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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Lisa Marie Vail, individually and on behalf of
the Estate of Daniel David Wakefield, deceased

Plaintiff,

vs.

JUUL LABS, INC.; and DOES 1-30, inclusive,

Defendant.

Case No.:

COMPLAINT AND DEMAND FOR JURY
TRIAL

COMES NOW Plaintiff, Lisa Marie Vail, individually and on behalf of the Estate of Daniel David Wakefield, deceased (“Plaintiff”) by and through her undersigned counsel, and brings this Complaint against Defendants JUUL Labs, Inc. and Does 1-30 and allege as follows:

I. INTRODUCTION

1. Daniel David Wakefield (“Wakefield”) was a healthy teenager whose life tragically and prematurely ended due to injuries that were directly caused by his addiction to JUUL®, an electronic nicotine delivery system (ENDS) or e-cigarette. On August 31, 2018, Wakefield died in his sleep at the age of 18 after years of Juul use. Defendant JUUL Labs, Inc.’s

1 wrongful conduct in marketing, promoting, manufacturing, designing, and selling JUUL
2 substantially contributed to Wakefield's death.

3 2. In 2015, Defendant JUUL Labs, Inc. (hereinafter "Defendant" or "JUUL") took
4 advantage of minimal regulations and loopholes for e-cigarettes at a time when youth smoking
5 was at its lowest level in decades. Defendant developed and marketed a highly addictive product
6 that could be packaged and sold to young people without having to comply with the restrictions
7 for regular cigarette companies. Teens are a highly sought-after market for cigarette companies
8 because they are most susceptible nicotine addiction and are more likely to become customers for
9 life.

10 3. The JUUL device heats a nicotine filled liquid, delivered via JUULpods™ which
11 are sold separately from the device. JUULpods come in kid-friendly flavors like mango, cool
12 mint, fruit, and crème brûlée, each delivering a powerful potent dose of nicotine and other toxic
13 chemicals into the lungs, body, and brain of the JUULer.

14 4. JUUL was designed for teenagers. It does not look, smell, or taste like a regular
15 cigarette. When the JUULer exhales, a sweet-smelling vapor lingers for only a few seconds
16 before dissipating, unlike the thick stench of traditional cigarette smoke. It is a small, trendy,
17 high-tech device that looks like a USB drive. It comes in various colors and styles, and
18 Defendant's viral marketing campaigns use young models to make the products look cool and
19 stylish to young consumers.

20 5. JUUL is easily concealable from parents and teachers that can be used practically
21 anywhere. Unlike traditional cigarettes, the scent does not linger on the body or in the breath of
22 the user, making it undetectable after use. Googling "hiding JUUL in school" or "how to ghost
23 rip JUUL" returns hundreds of videos on how to JUUL anywhere without detection.

24 6. Defendant designed JUUL to addict young people to nicotine. Nicotine is one of
25 the most addictive chemicals in the world. By studying cigarette industry archives, Defendant
26 learned how to manipulate the nicotine in its products to maximize addictiveness, particularly
27 among new users and young people, and thereby increase sales. Defendant designed its products
28 to minimize the discomfort of traditional cigarettes by creating a product that does have a "throat

1 hit" or irritation that would serve as a natural deterrent to new users. The sole purpose of this
2 design element was to initiate new smokers, since those who already smoke cigarettes are tolerant
3 to the throat hit sensation and associate it with smoking and nicotine satisfaction. At the same
4 time, Defendant designed its device to deliver substantially higher concentrations of nicotine per
5 puff than traditional cigarettes and most other e-cigarettes. This combination of comfortable
6 inhalation and high nicotine delivery makes JUUL both powerfully addictive and dangerous.

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

10 8. Nicotine addiction causes repeated exposure to the toxins and aerosols contained
11 in JUUL's vapor.

12 9. Several studies, including one recently released by the American Stroke
13 Association, have shown that e-cigarettes increase the risk of stroke, heart attack, and coronary
14 artery disease.¹

15 10. Other studies have shown that e-cigarettes containing nicotine significantly
16 increase blood pressure, heart rate, and arterial stiffness, and can also cause vascular damage,
17 which can lead to strokes and other cardiovascular injuries. These studies build on the well-
18 established research that nicotine increases blood pressure.

19 11. E-cigarette vapor smoke contains substantial levels of fine particles which have
20 been previously linked to cigarette smoke and air pollution. Clinical studies have shown e-
21 cigarette use causes inflammation and increased airway resistance, often at levels similar to
22 effects of cigarette smoking. Studies have also found indicators of oxidative stress from e-
23 cigarette use and have found that e-cigarette vapor produces inflammatory responses and
24 increased susceptibility to infection.

