiary of Altria. Philip Morris is a Virginia corporation, having its principal place of business in Richmond, Virginia. Philip Morris is engaged in the manufacture and sale of cigarettes in the United States. Philip Morris is the largest cigarette company in the United States. Marlboro, the principal cigarette brand of Philip Morris, has been the largest-selling cigarette brand in the United States for over 40 years.

8. Altria and Philip Morris are referred to collectively as the Altria Defendants. The Altria Defendants partnered with JUUL to, among other things, sell, promote, market, and distribute JUUL e-cigarettes.

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because: (i) there are 100 or more class members; (ii) the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs; and (iii) at least one Plaintiff and Defendant are citizens of different states. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because one or more claims arise under federal law. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

10. The Court has personal jurisdiction over all Defendants because they do business in the Northern District of Illinois and have sufficient minimum contacts with this District. Defendants intentionally avail themselves of the markets in this State through the promotion, marketing, and sale of the products at issue in this lawsuit to render the exercise of jurisdiction by this Court permissible under Illinois law and the U.S. Constitution.

11. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391 (b)(2) and (3) because a substantial part of the events or omissions giving rise to the claims at issue in this Complaint arose in this District and Defendants are subject to the Court's personal jurisdiction with respect to this action.

GENERAL FACTUAL ALLEGATIONS

A. The E-Cigarette Epidemic

12. According to the CDC, about 4.9 million middle and high school students were current users of a tobacco product in 2018, meaning that they used such products within the past 30 days. This represents an increase of 1.3 million users just since 2017.¹

13. A surge in e-cigarette use explains this dramatic increase: There were 1.5 million more youth e-cigarette users in 2018 than 2017, accounting for more than the full increase in youth tobacco usage and erasing past progress in reducing youth tobacco product use. E-cigarette use among U.S. high school students increased more than 900% from 2011 to 2015. Frequent use of e-cigarettes increased from 20 percent in 2017 to 28 percent in 2018. E-cigarette use in general increased 78 percent among high school students and 48 percent among middle school students from 2017 to 2018. As CDC Director Dr. Robert R. Redfield explains: "The skyrocketing growth of young people's e-cigarette use over the past year threatens to erase

¹ See <https://www.cdc.gov/media/releases/2019/p0211-youth-tobacco-use-increased.html>.

progress made reducing tobacco use. It's putting a new generation at risk for nicotine addiction."

14. Many youth tobacco product users are also using multiple tobacco products: a combination of e-cigarettes and conventional cigarettes.

15. The FDA characterizes teen vaping as an epidemic. And with good reason: Smoking is the leading cause of preventable death. Cigarette smoking causes about one in every five deaths in the United States each year. This amounts to around 480,000 deaths annually. If smoking continues at the current rate among U.S. youth, 5.6 million of today's Americans younger than 18 years of age are expected to die prematurely from a smoking-related illness. This represents about one in every 13 Americans aged 17 years or younger who are alive today.

16. A study done by the American Journal of Medicine found that among young adults who did not smoke cigarettes, those who used e-cigarettes were more than four times as likely than non-vapers to start smoking traditional cigarettes within 18 months.²

17. JUUL e-cigarettes and JUULpods deliver dangerous toxins and carcinogens to users, especially teenage users. Nicotine itself is a carcinogen, as well as a toxic chemical associated with cardiovascular, reproductive, and immunosuppressive problems.

18. Nicotine adversely affects the heart, eyes, reproductive system, lungs, and kidneys. Exposure to nicotine from sources such as nicotine gum still produces an increased risk of Coronary Vascular Disease by producing acute myocardial ischemia, as well as an increased risk of peripheral arterial disorders. Moreover, because vaping introduces foreign substances into the lungs, prolonged use of vaping products is believed to produce chronic obstructive

² Primack, Brian A. MD, PhD. "Initiation of Traditional Cigarette Smoking after Electronic Cigarette Use Among Tobacco-Naïve US Young Adults." The Am. J. of Medicine. November 2017.

pulmonary disease, just like traditional cigarette smoke. Vaping also triggers immune responses associated with inflammatory lung diseases.

19. According to the National Institutes of Health, the “amount and speed of nicotine delivery . . . plays a critical role in the potential for abuse of tobacco products.”³ Big Tobacco has long known that nicotine addiction is *the* reason for tobacco product usage.

B. The JUUL E-Cigarette

20. Since its launch in 2015, JUUL has become the dominant e-cigarette manufacturer in the United States. Its revenues grew by 700% in 2017. According to a recent Wells-Fargo report, JUUL owns three-quarters of the e-cigarette market.⁴

21. JUUL is a novel cartridge-based e-cigarette design. The cartridges are called pods or JUULpods. JUUL devices heat up a cartridge containing oils to create vapor, which quickly dissolves into the air. JUUL describes the e-cigarettes as an “easy to use vaporizer.”

22. The JUUL e-cigarette is a sleek, high-tech design. It looks like a USB flash drive, and it can charge in a computer. It is about the size and shape of a pack of chewing gum; it is small enough to fit in a closed hand. JUUL is easy to conceal from parents and teachers. The odor emitted from JUUL is a reduced aerosol – unlike the distinct smell of conventional cigarettes.

23. The thin, rectangular JUUL e-cigarette device consists of an aluminum shell, a battery, a magnet (for the USB-charger), a circuit board, an LED light, and a pressure sensor. Each JUULpod is a plastic enclosure containing 0.7 milliliters of JUUL’s patented nicotine liquid and a coil heater. When a sensor in the JUUL e-cigarette detects the movement of air caused by suction on the JUULpod, the battery in the JUUL device activates the heating element,

³ See <https://www.ncbi.nlm.nih.gov/books/NBK53018/#ch4.s92>

⁴ <https://www.durbin.senate.gov/imo/media/doc/FINAL%20JUUL%20Letter%204.8.19.pdf>

which in turn converts the nicotine solution in the JUULpod into a vapor consisting principally of nicotine, benzoic acid, glycerin, and propylene glycol. A light embedded in the JUUL device serves as a battery level indicator and lights up in a “party mode” display of rainbow of colors when the device is waved around.

24. The physical design of the JUUL device (including its circuit board) and JUULpod determines the amount of aerosolized nicotine the JUUL emits. By altering the temperature, maximum puff duration, or airflow, among other things, JUUL precisely controls amount of nicotine vapor delivered. Studies show that there is a “decrease in the perceived harshness of the aerosol to the user and thus a greater abuse liability.” See Duell, James F. Pankow, and David H. Peyton, *Free-Base Nicotine Determination in Electronic Cigarette Liquids by 1H NMR Spectroscopy*, 31 Chem. Res. Toxicol. 431, 431 (2018) (“the Duell study”).

25. JUUL designed its products to replicate the “feel” of traditional cigarettes, and this design makes it easier for e-cigarette users to transition to conventional cigarettes because of the similarity. Indeed, JUUL says its devices “mirror the simplicity that smokers are accustomed to.”⁵

26. The JUUL e-cigarette is defectively designed and therefore unreasonably dangerous. JUUL is designed to create and sustain a nicotine addiction. JUUL appears to deliver nicotine more effectively and at higher doses than other e-cigarettes, increasing users’ risk of addiction. JUUL’s patented JUULSalts approach to nicotine delivery is due to compounds called nicotine salts, which develop in heat-dried tobacco leaves much like most cigarettes. According to the company website, freebase nicotine is mixed with benzoic acid to make the e-liquid, which has a chemical reaction to produce the nicotine salts. JUULPod e-liquid

⁵ See <https://support.juul.com/home/learn/faqs/juul-device-basics> (last visited Apr. 9, 2019)

cartridges contain up to twice the amount of nicotine as a pack of cigarettes and are easier to inhale. This design method increases JUUL's inhale-ability. The Duell study concluded that JUUL's use of nicotine salts "may well contribute to the current use prevalence of JUUL products among youth." *Id.* 433

27. Moreover, the JUUL device does not have a manual or automatic "off" switch. Neither the JUULpod nor the programming of the JUUL device's temperature or puff duration settings limits the amount of nicotine JUUL delivers in each puff to the upper bound of a cigarette.

28. JUUL e-cigarettes and JUULpods deliver dangerous toxins and carcinogens to users, especially teenage users.

29. JUUL delivers doses of nicotine that are materially higher than combustible cigarettes. The United Kingdom Medicines and Healthcare Products Regulatory Agency notes, "an e-cigarette with a concentration of 20 mg/ml delivers approximately 1 milligram of nicotine in 5 minutes (the time needed to smoke a traditional cigarette, for which the maximum allowable delivery is 1 mg of nicotine).⁶ JUUL's nicotine concentration is 59 mg/ml, which is in a salt form that increases the rate and efficiency of nicotine delivery. JUULpods therefore exceed the nicotine dose of a traditional cigarette.

30. Comparison of available data regarding per-puff nicotine intake corroborates the other JUUL studies (mentioned above), indicating that JUUL delivers about 30% more nicotine per puff. Specifically, a recent study of JUULpods found that "[t]he nicotine levels delivered by the JUUL are similar to or even higher than those delivered by cigarettes." Reilly et al., *Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic Cigarettes*, 3 (the "Reilly

⁶ E-Cigarettes, https://ec.europa.eu/health/sites/health/files/tobacco/docs/fs_ecigarettes_en.pdf (last visited Apr. 9, 2019).

study”). The Reilly study tested JUUL’s Tobacco, Crème Brulee, Fruit Punch, and Mint flavors and found that a puff of JUUL delivered 164 ± 41 micrograms (μg) of nicotine per puff. Reilly et al. Free Radical. See Appendix B, Chart 7. Reilly’s findings were based on a puff volume of 75/ml. By comparison, a 2014 study using larger, 100 ml puffs found that a Marlboro cigarette delivered 152—193 $\mu\text{g/puff}$. M.J. Schroeder and A.C. Hoffman, *Electronic Cigarettes and Nicotine Clinical Pharmacology*, Tobacco Control 2014; 23:ii30-ii35. Correcting to account for the different puff sizes between the Reilly and Schroeder studies, this suggests that, at 75ml/puff, a Marlboro would deliver between 114 and 144 $\mu\text{g/puff}$. In other words, empirical data suggests that JUUL delivers up to 36% more nicotine per puff than a Marlboro – the most nicotine-intensive cigarette on the market.

31. Adding to the above defects, JUUL is also defective in design because it puts e-cigarette users, especially youth or young adults with developing brains, at greater risk of experiencing seizures.⁷ JUUL’s design for nicotine delivery, nicotine content, nicotine formulation and their effects on creating or sustaining nicotine addiction increases the propensity of abnormal electrical activity in the brain. JUUL is further defectively designed in that its users may unwittingly swallow the e-liquid. These defects can cause or substantially contribute to causing mild or major seizures. The FDA is currently investigating reports of youth and young adults who are experiencing seizures following the use of e-cigarettes.

C. JUUL Fraudulently Concealed Important Safety Information On How Addictive It’s E-Cigarettes Are

32. JUUL has fraudulently concealed material information about the addictive nature of its e-cigarettes. Plaintiff’s claims arise out of JUUL’s fraudulent concealment of material

⁷ <https://www.fda.gov/TobaccoProducts/NewsEvents/ucm635133.htm>

facts concerning the JUUL e-cigarette and representations about the JUUL e-cigarettes' nicotine content, its addictiveness, and the physiological effects of JUUL e-cigarettes.

33. At all relevant times, JUUL knew that JUUL e-cigarettes' were not safe for non-smokers, and posed a risk of aggravating nicotine addiction in those already addicted to cigarettes. JUUL was under a duty to disclose this material information based upon its exclusive knowledge of it, and its concealment of it; yet JUUL never disclosed the defect to Plaintiff or the public.

34. JUUL repeatedly represented that a single JUULpod contains an amount of nicotine equivalent to about a pack of cigarettes. For example, some JUUL advertisements and JUUL's website currently provides that each "JUULpod is designed to contain approximately 0.7mL with 5% nicotine by weight at time of manufacture which is approximately equivalent to 1 pack of cigarettes or 200 puffs." This falsehood is recast in JUUL advertisements, and on JUUL's website, into the claim that a JUUL delivers about as much nicotine as a cigarette.