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28 ¹ Press Release, American Stroke Association, E-cigarettes Linked to Higher Risk of Stroke, Heart Attack, Diseased
Arteries, (Jan. 30, 2019).

1 12. Studies have shown associations between e-cigarette use and respiratory use as
2 well as increased prevalence and severity of symptoms in asthma among adolescents.

3 13. The United States Surgeon General has concluded that e-cigarettes, including
4 JUUL, are not safe for anyone under age 26.² Despite this, Defendant targeted its marketing
5 towards young people.

6 14. By following the guidance and methods of the cigarette industry, while
7 circumventing all regulations, Defendant marketed and promoted its highly addictive product
8 through social media and other platforms to capture the lucrative youth market. Defendant
9 profited from a product that would create a long-term nicotine addiction without warning teens
10 about risks of addiction, stoke, and other life-altering injuries. Defendant targeted, preyed and
11 exploited teenagers' vulnerability by creating an extremely dangerous product and advertising it
12 as cool, fun, and safe.

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

19 16. JUUL created an epidemic. According to Alex Azar, the Secretary of the U.S.
20 Department of Health and Human Services, "We have never seen use of any substance by
21 America 's young people rise as rapidly as e-cigarette use is rising."³ Defendant's conduct has
22 led to a surge in teen e-cigarette use, creating the "largest ever recorded [increase in substance
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27 ² U.S. Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health,
<https://e-cigarettes.surgeongeneral.gov/> (last visited August 5, 2019).

28 ³ Press Release, Office of U.S. Surgeon General Vice Adm., Surgeon General Releases Advisory on E-Cigarette
Epidemic Among Youth (Dec. 18, 2018.)

1 abuse] in the past 43 years for any adolescent substance use outcome in the U.S."⁴ In a mere two
2 years, Defendant undid more than a decade of progress in reducing teen smoking, thereby
3 increasing use among teenagers to levels not seen since the early 2000s. Wakefield was a target
4 and victim of Defendant's conduct.

5 **II. PARTIES**

6 17. Plaintiff Lisa Marie Vail, individually and on behalf of the Estate of Daniel David
7 Wakefield, deceased, is the natural mother of Daniel David Wakefield. Plaintiff is an adult citizen
8 of the State of Florida, residing at 3248 Broken Bow Drive, Land O Lakes, Florida 34639.

9 18. Defendant JUUL Labs, Inc. ("JUUL") is incorporated in Delaware with its
10 principal place of business in San Francisco, California. Prior to 2017, JUUL was known as PAX
11 Labs, Inc.

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

14 20. JUUL ratified each and every act or omission alleged herein in proximately causing
15 the injures and damages incurred by Wakefield and Plaintiff.

16 21. Upon information and belief, DOES 1-10 are individuals and corporations with
17 their primary place of business or residence in California, or who directed their activities towards
18 the State of California and/or have minimum contacts with the State.

19 22. Upon information and belief, DOES 1-10 provided scientific research and
20 development services to JUUL, in support of JUUL's manufacture, design, sale, marketing,
21 promotion, and distribution of JUUL e-cigarettes.

22 23. Upon information and belief, DOES 11-20 are individuals and corporations with
23 their primary place of business or residence in California, or who directed their activities towards
24 the State of California and/or have minimum contacts with the State.

25 24. Upon information and belief, DOES 11-20 provided marketing services, including
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28 ⁴ Salynn Boyles, *Surgeon General Calls for New E-Cig Restrictions* (Dec. 18, 2018),
<https://www.medpagetoday.com/primarycare/smoking/77000>.

1 but not limited to market analyses; advertising design, marketing, tools, techniques, and strategies;
2 data on potential target demographics; and other services in support of JUUL's manufacture,
3 design, sale, marketing, promotion, and distribution of JUUL e-cigarettes.

4 25. Upon information and belief, DOES 21-30 are individuals and corporations with
5 their primary place of business or residence in California, or who directed their activities towards
6 the State of California and/or have minimum contacts with the State.

7 26. Upon information and belief, DOES 21-30 are members of the e-cigarette industry
8 that conspired with JUUL to fraudulently conceal and downplay the risks of e-cigarettes, engage
9 in a campaign of doubt, confusion, and misrepresentation, and overstated the benefits of e-
10 cigarettes and nicotine.