35. This statement is false because, as JUUL knows, it is not just the amount of nicotine, but the efficiency with which the product delivers nicotine into the bloodstream, that determines the product's narcotic effect and risk of addiction. Defendants know that benzoic acid affects pH and "absorption of nicotine across biological membranes."⁸

36. JUUL's statement in its advertisements that each JUULpod contains about as much nicotine as a pack of cigarettes is 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 actual amount of nicotine *consumed* via JUULpod is as much as twice as high as that via cigarettes.

⁸ Neil L. Benowitz et al., *Nicotine Chemistry, Metabolism, Kinetics and Biomarkers*, Handbook of Experimental Pharmacology 1982: 29-60 (Oct. 13, 2010), available at: [HYPERLINK "https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/"](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2953858/)⁸
<https://www.fda.gov/TobaccoProducts/NewsEvents/ucm635133.htm>

37. Despite making numerous revisions to its packaging since 2015, JUUL did not add nicotine warnings until forced to do so in August of 2018.

38. JUUL has not been approved as a smoking therapy nor has it been approved as a modified risk tobacco product.

39. JUUL fails to inform users that its products have not been found to be safe and effective by the FDA for the purpose of smoking cessation.

D. JUUL Copied Big Tobacco's Youth Marketing Playbook To Addict Youth to Nicotine

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

41. Statements by JUUL's founder and employees make clear JUUL's intent to develop a highly addictive product to sell to a new audience of non-smokers. James Monsees, one of JUUL's founders, described the cigarette as "the most successful consumer product of all time an amazing product." According to Monsees, JUUL aimed to "deliver[] solutions that refresh the magic and luxury of the tobacco category."

42. JUUL used the tobacco industry's prior practices as a playbook. Monsees admitted publicly that JUUL began by looking at tobacco industry documents, including board meeting minutes. "It became a very intriguing space for us to investigate because we had so much information that you wouldn't normally be able to get in most industries. And we were able to catch up, right, to a huge, huge industry in no time. And then we started building prototypes."

43. JUUL's research included documents about how tobacco companies had chemically manipulated nicotine content to maximize delivery: "We started looking at patent

literature. We are pretty fluent in ‘Patentese.’ And we were able to deduce what had happened historically in the tobacco industry.”

44. JUUL also used tobacco industry advertisements—which were created to lure nonsmoking youth—as a guide to JUUL’s own advertising campaigns. In a 2018 interview, “Monsees indicated that the design of JUUL’s advertising had been informed by traditional tobacco advertisements and that [the Stanford Research into Impact of Tobacco Advertising] had been quite useful to them.” Robert K. Jackler, M.D. et al, *JUUL Advertising Over Its First Three Years on the Market* (Jan. 21, 2019).

45. These copycat advertising and marketing practices include: colorful ad campaigns using eye-catching designs and youth-oriented imagery touting themes of being “cool,” “carefree,” “stylish,” “attractive,” “sexy,” “pleasureful,” “popular” and that the JUUL e-cigarettes are “great tasting,” etc. Viral marketing campaigns push JUUL products on children, teens, and young adults. For example, it is suspected that JUUL pays social media stars or social media influencers to flood social media newsfeeds with JUUL promotion – Big Tobacco did the same type of product placement to create viral campaigns of smoking. Like Big Tobacco before it, JUUL distributed free e-cigarette and packs at live social events.

46. JUUL’s original marketing campaign included billboards, YouTube videos, advertising in magazines, like VICE Magazine, launch parties, and a sampling tour.

47. One study of JUUL’s marketing showed that “the growth of JUUL was accompanied by innovative marketing across a variety of new media platforms...JUUL was one of the first major retail e-cigarette brands that relied heavily on social media to market its

products.”⁹ The study further found that JUUL’s Instagram account reached a quarter million followers, used artsy photographs to display its products and “evoke lifestyle feelings such as relaxation, freedom and sex appeal.”

48. The Surgeon General’s Advisory on E-Cigarette Use Among Youth found that JUUL’s Twitter account was being followed by adolescents and that 25% of those retweeting official JUUL tweets were under 18.

49. JUUL has also played off the ubiquity of Apple products such as iPhones and iPads. JUUL promotes itself with statements like JUUL is “the iPhone of e-cigarettes,” which JUUL posted on its website and used as the basis for a social media and email campaign.

50. JUUL is available in sweet flavors including mango, fruit medley and cool mint. According to one survey, 81 percent of current youth e-cigarette users cited the availability of appealing flavors as the primary reason for use.¹⁰

51. JUUL’s viral marketing campaign has been successful. The National Youth Tobacco Survey has found that 78.2 percent of middle and high-school students – 20.5 million youth – had been exposed to e-cigarette advertisements.

52. JUUL has styled itself as something different than Big Tobacco. For example, JUUL had a campaign that expressly stated: “FACT: JUUL Labs is not Big Tobacco. We are an independent vapor company on a mission to eliminate cigarettes.” That has proved false. As discussed below, Altria acquired 35% of JUUL to partner with the company.

⁹ Huang, J, et al., “Vaping versus JUULing: how the extraordinary growth and marketing of JUUL transformed the US retail, available at <https://tobaccocontrol.bmj.com/content/tobaccocontrol/early/2018/05/31/tobaccocontrol-2018-054382.full.pdf>.

¹⁰ Villanti AC, Johnson AL, Ambrose BK, et al. Use of flavored tobacco products among U.S. youth and adults; findings from the first wave of the PATH Study (2013-2014)

E. Philip Morris, An Altria Subsidiary, Has a Long History of Marketing Tobacco Products to Youth

53. Beginning in the 1950s through the present, Philip Morris intentionally marketed cigarettes to young people under the age of 21 to recruit “replacement smokers” to ensure the economic future of the tobacco industry. *See U.S. v. Philip Morris, et al.*, No. 99-cv-2496, Amended Final Opinion at page 972 (D.D.C. Aug. 17, 2006) (Kessler, J.).

54. Philip Morris knew that marketing cigarettes to youth is essential to the company’s success and longevity, and for that reason, it created marketing campaigns to increase youth consumption.

55. An internal memorandum dated March 31, 1981 sent by Myron Johnston, a marketing researcher for Philip Morris, states: “It is important to know as much as possible about teenage smoking patterns and attitudes. Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while still in their teens.” *See Young Smokers: Prevalence, Trends, Implications, and Related Demographic Trends*, p. 6.