11 27. Plaintiff is informed and believes and on that basis alleges that each defendant
12 named herein as DOES 1-30 are those persons, corporations, other legal entities, and/or successor-
13 in-interest of any of those entities described above whose wrongful conduct caused or contributed
14 to cause the harms, injuries, and damages to Plaintiff.

15 **III. JURISDICTION AND VENUE**

16 28. Defendant at all material times hereto was in the business of manufacturing,
17 designing, testing, assembling, supplying, selling, importing, and distributing the JUUL e-
18 cigarette device and JUULpods (hereinafter "JUUL PRODUCTS") that are the subject of this
19 lawsuit.

20 29. Plaintiff brings her complaint under federal diversity jurisdiction pursuant to 28
21 U.S.C. 1332. There is complete diversity between all parties. Defendant is a Delaware
22 corporation with its principal place of business in San Francisco, California. Plaintiff is a Florida
23 resident. The amount in controversy exceeds \$75,000.

24 30. Venue is proper in this Court because Defendant's principal place of business is
25 in the City and County of San Francisco, and much of the wrongful conduct alleged herein took
26 place in this City and County.

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1 IV. FACTUAL ALLEGATIONS

2 31. JUUL e-cigarettes are small, USB shaped devices. Flavored JUULpods are
3 inserted into the JUUL and contains the “e-liquid” that is vaporized, or vaped.

4 **A. JUUL PRODUCTS are Highly Addictive and Unsafe for Individuals Under 26 Years**
5 **Old; However, they are Designed and Marketed Specifically to Entice Teenage Users,**
6 **Fostering a New Nicotine-Dependent Generation.**

7 32. In 1988, the United States Surgeon General released a report that stated (1)
8 cigarettes and other forms of tobacco are addictive; (2) nicotine is the drug in tobacco that causes
9 addiction; and (3) the physiological and behavioral processes that determine tobacco addiction
10 are similar to those that determine heroin and cocaine addiction.⁵

11 33. The human brain is not fully developed until age 26. Nicotine from e-cigarettes,
12 like JUUL PRODUCTS, can lead to addiction, harm to brain development, and change the way
13 brain functions in users under the age of 26.⁶

14 34. Nicotine is associated with and cardiovascular, reproductive, immune, and
15 pulmonary problems.

16 35. One JUUL pod contains at least as much nicotine as a pack of cigarettes, or 20
17 cigarettes.⁷

18 36. E-cigarettes significantly increase the risk of high blood pressure, arterial stiffness,
19 stroke, and heart attack.

20 37. E-cigarette vapor smoke contains substantial levels of fine particles previously
21 implicated in pulmonary diseases. The e-cigarette vapor smoke produces oxidative stress and
22 inflammation in airways and increases risk of pulmonary disease. Studies have found a
23 significant increase in the prevalence of asthma in adolescent e-cigarette users.

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26 ⁵ Neal L. Benowitz, *Pharmacology of Nicotine: Addiction, Smoking-Induced Disease, and Therapeutics*, 49
27 ANNUAL REVIEW OF PHARMACOLOGY AND TOXICOLOGY 57 (2009).

28 ⁶ U.S Surgeon General and the U.S. Centers for Disease Control and Prevention, Office on Smoking and Health,
<https://e-cigarettes.surgeongeneral.gov/> (last visited August 5, 2019).

⁷<https://truthinitiative.org/research-resources/emerging-tobacco-products/6-important-facts-about-juul>

1 38. Other studies have also found high prevalence of respiratory symptoms,
2 particularly asthma, in adolescents who use e-cigarettes.

3 39. Nicotine affects neurological development in adolescents, and exposure to
4 nicotine during adolescence produces an increased vulnerability to nicotine addiction.⁸
5 Adolescent nicotine addiction causes “substantial neural remodeling,” including those parts of the
6 brain governed by dopamine or acetylcholine, which play central roles in reward functioning and
7 cognitive function. Adolescent smokers are found to have weakened neural responses including
8 “diminished sensitivity to non-drug rewards.”⁹ This effect becomes even more severe in
9 adolescents who smoke more than 5 cigarettes, or a quarter of a JUUL pod, per day.

10 40. Other brain changes from nicotine include increased sensitivity to other drugs and
11 heightened impulsivity. “Brain imaging on adolescents suggest that those who begin smoking
12 regularly at a young age have markedly reduced activity in the prefrontal cortex and perform less
13 well on tasks related to memory and attention compared to people who don’t smoke.”¹⁰

14 41. According to the National Institutes of Health, the “amount and speed of nicotine
15 delivery plays a critical role in the potential for abuse of tobacco products.”¹¹ The cigarette
16 industry has long known that “nicotine is the addicting agent in cigarettes”¹² and that “nicotine
17 satisfaction is the dominant desire” of nicotine addicts.¹³

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21 ⁸ Mariam Arain *et al.*, *Maturation of The Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE AND TREATMENT
449 (2013).

22 ⁹ *Id.*

23 ¹⁰ Erin Brodwin, *An E-Cigarette with Twice the Nicotine of Comparable Devices is Taking Over High Schools -
and Scientists are Sounding the Alarm*, Business Insider (April 30, 2018), [https://www.businessinsider.com/juul-
e-cig-vaping-health-effects-2018-3](https://www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3).

24 ¹¹ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, HOW TOBACCO SMOKE CAUSES DISEASE: THE BIOLOGY AND
BEHAVIORAL BASIS FOR SMOKING ATTRIBUTABLE TO DISEASE (2010),
25 <https://www.ncbi.nlm.nih.gov/books/NBK53018/>.

26 ¹² *Tobacco Industry Quotes on Nicotine Addiction*, OK.GOV,
<https://www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf> (last
visited August 5, 2019).

27 ¹³ *Id.*; John Schwartz, *1973 Cigarette Company Memo Proposed New Brands For Teens*,
WASHINGTONPOST.COM (October 4, 1995) [https://www.washingtonpost.com/archive/local/1995/10/04/1973-
cigarette-company-memo-proposed-new-brands-for-teens/eaf66416-3939-4c5f-9fbf-
1db1897673ab/?noredirect=on&utm_term=.d4d274af09a2](https://www.washingtonpost.com/archive/local/1995/10/04/1973-cigarette-company-memo-proposed-new-brands-for-teens/eaf66416-3939-4c5f-9fbf-1db1897673ab/?noredirect=on&utm_term=.d4d274af09a2).

1 42. In U.S. patent No. 9,215,895 ("the '895 patent"), Defendant describes a process for
2 combining benzoic acids with nicotine to produce nicotine salts, a formulation that mimics the
3 nicotine salt additive developed by RJ Reynolds decades earlier.

4 43. In a 2015 interview, Ari Atkins, Defendant's research & development engineer
5 and one of the inventors of the JUUL device, said this about the role of acids: "In the tobacco
6 plant, there are these organic acids that naturally occur. And they help stabilize the nicotine in
7 such a way that makes it, I've got to choose the words carefully here: Appropriate for inhalation."

8 44. In creating JUUL PRODUCTS, Defendant lowers the pH of nicotine, which
9 prevents the harsh throat irritation usually associated with cigarettes. This reduction in pH
10 converts naturally occurring nicotine, which causes irritation in the throat and respiratory tract,
11 into salt nicotine.¹⁴

12 45. A recent study found that Defendant's e-liquid had a pH of under 6.0, suggesting
13 that the JUUL contains almost no freebase (non-salt) nicotine.¹⁵

14 46. High overall nicotine levels and low freebase nicotine levels allow JUUL users to
15 vape aerosols with minimal harshness when they inhale.¹⁶ The study concluded "[t]his may well
16 contribute to the current prevalence of JUUL products among youth."¹⁷

17 47. Similarly, a recent study of JUULpods found that "[t]he nicotine levels delivered
18 by the JUUL are similar to or even higher than those delivered by cigarettes."¹⁸ JUUL delivers
19 up to 36% more nicotine per puff than a Marlboro.¹⁹

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23 ¹⁴ Anna K. Duell, *et al.*, *Free Base Nicotine Determinations in Electronic Cigarette Liquids by ¹H NMR Spectroscopy*,
31(6) CHEM. RES. TOXICAL 431 (2018).

24 ¹⁵ *Id.*

25 ¹⁶ *Id.*

26 ¹⁷ *Id.*

27 ¹⁸ Samantha M. Reilly *et al.*, *Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic*
28 *Cigarettes*, NICOTINE AND TOBACCO RESEARCH, (October 20, 2018),
<https://www.ncbi.nlm.nih.gov/pubmed/30346584>.

¹⁹ *E-Cigarettes*, EC.EUROPA.EDU, https://ec.europa.eu/health/sites/health/files/tobacco/docs/fs_ecigarettes_en.pdf
(last visited August 5, 2019); Ronny Linder, *JUUL Warns it Will Fight Israel Over Potential Ban on Its E-*
cigarettes, HAARETZ.COM (June 3, 2018 9:52 p.m.), [https://www.haaretz.com/israel-news/business/juul-warns-](https://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058)
[it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058](https://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058).