56. To accomplish this sordid goal, Philip Morris tracked youth behavior and preference; employed marketing themes that resonated with youth; and promoted cigarettes to youth through retail promotions, events and sponsorships. *See U.S. v. Philip Morris, et al.*, at pages 1006, 1072.

57. Philip Morris intentionally exploited adolescents’ vulnerability to imagery by creating advertising that utilizes the themes of independence, adventurousness, sophistication, glamour, athleticism, social inclusion, sexual attractiveness, thinness, popularity, rebelliousness, and being “cool.” Philip Morris’ marketing tactics consistently reached millions of teens. *Id.* at page 990

58. Philip Morris' youth brand is Marlboro, which was and remains among the most heavily advertised brands. *Id.*, at pages 980, 991.

59. Philip Morris was adjudged to have engaged in unlawful coordinated activity to "recruit new, youth smokers through cigarette marketing," and falsely denied that it marketed to youth.

60. The Racketeering Acts associated with Philip Morris' youth marketing consisted of advertisements that appeal to and target youth, the designs of which are based on its research on teenage behaviors and preferences. *Id.*, at page 1519.

61. The Altria Defendants have not abandoned their youth-appealing themes. Up until it acquired a 35% stake in JUUL, described below, Altria Defendants had their own e-cigarette, the MarkTen products, which Altria conceded was popular among youth.

F. The Government Takes Action to Address the E-Cigarette Epidemic

62. On February 24, 2018, the FDA sent a letter to JUUL expressing concern about the popularity of JUUL products among youth. The FDA ordered JUUL to submit documents regarding its marketing practices. The FDA publicized this letter on its website.

63. On September 12, 2018, the FDA sent letters to five e-cigarette manufacturers that represent more than 97 percent of the current market. JUUL and Altria were among these manufacturers. The FDA commissioner, Dr. Gottlieb, stated these companies are "now on notice by the FDA of how their products are being used by youth at disturbing rates." Further, the FDA requested "the manufacturers of these brands and products to come back to the FDA in 60 days with robust plans on how they'll convincingly address the widespread use of their products by minors." Dr. Gottlieb ordered the companies to "demonstrate that they're truly committed to

keeping these [e-cigarettes] out of the hands of kids and they must find a way to reverse this trend.”

64. On October 4, 2018, JUUL stated it released 50,000 pages of documents to the FDA and that it “want[s] to be part of the solution in preventing underage use.”

65. On October 18, 2018, Altria’s CEO met with members of the FDA leadership. During that meeting, Altria acknowledged it had an obligation to address the epidemic of youth use of e-cigarettes.

66. Publicly, and in response to the FDA’s alarm concerning the rise in youth e-cigarette use, Altria’s CEO, Howard Willard, stated, in letter to the FDA of October 25, 2018, that the company is “alarmed about the reported rise in youth e-vapor use to epidemic levels.” Mr. Willard further wrote that Altria believed that pod-based products significantly contributed to the rise in youth use of e-vapor products and committed to “remove from the market our *MarkTen Elite* and *Apex by MarkTen* pod-based products until we receive a market order from FDA or the youth issue is otherwise addressed.” Mr. Willard also wrote: “We are committed to helping reverse the current [vaping] use and trend among youth.”

67. On November 14, 2018, JUUL announced a plan to combat underage use.

68. A day later, on November 15, the CDC announced that e-cigarette use in general increased 78 percent among high school students and 48 percent among middle school students from 2017 to 2018. The FDA Commissioner called these results “astonishing.”

69. On December 7, 2018, Altria announced it would discontinue production and distribution of all MarkTen products and said it will “refocus its resources on more compelling reduced-risk tobacco product opportunities.”

70. On December 18, 2018, the Secretary of the U.S. Department of Health and Human Services, Alex Azar, stated at a press conference: “We have never seen use of any substance by America’s young people rise as rapidly as e-cigarette use is rising.”

G. JUUL’s Effects on E-Cigarette Usage Among Minors in Illinois.

71. There are currently over two million students enrolled in pre- kindergarten through high school in public and private schools throughout Illinois. The unfortunate success of JUUL’s early marketing campaign has lasting effects on this population that will continue.

72. For instance, despite the recently included warnings on JUUL packaging, approximately two-thirds of JUUL users aged 15-24 do not know that JUUL pods contain nicotine.¹¹

73. While traditional cigarette use among Illinois minors has been steadily declining for years, e-cigarette usage between 2016 and 2018 has increased by 15% among 8th graders, 65% increase in 10th graders, and 45% among 12th graders.¹² (Note, e-cigarette usage was not even tracked in Illinois prior to 2016.)

74. In 2018, only 1% of Illinois 8th graders, 2% of 10th graders, and 9% of 12th graders reported any cigarette usage in the past 30 days. When asked about e- cigarettes however, those percentages rose to 7%, 18%, and 27%, respectively. *Id.*

75. In response to these staggering numbers:

¹¹ <https://truthinitiative.org/news/JUUL-e-cigarettes-gain-popularity-among-youth>.
¹²

https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2016/Freq16_IYS_Statewide.pdf;
https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2018/Freq18_IYS_Statewide.pdf.

- a. The National Institute on Drug Abuse found that the 2018 spike in nicotine vaping was the largest for any substance recording in 44 years;
- b. FDA Commissioner, Dr. Scott Gottlieb, has stated that the data “shock[s] [his] conscience” and repeatedly referred to the growing rate of e-cigarette use among adolescents and teens as an epidemic; and
- c. On December 18, 2018, the U.S. Surgeon General called the e- cigarette an epidemic among youth and singled out JUUL, the most popular electronic cigarette among young people, for fueling the epidemic.¹³

H. Altria Defendants Long-Monitored JUUL’s Growth And Recently Purchased a Controlling Stake to Partner With JUUL

76. Altria’s public stance on e-cigarettes markedly differed from its private undertakings with respect to JUUL.

77. The Altria Defendants closely and carefully monitored the details of JUUL’s business for years prior to its decision to buy into JUUL in December 2018. In an earnings call of December 2018, Altria Defendants stated that they had been in talks with JUUL’s managers for “quite some time.” Altria’s chief executive, Howard Willard, stated: “we’ve been monitoring [JUUL’s] growth...for three years” – in other words, since JUUL launched back in 2015.

78. Altria’s disclosures to the Securities and Exchange Commission reveal it had been “closely” following JUULs journey to “see if it had staying power.”

79. Weeks after Altria announced it would remove its e-vapor products from the market to address the youth vaping epidemic, on December 20, 2018, Altria made public that it closed a

¹³ <https://www.npr.org/sections/health-shots/2018/12/18/677755266/surgeon-general-warns-youth-vaping-is-now-an-epidemic>.

\$12.8 billion investment with JUUL, the leader in e-cigarettes, amounting to a 35% stake. Thus, Altria is continuing to sell flavored e-cigarettes, which it told the FDA it would stop.

80. Altria agreed to a non-competition obligation with JUUL as long as Altria is providing services to JUUL, which Altria has committed to doing for at least six years.

81. Altria and JUUL also entered into a services agreement. Among other things, Altria will provide services to JUUL with respect to logistics and distribution, access to retail shelf space, youth vaping prevention, cigarette pack inserts and onserts, regulatory matters and government affairs. Altria has also agreed to grant JUUL a non-exclusive, royalty-free perpetual, irrevocable, sublicensable license to Altria's non-trademark licensable intellectual property rights in the e-vapor field, subject to the terms and conditions set forth in an intellectual property license agreement between the parties.

82. Pursuant to the agreement Altria has agreed to provide JUUL with certain commercial services on a cost-plus-3% basis for an initial term of six years.

83. Pursuant to the agreement Altria will provide JUUL access to its prime retail shelf space, which will allow JUUL products to appear alongside Philip Morris combustible cigarettes like Marlboro, the country's most popular cigarette brand. Altria will also provide JUUL, through the Altria Group Distribution Company, sales and distribution services and thus: access to Altria's near 230,000 retail locations.

84. Pursuant to the agreement, Philip Morris, which maintains a database of cigarette smokers' mailing and email addresses, will send JUUL advertising and marketing messages to its customers.

85. Further, pursuant to the agreement JUUL will benefit from Altria's influence with legislators and regulators and the expertise of Altria's legal team in countering tobacco litigation.

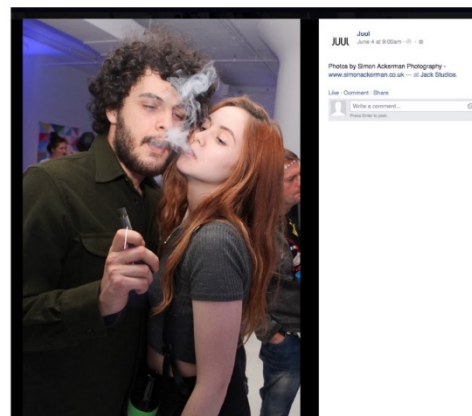
86. At a conference call on December 20, 2018, Altria's CEO remarked that Altria felt "fortunate to be the tobacco company that's partnered up with JUUL" and that Altria would provide its infrastructure to JUUL in order to accelerate JUUL's growth. During that call, Altria said it would continue to market conventional cigarettes "vigorously."

87. According to Robert K. Jackler, MD, Principal Investigator of the Stanford Research into the Impact of Tobacco Advertising: "The joining of JUUL and Marlboro brings together the two dominant players in the teenage nicotine addiction market (e-cigarette & cigarette). This powerful combination constitutes a clear and present danger to the youth of America as well as those around the world."

88. Studies demonstrate that e-cigarette use is associated with increased risk for cigarette initiation and use, particularly among low-risk youths. See Berry KM, Fetterman JL, Benjamin EJ, et al. Association of Electronic Cigarette Use With Subsequent Initiation of Tobacco Cigarettes in US Youths. *JAMA Netw Open*. 2019;2(2):e187794. doi:10.1001/jamanetworkopen.2018.7794.

89. Recent promotional practices of both companies suggest that they may pursue a strategy by which youth start with JUUL and graduate to Marlboro:



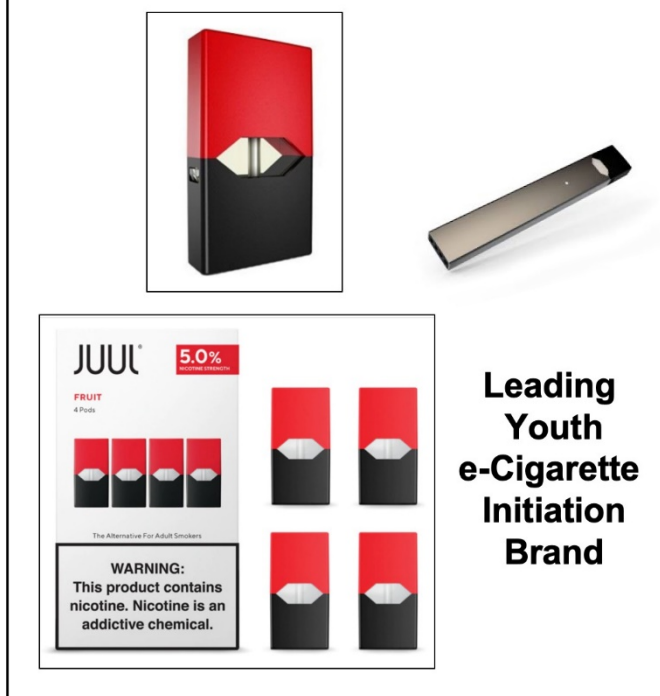




Original JUUL Design



Recent JUUL Design



CLASS REPRESENTATION ALLEGATIONS

90. Plaintiff brings this class action against Defendants on behalf of himself and all others similarly situated, as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. The proposed classes are defined as follows:

All persons who purchased, in the United States, JUUL products;

All residents of Illinois who purchased JUUL products;

All residents of Illinois who, at the time of their use of JUUL products, were under the age of 18, and who procured and used JUUL products.

All legal guardians of United States residents who, at the time of their use of JUUL products, were under the age of 18, and who procured and used JUUL products

All legal guardians of Illinois residents who, at the time of their use of JUUL products, were under the age of 18, and who procured and used JUUL products.