1 48. Because “nicotine yield is strongly correlated with tobacco consumption,”²⁰ a
2 JUUL pod with its greater absorbable nicotine will strongly correlate with higher rates of
3 consumption of JUULpods, generating more revenue for JUUL.

4 49. The high nicotine levels found in JUUL PRODUCTS create a greater addiction
5 potential than traditional cigarettes.²¹

6 50. JUUL PRODUCTS amplify the health risks associated with nicotine consumption
7 because their users receive a far more potent dose than if they smoked a traditional cigarette.

8 51. The design of JUUL PRODUCTS allow them to be consumed anywhere.
9 Therefore, the traditional “smoke breaks” do not apply. Since a JUUL pod contains about 20
10 cigarettes and has no automatic off switch, JUUL users can inhale JUUL PRODUCTS regularly
11 without having to relight or grab another cigarette. Also, unlike cigarettes that have a definite
12 and natural stopping point, JUUL only stops when the device runs out of battery or the pod runs
13 out of liquid. This leads JUUL users to have less awareness of their total nicotine consumption
14 and a greater amount of nicotine consumed.

15 52. The amount of 12th grade students who reported vaping nicotine nearly doubled
16 from 11 to 21 percent in 2018.

17 53. Sixty-three percent of JUUL users did not know JUULpods **always contain**
18 nicotine.

19 **B. Defendant’s Teen-Focused Business and Advertising Model is Derived from Tobacco
20 Giant, Philip Morris, Who Owns a 35 Percent Share of JUUL.**

21 54. In December 2018, Altria, the parent company of Philip Morris, purchased a 35
22 percent share of Defendant JUUL Labs, Inc. for 12.8 billion dollars.²²

23 55. In 1998, the Tobacco Master Settlement Agreement prevented Tobacco companies
24 from (1) using outdoor advertising such as billboards; (2) sponsoring events; (3) giving free
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26 ²⁰ Martin J. Jarvis *et al.*, *Nicotine Yield From Machine Smoked Cigarettes and Nicotine Intakes in*
27 *Smokers: Evidence From a Representative Population Survey*, 93-2 JOURNAL OF NATIONAL CANCER INSTITUTE
134 (2001).

²¹ Reilly, *supra* note 18.

28 ²² Laural Wamsley, *Altria Buys 35 Percent stake in E-Cigarette Maker Juul*, NPR.ORG (December 20, 2018 6:18 p.m.)
<https://www.npr.org/2018/12/20/678915071/altria-buys-35-percent-stake-in-e-cigarette-maker-juul>

1 samples; (4) paying any person “to use, display, may reference to or use as a prop any Tobacco
2 Products, Tobacco Product package...in any ‘media’ which includes any motion picture,
3 television show, theatrical production or other live performance, and any commercial film or
4 video;” and (5) paying any third party to conduct any activity which the tobacco manufacturer is
5 prohibit from doing.

6 56. In 2015, Defendant launched its “Vaporized” campaign with a 12-panel billboard
7 display over Times Square.²³

8 57. In launching JUUL PRODUCTS, Defendant held at least 25 youth oriented JUUL
9 sampling events in major cities such as New York and Las Vegas, whose central purpose was to
10 distribute free samples of JUUL PRODUCTS to a youth audience.

11 58. Defendant “deployed a sophisticated program to enter schools and convey its
12 messages directly to teenage children” by offering \$10,000 to schools nationwide for the right to
13 talk to students in classrooms or after school.²⁴

14 59. Defendant paid a Baltimore charter school organization \$135,000 to set up a five-
15 week wellness camp for kids.²⁵

16 60. Defendant has opened pop up “JUUL bars” in Los Angeles, New York, and the
17 Hamptons, imitating trendy pop-up shops and restaurants that attract young consumers.²⁶

18 61. Defendant specifically advertised JUUL PRODUCTS to impressionable teens by
19 spending more than \$200,000 on online “influencers,” including celebrity chefs to provide pod
20 “pairing” suggestions.²⁷

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23 ²³ Robert K. Jackler, *et al.*, *Juul Advertising Over it First Three Years on the Market*, STANFORD RESEARCH INTO THE
24 IMPACT OF TOBACCO ADVERTISING (January 31, 2019), http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf (last visited August 5, 2019).

25 ²⁴ Sheila Kaplan, *Juul Targeted Schools and Youth Camps, House Panel on Vaping Claims*, THE NEW YORK TIMES
(July 25, 2019) <https://www.nytimes.com/2019/07/25/health/juul-teens-vaping.html>

26 ²⁵ *Id.*

27 ²⁶ Kathleen Chaykowski, *The Disturbing Focus of Juul’s Early Marketing Campaigns*, FORBES (Nov. 16, 2018 2:38
28 p.m), <https://www.forbes.com/sites/kathleenchaykowski/2018/11/16/the-disturbing-focus-of-juuls-early-marketing-campaigns/#244eed1214f9>

²⁷ Letter from Raja Krishnamoorthi, Chairman for Subcommittee of Economic and Consumer Policy, to Kevin Burns, CEO of JUUL Labs, Inc. (June 7, 2019) (on file with United States House of Representatives Committee on Oversight and Reform).

1 62. Between 2015 and 2018, Defendant sent at least 200 promotional emails to
2 customers and potential customers, regardless of age. These emails included coupons for the
3 “starter kit” and a “refer a smoker” program.

4 63. Defendant’s emails also included surveys consumers could take in exchange for
5 compensation, regardless of age. In some cases, Defendant paid customers up to \$30 to complete
6 those surveys.

7 64. In 2006, the United States District Court for the District of Columbia issued a
8 decision in *United States v. Philip Morris USA, Inc.*, after the federal government alleged big
9 tobacco violated and continued to violate the Racketeer Influenced and Corrupt Organization Act
10 (“RICO”) through its decades-long targeting of adolescents by using peer marketing, images and
11 themes that appealed to teens, and promotional materials that would specifically reach them. The
12 court found “overwhelming” evidence that tobacco companies intentionally exploited adolescents’
13 vulnerability to imagery by creating and advertising themes of independence, adventurousness,
14 sophistication, glamour, athleticism, social inclusion, sexual attractiveness, thinness, popularity,
15 rebelliousness, and being “cool.” *United States v. Philip Morris USA, Inc.*, 449 F. Supp. 2d 1,
16 571 (D.D.C. 2006).

17 65. JUUL’s “Vaporized” campaign promoted JUUL products to teens in a strikingly
18 similar fashion, using young, trendy models and bold colors, and showing JUUL products as
19 being an essential part of a young, fun, and cool lifestyle.²⁸

20 66. Defendant’s print advertisements continued the themes of the “Vaporized”
21 campaign by showing young, attractive, trendy models having fun by “juuling.” These
22 advertisements preyed on teenage vulnerability by making it seem like “juuling” would make
23 someone attractive, popular, independent, fun, and cool.

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28 ²⁸ Declan Harty, *Juul Hopes to Reinvent E-cigarette Ads with ‘Vaporized’ Campaign*, ADAGE (June 23, 2015),
<https://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142>

1 67. Defendant primarily advertised through social media. It hired social media
2 “influencers”²⁹ to promote JUUL PRODUCTS and to influence teens to use them. Up until 2018,
3 Defendant called for “influencers”³⁰ with a “join the JUUL influencers” link on its website.
4 Applicants were required to disclose their Instagram, Twitter, blog, and Facebook profiles for
5 Defendant to assess if they could successfully reach the target teen market.

6 68. These “influencers” delivered the JUUL message to hundreds of thousands of
7 teens.

8 69. Defendant used hashtags to reach the teen market, including, but not limited to,
9 #JUUL, #JUULnation, #Mango, and #Coolmint. Additionally, Defendant allowed other accounts
10 like @JUULnation to post tips and videos about “juuling,” including how to “juul in school.”

11 70. As of August 1, 2018, #juul has over 552,000 posts, #juulnation has over 57,200
12 posts, and #juulvapor has over 48,500 posts on Instagram.

13 71. In 2009, the FDA banned flavored cigarettes because “flavored cigarettes are a
14 gateway for many children and young adults to become regular smokers.”³¹

15 72. According to a recent study, 74 percent of teens indicated the first JUUL product
16 they used was a flavored pod. Additionally, more than half of teens stated that they use e-
17 cigarettes, such as JUUL, because they like the flavors.

18 73. A 2018 study found JUUL’s “cool mint” pod had nearly double the amount of
19 nicotine than the 5% strength label indicates.³²

20 74. Defendant had an advertising campaign titled “Save Room for JUUL” that
21 included tag lines like “indulge in dessert without the spoon” and “have a sweet tooth, try brulee”
22 (referencing the crème brûlée flavor).