91. Plaintiff reserves the right to propose subclasses or modify the above class definitions, based on the evidence adduced in discovery, or as necessary and appropriate.

92. This action has been brought and may properly be maintained as a class action against the Defendants pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed classes are ascertainable.

93. Numerosity: Plaintiff does not know the exact size of the Classes but they are each composed of more than 500 persons. The persons in the Classes are so numerous that joinder of all such persons is impracticable and the disposition of their claims in a class action rather than in individual actions will benefit the parties and the courts.

94. Commonality: There are questions of law or fact common to the Class or Classes that predominate over any questions affecting only individual members, including:

- a. Whether Defendants engaged in unlawful, unfair or deceptive business practices, as alleged herein;
- b. Whether Defendants made unlawful and misleading representations or material omissions with respect to JUUL products;
- c. Whether Defendants unlawfully marketed JUUL to minors;
- d. Whether Defendants have been unjustly enriched by their conduct;
- e. Whether Plaintiff and class members are entitled to equitable and injunctive relief;
- f. Whether punitive damages should be awarded.

95. Typicality: Plaintiff's claims are typical of the claims of the class. Plaintiff and class members were injured through Defendants' substantially uniform misconduct. Plaintiff is advancing the same claims and legal theories on behalf of himself and class members, and there are no defenses that are unique to Plaintiff's claims. Plaintiff's and class members' claims are from the same set of operative facts and are based on the same legal theories.

96. Adequacy: Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained competent and capable attorneys experienced in complex and class action litigation, including consumer class actions. Plaintiff and his counsel are committed to prosecuting this action vigorously on behalf of the class and have the financial resourced to do so. Neither Plaintiff nor his counsel have interests that are contrary to or that conflict with the class.

97. Predominance: The common issues that comprise the basis for this lawsuit predominate over any individual issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

98. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of the controversy because, absent a class action, class members as a practical matter will be unable to obtain redress; Defendants' violations of their legal obligations will continue without remedy, additional consumers will be harmed, and Defendants will continue to retain ill-gotten gains; it would be a substantial hardship for most individual class members if they were forced to prosecute individual actions; once liability has been adjudicated, the Court will be able to determine the claims of all class members; a class action will permit an orderly and expeditious administration of the claims, foster economies of time, effort and expense, and ensure uniformity of decisions; the lawsuit presents no difficulties that would impede its management by the Court as a class action; and Defendants acted on grounds generally applicable to class members, making class-wide relief appropriate.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c) (On Behalf of All Classes)

99. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein, and further declares:

100. Defendants are all "persons" under 18 U.S.C. § 1961(3).

101. Defendants violated 18 U.S.C. § 1962(c) by participating in or conducting the affairs of a RICO Enterprise through a pattern of racketeering activity.

102. Since at least as long as JUUL and the Altria Defendants entered into an agreement with respect to JUUL e-cigarettes, and continuing up to and including the date of the filing of this complaint, Defendants have constituted an "enterprise" as the term is defined in 18

U.S.C. § 1961(4), that is, a group of business entities and individuals associated in fact, which is engaged in, and the activities of which affected, interstate commerce and foreign commerce. Each Defendants participates in the operation and management of the Enterprise.

103. The Enterprise is functioning to achieve shared goals through unlawful means including to deceive consumers, particularly parents and children, by claiming that they did not market to children, while engaging in marketing and advertising with the intent of addicting children into becoming lifetime nicotine users.

104. The RICO Enterprise has an ongoing organization with an ascertainable structure and functioned as a continuing unit with separate roles and responsibilities.

105. While Defendants participated in the conduct of the RICO Enterprise, they have an existence separate and distinct from the RICO Enterprise.

106. At all relevant times, Defendants operate, control or manage the RICO Enterprise through a variety of actions. The participation of Defendants in the RICO Enterprise is necessary for the successful operation of their scheme to market the JUUL nicotine device to children, which is the common purpose of the RICO Enterprise.

107. At all relevant times, Defendants conducted and participated in the conduct of the affairs of the RICO Enterprise through a pattern of racketeering activity that consists of numerous and repeated violations of federal mail and wire fraud statutes. These statutes prohibit the use of any interstate or foreign mail or wire facility for the purpose of executing a scheme to defraud, in violation of 18 U.S.C. §§ 1341 and 1343.

108. As detailed in the General Factual Allegations, Defendants know that marketing JUUL e-cigarettes to youth is essential to Defendants' success and longevity, and for that reason,

they partnered to create marketing campaigns to increase youth consumption, while fraudulently denying they are doing so. Defendants have furthered this scheme to profit.

109. To carry out, or attempt to carry out the scheme to defraud, the Defendants have conducted or participated in the conduct of the affairs of the RICO Enterprise through the following pattern of racketeering activity that employed the use of the mail and wire facilities, in violation of 18 U.S.C. § 1341 (mail fraud) and § 1343 (wire fraud):

- a. The Defendants devised and furthered the scheme to defraud by use of the mail, telephone, and internet, and transmitted, or caused to be transmitted, by means of mail and wire communication travelling in interstate or foreign commerce, writing(s) and/or signal(s), including the Defendants' websites, communications with the FDA, statements to the press, and communications with other members of the RICO Enterprise, as well as advertisements and other communications to JUUL users; and
- b. The Defendants utilize the interstate and international mail and wires for the purpose of obtaining money or property by means of the omissions, false pretense, and misrepresentations described herein.

110. The Defendants' conduct in furtherance of this scheme was intentional. Plaintiff and class members were directly harmed as a result of the Defendants' intentional conduct. Plaintiff, class members, among others, relied on the Defendants' material misrepresentations and omissions concerning their fraudulent statement with respect to targeting children.

111. The predicate acts all had the purpose of generating significant revenue and profits for the Defendants at the expense of Plaintiff and Class Members.

112. The Defendants' violations of 18 U.S.C. § 1962(c) have directly and proximately caused injuries and damages to Plaintiff and Class Members, and Plaintiff and Class Members are entitled to bring this action for three times their actual damages, as well as injunctive and equitable relief and costs and reasonable attorneys' fees pursuant to 18 U.S.C. § 1964(c). Equitable relief is necessary to ensure an end to Defendants' continued effort to deceptively campaign to induce children and minors to become addicted and subject to a high risk of disease.

SECOND CAUSE OF ACTION

Fraud (On Behalf of All Classes)

113. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

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

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

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

117. Each of these misrepresentations and omissions were material at the time they were made. In particular, each of the misrepresentations and omissions concerned material facts

that were essential to the analysis undertaken by Plaintiff, and those similarly situated, as to whether to purchase a JUUL E-cigarette and JUULpod.

118. Defendants had a duty to accurately provide this information to Plaintiff, and those similarly situated. In not so informing Plaintiff, and those similarly situated, Defendant breached its duty to each of them. Defendant also gained financially from, and as a result of, its breach.

119. Defendants concealed material information at all times relevant to this Complaint. Defendants have yet to disclose the truth about JUUL e-cigarettes.

120. Plaintiff, and those similarly situated, relied to their detriment on Defendant's fraudulent omissions. Had Plaintiff, and those similarly situated, been adequately informed and not intentionally deceived by Defendant, they would not have purchased or used JUUL products.

121. Plaintiff and class members were harmed directly and proximately by Defendants' fraud. Such harm includes significant exposure to toxic substances, which may cause or contribute to causing disease; nicotine addiction; and economic harm in that they would not have purchased JUUL or would have paid less for it if they had known the true facts and that they had paid a premium as a result of Defendants' fraud.

122. Defendants' conduct as described herein was willful and malicious and was designed to maximize Defendants' profits even though Defendant knew that it would cause loss and harm to Plaintiff, and those similarly situated.

THIRD CAUSE OF ACTION

Strict Product Liability – Failure to Warn (On Behalf of All Classes)

123. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

124. Defendants manufactured, distributed and sold and promoted JUUL, or have partnered to manufacture, distribute, sell and promote JUUL.

125. At all times relevant, Defendants were well-aware of the dangers of nicotine addiction as described in this complaint.

126. At all times relevant, Plaintiff and members of the Class were not aware of and would not have recognized the risks of using a JUUL device with a JUUL pod because Defendant JUUL has intentionally downplayed, misrepresented, concealed, and failed to warn of the heightened risks of nicotine exposure and addiction. Since the Altria Defendants partnered with JUUL, they too intentionally downplayed, misrepresented, concealed, and failed to warn of the heightened risks of nicotine exposure and addiction.

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

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

129. The JUUL devices and pods were expected to be used by Plaintiff and the class without substantial change in their condition from the time of their manufacture or sale.

130. Plaintiff and class members were harmed directly and proximately by Defendants' failure to warn. Such harm includes significant exposure to toxic substances, which may cause or contribute to causing disease; nicotine addiction; and economic harm in that they would not have purchased JUUL or would have paid less for it if they had known the true facts and that they had paid a premium as a result of Defendants' failure to warn.

FOURTH CAUSE OF ACTION

Strict Product Liability – Design Defect (On behalf of all Classes)

131. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

132. Defendant JUUL designed, engineered, developed, manufactured, fabricated, assembled, equipped, tested or failed to test, inspected or failed to inspect, labeled, advertised, promoted, marketed, supplied, distributed, wholesaled, and sold the JUUL devices and JUUL pods, which were intended by JUUL to be used as a method of ingesting nicotine and the other aerosolized constituents of JUUL's nicotine solution. Since the Altria Defendants partnered with JUUL, they have assisted with one or more of these activities.

133. Defendants knew or, by the exercise of reasonable care, should have known that JUUL's products under ordinary use were harmful or injurious, particularly to youths and adolescents, including the Plaintiff and members of the class.

134. As described in this complaint, Defendants designed and marketed their products to appeal to nonsmokers, youths and adolescents and to encourage them to buy and use the product.

135. JUUL products are also inherently defective because they contain and deliver significantly more nicotine than JUUL represents. Moreover, JUUL is unreasonably dangerous and therefore defective in design because it is made to create and sustain addiction. The risks inherent in the design of JUUL outweigh significantly any benefits of such design.

136. At all relevant times, Defendants could have employed reasonably feasible alternative designs to prevent the harms discussed in the complaint.

137. At all relevant times, Plaintiff and the class were unaware of the design defects described in the complaint. Further, Defendants knew or had reason to know that youths and adolescents would not fully realize the dangerous and addictive nature of the JUUL products and the long-term complications nicotine addiction can present, or that, due to their youth, inexperience and/or immaturity of judgment, would recklessly disregard such risks.

138. Plaintiff and class members were harmed directly and proximately by Defendants' defectively designed JUUL e-cigarette. Such harm includes significant exposure to toxic substances, which may cause or contribute to causing disease; nicotine addiction; and economic harm in that they would not have purchased JUUL or would have paid less for it if they had known the true facts and that they had paid a premium as a result of Defendants' failure to warn.

FIFTH CAUSE OF ACTION

Negligence (On behalf of all Classes)

139. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

140. Defendants had a duty and owed a duty to Plaintiff and the class to exercise a degree of reasonable care including, but not limited to: ensuring that JUUL marketing does not target minors; ensuring that JUUL devices and JUULpods are not sold and/or distributed to

minors and are not designed in a manner that makes them unduly attractive to minors; designing a product that is not defective and unreasonably dangerous; designing a product that will not addict youth or other users to nicotine; adequately warning of any reasonably foreseeable adverse events with respect to using the product.

141. Defendants knew the risks that minors would be attracted to their electronic cigarette devices and JUULpods and knew or should have known the importance of ensuring that the products were not sold and/or distributed to minors.

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

143. Defendants breached the duties they owed to Plaintiff and class members.

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

145. The injury and harm Plaintiff and class members suffered were the direct and proximate result of Defendants' negligence.

SIXTH CAUSE OF ACTION

Unjust Enrichment (On behalf of all Classes)

146. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

147. As described in the complaint, Defendants knowingly sold or partnered to sell JUUL Products to Plaintiff and members of the Class in a manner that was unfair, unconscionable, and oppressive.

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

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

SEVENTH CAUSE OF ACTION

Violation of Consumer Fraud and Deceptive Business Practices Act 815 ILCS 505/1, *et seq.* (Brought on behalf of the Illinois classes)

150. Plaintiff incorporates by reference paragraphs 1-98 above as if fully set forth herein and further declares:

151. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505, *et seq.* ("ICFA"), provides:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in section 2 of the 'Uniform Deceptive Trade Practices Act', approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration should be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5 (a) of the Federal Trade Commission Act.