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25 ²⁹ An “influencer” on social media is a person who has garnered hundreds of thousands to millions of followers to
whom they can market and promote products often in partnership with companies like JUUL.

26 ³¹Gardiner Harris, *Flavors Banned From Cigarettes to Deter Youth*, THE NEW YORK TIMES (Sept. 22, 2009)
27 <https://www.nytimes.com/2009/09/23/health/policy/23fda.html>

28 ³² See Duell et al., *Free-Base Nicotine Determination in Electronic Cigarette Liquids by tH NMR Spectroscopy* (Jun
18, 2018) 31 *Chern. Res. Toxicol.* 431-434, www.ncbi.nlm.nih.gov/pmc/articles/PMC6008736/ (as of August 19,
2019).

1 75. In 2017, Defendant advertised their “cool mint” by encouraging consumers to
2 “start your week with cool mint juul pods,” and to “beat the august heat with cool mint.”

3 76. In 2018, Defendant announced it had stopped accepting retail orders for many
4 flavored JUULpods. However, the flavored pods are still available on Defendant’s website. Also,
5 the “cool mint” flavor is still available in stores.³³

6 **C. The Effects of Nicotine on Adolescents**

7 77. Leading health authorities support two major conclusions from a 1998 report issued
8 by the Surgeon General of the United States regarding nicotine and tobacco: (i) Nicotine is the
9 drug in tobacco that causes addiction, and (2) the physiological and behavioral processes that
10 determine tobacco addiction are similar to those that determine heroin and cocaine addiction.

11 78. The human brain is not fully developed until age 25. Nicotine from e-cigarettes,
12 like JUUL, can lead to addiction, harm to brain development, and change the way brain functions
13 in users under the age of 26 as supported by the Surgeon General’s opinion.³⁴

14 79. Nicotine fosters addiction through the brain’s “reward” pathway. Nicotine, both a
15 stimulant and a relaxant, affects the central nervous system; increases blood pressure, pulse, and
16 metabolic rate; constricts blood vessels of the hair and skin; and causes muscle relaxation.

17 80. When nicotine is inhaled, it enters the bloodstream through membranes in the
18 mouth and upper respiratory tract through the lungs. Once in the bloodstream, nicotine reaches
19 the brain, binds to receptors, and triggers a series of physiologic effects in the user that are
20 perceived as a “buzz” or “high” that can induce happiness, arousal, and reduction of stress and
21 anxiety. These effects are caused by the release of dopamine, acetylcholine, epinephrine,
22 norepinephrine, vasopressin, serotonin, and beta endorphin. With regular nicotine use, these
23 feelings diminish over time and the user must consume increasingly larger amounts of nicotine to
24 achieve the same pleasurable effect.

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26
27 ³³ Kaplan, *supra* note 24.

28 ³⁴ Neal L. Benowitz, *Pharmacology of Nicotine: Addiction, Smoking-Induced Disease, and Therapeutics*, 49
ANNUAL REVIEW OF PHARMACOLOGY AND TOXICOLOGY 57 (2009).

1 81. The neurological changes caused by nicotine lead to addiction. Repeat exposure to
2 nicotine causes neurons in the brain to adapt to the action of the drug and return brain function
3 back to normal. This process, called neuroadaptation, leads to increasing tolerance of nicotine,
4 whereby a given level of nicotine begins to have less of an effect on the user.

5 82. Once the brain is addicted to nicotine, the absence of it causes compulsive, drug-
6 seeking behavior. It also causes withdrawal symptoms, which include but are not limited to
7 suicidal ideation, anxiety, depression, irritability, mood swings, stress, difficulty concentrating,
8 restlessness, headaches, insomnia, heart palpitations, and tremors.

9 83. The aforementioned effects of nicotine are particularly pronounced amongst
10 adolescents, whose brains are still developing.³⁵

11 84. Nicotine affects neurological development in adolescents, and exposure to nicotine
12 during adolescence produces an increased vulnerability to nicotine addiction.³⁶

13 85. Adolescent nicotine addiction causes “substantial neural remodeling,” including
14 those parts of the brain governed by dopamine or acetylcholine, which play central roles in reward
15 functioning and cognitive function. Adolescent smokers are found to have weakened neural
16 responses including “diminished sensitivity to non-drug rewards.”³⁷ This effect becomes even
17 more severe in adolescents who smoke more than 5 cigarettes, or a quarter of a JUUL pod, per day.