152. While conducting trade or commerce, JUUL has engaged in the following conduct constituting a deceptive act or practice declared unlawful under Section 2 of the ICFA:

- a. Making deceptive fraud, false promises of material fact, and/or misrepresentations of material fact including, but not limited to, the following:

- i. Misrepresenting JUUL products as non- addictive nicotine delivery systems or less- addictive nicotine delivery systems than traditional cigarettes;
 - ii. Misrepresenting the absorbed nicotine level for the use of JUUL products;
 - iii. Misrepresenting JUUL as safer and less addictive than traditional cigarettes;
 - iv. Misrepresenting the health benefits of switching from using traditional cigarettes to JUUL products;
 - v. Misrepresenting the use of JUUL products as a way to quit using traditional cigarettes or to quit smoking in general;
 - vi. Misrepresenting the concentration of nicotine salt containing absolute nicotine concentration of at least 1.2% higher than as stated;
 - vii. Misrepresenting the nicotine content of JUUL pods by representing it as 5% strength;
 - viii. Misrepresenting that a JUUL pod contains as much nicotine as a pack of cigarettes when the amount consumed via a JUUL pod is as much as twice as high as traditional cigarettes; and
 - ix. Misrepresenting the nicotine content of JUUL pods as the same as a pack of cigarettes when the nicotine content is closer to 24 cigarettes or at least 20% more than one pack.
- b. Concealing and/or suppressing material facts by:

- i. Failing to disclose the chemicals contained in JUUL products;
- ii. Failing for years to disclose that JUUL products contain any addictive chemicals;
- iii. Failing to disclose the adverse health effects of using JUUL products including, but not limited to, increased risk of heart disease and stroke, changes in brain functionality that lead to susceptibility to anxiety, depression and other addictions, decreased functionality of the endocrine system, heightened risk of cancer and negative effects on fertility;
- iv. Failing to disclose that JUUL products deliver higher amounts of nicotine at a faster rate than a traditional cigarette;
- v. Failing to disclose that because of JUUL's method of nicotine absorption, JUUL's nicotine solution is more addictive than traditional cigarettes even with lower concentrations;
- vi. Failing to disclose that JUUL's nicotine salts increase the rate and magnitude of blood plasma nicotine compared to traditional cigarettes;
- vii. Failing to disclose that JUUL's nicotine salt formulation delivers an exceptionally potent dose of nicotine;
- viii. Failing to disclose that the efficiency with which JUUL devices deliver nicotine into the bloodstream increases its addictiveness; and

ix. Failing to disclose that non-smokers who then use JUUL products have a significant likelihood of using traditional cigarettes.

c. Misrepresenting the product as having the characteristics, ingredients, uses, and benefits they do not have and engaging in conduct which creates a likelihood of confusion or misunderstanding.

153. JUUL marketed a product that contained nicotine levels far in excess of what smokers need to comfortably switch from cigarettes with the intention of creating and fostering long-term addition to JUUL products.

154. JUUL falsely and deceptively marketed, advertised, and sold JUUL products by misrepresenting their nicotine content, nicotine pharmacokinetics, and suitability as an alternative to cigarettes, and falsely implied that they were useful as a smoking or nicotine-use cessation device.

155. JUUL falsely and deceptively advertised its products in a manner that lured underage smokers and non-smokers into using JUUL products.

156. JUUL committed the deceptive acts and unfair practices with the intent that minors would rely upon the deceptive acts and unfair practices.

157. JUUL's deceptive acts and unfair practices occurred in the course of conduct involving trade or commerce.

158. JUUL's deceptive acts and unfair practices have violated and continue to violate the deceptive prong of the Illinois statutes because they extend to transactions that are intended to result, or which have resulted, in the sale or distribution of goods or services to consumers.

159. JUUL's deceptive acts and unfair practices occurred through its advertising, offering for sale, and sale or distribution of merchandise for cash or on credit.

160. Minors in Illinois have seen the advertisements in JUUL's long, pervasive advertising campaign and were exposed to the false messages conveyed by the campaign.

161. As described above, each of JUUL's advertisements share common elements that are designed specifically to resonate with minors, including the use of attractive young women in suggestive poses, romance, and social inclusion to convey the idea that the products would make one hip and attractive, and the use of flavors, relaxation, new technology, and select terms to depict the products as healthy and safe. A representative sample of these advertisements has been included throughout this complaint.

162. JUUL's conduct offends public policy, is immoral, unethical, oppressive, and unscrupulous.

163. JUUL's deceptive acts and unfair practices proximately caused actual damages and substantial injuries to consumers.

164. Plaintiff and class Members have and will continue to sustain damages the amount of which will be determined at trial.

165. Pursuant to 815 ILCS 505/7(b), the penalty for violating the ICFA is a sum not to exceed \$50,000, or, if the Court finds that JUUL's above-described practices were intended to defraud Illinois residents, \$50,000 per violation.

166. Unless and until enjoined and restrained by order of this Court, JUUL will continue to cause injury to Plaintiff and the loss of money and property in that JUUL will continue to violate the laws of Illinois, unless specifically ordered to comply with the same.

167. Pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505, et seq., Plaintiff and the class make claims for damages, attorney's fees and costs.

The damages suffered by the Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. An order certifying the proposed classes, designating Plaintiff as the named representative of the classes, and designating the undersigned class counsel;
- B. An order enjoining Defendants from further negligent, deceptive, unfair, and unlawful conduct as alleged herein;
- C. Awarding actual, compensatory, and consequential damages;
- D. Awarding other monetary and equitable relief for diagnostic testing, medical monitoring, and nicotine cessation programs;
- E. Awarding restitution;
- F. Awarding punitive damages;
- G. Awarding reasonable attorneys' fees, and costs of this case;
- H. Awarding prejudgment and post-judgment interest;
- I. Such other and further relief as the Court deems appropriate under the circumstances.

JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: August 19, 2019

Respectfully submitted,

MOLL LAW GROUP

By: /s/ Stephen Cady

Stephen Cady

Ken Moll

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