18 86. Other brain changes from nicotine include increased sensitivity to other drugs and
19 heightened impulsivity. “Brain imaging on adolescents suggest that those who begin smoking
20 regularly at a young age have markedly reduced activity in the prefrontal cortex and perform less
21 well on tasks related to memory and attention compared to people who don’t smoke.”³⁸

22 87. One JUUL pod contains approximately 200 puffs, which delivers nearly as much
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25 ³⁵ Mariam Arain *et al.*, *Maturation of The Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE AND TREATMENT
26 449 (2013).

27 ³⁶ *Id.*

28 ³⁷ *Id.*

³⁸ Erin Brodwin, *An E-Cigarette with Twice the Nicotine of Comparable Devices is Taking Over High Schools - and Scientists are Sounding the Alarm*, Business Insider (April 30, 2018), <https://www.businessinsider.com/juul-e-cig-vaping-health-effects-2018-3>

1 nicotine as a pack of cigarettes, according to the product website. Thus, if a teen consumes one
 2 pod a week, in five weeks, it is equivalent to about 100 cigarettes (5 packs of cigarettes). This
 3 makes the teen equivalent to an established smoker.³⁹

4 88. Because adolescent brains are still developing, youth and young adults are uniquely
 5 at risk for long-term, long-lasting effects of nicotine exposure, including addiction, mood disorders,
 6 permanent lowering of impulse control, and changes in brain synapses which harm the parts of the
 7 brain that control attention and learning.⁴⁰

8 89. Adolescents develop nicotine dependence and addiction at a faster rate than adults,
 9 find nicotine more rewarding, underestimate the risks of smoking, and are more influenced by
 10 social smoking behaviors of persons in their age group.⁴¹

11 **D. JUUL's Nicotine Warning Fails to Disclose Its Highly Addictive Nature**

12 90. According to the National Institutes of Health, the "amount and speed of nicotine
 13 delivery plays a critical role in the potential for abuse of tobacco products."⁴² The cigarette
 14 industry has long known that "nicotine is the addicting agent in cigarettes"⁴³ and that "nicotine
 15 satisfaction is the dominant desire" of nicotine addicts.⁴⁴

16 91. In U.S. patent No. 9,215,895 ("the '895 patent"), JUUL describes a process for
 17 combining benzoic acids with nicotine to produce nicotine salts, a formulation that mimics the

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 21 ³⁹ Ana B. Ibarra et al., *The Juul's So Cool, Kids Smoke It In School*, WASH. POST (Mar. 26, 2018), available at
https://www.washingtonpost.com/national/health-science/the-juuls-so-cool-kids-smoke-it-in-school/2018/03/26/32bb7d80-30d6-11e8-b6bd-0084a1666987_story.html?utm_term=.d664213cde10.

22 ⁴⁰ Know the Risks; E-Cigarettes and Brain Development, <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>.

23 ⁴¹ Goriounova NA, Mansvelder HD. Short- and long-term consequences of nicotine exposure during adolescence for
 prefrontal cortex neuronal network function. *Cold Spring Harb Perspect Med.* (Dec. 2012).

24 ⁴² U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, HOW TOBACCO SMOKE CAUSES DISEASE: THE BIOLOGY AND
 BEHAVIORAL BASIS FOR SMOKING ATTRIBUTABLE TO DISEASE (2010)
<https://www.ncbi.nlm.nih.gov/books/NBK53018/>

25 ⁴³ *Tobacco Industry Quotes on Nicotine Addiction*, OK.GOV,
 26 <https://www.ok.gov/okswat/documents/Tobacco%20Industry%20Quotes%20on%20Nicotine%20Addiction.pdf> (last
 visited August 5, 2019).

27 ⁴⁴ *Id.*; John Schwartz, *1973 Cigarette Company Memo Proposed New Brands For Teens*,
 28 WASHINGTONPOST.COM (October 4, 1995) https://www.washingtonpost.com/archive/local/1995/10/04/1973-cigarette-company-memo-proposed-new-brands-for-teens/eaf66416-3939-4c5f-9fbf-1db1897673ab/?noredirect=on&utm_term=.d4d274af09a2.

1 nicotine salt additive developed by RJ Reynolds decades earlier.

2 92. The JUUL patent included a blood plasma study comparing the pharmacokinetic
3 effects of nicotine benzoate through an e-cigarette as compared to nicotine through a Pall Mall
4 traditional cigarette.

5 93. The study revealed that ingesting nicotine benzoate through an e-cigarette
6 substantially increases nicotine delivery as compared to a traditional cigarette, *i.e.* that the e-
7 cigarette delivered higher amounts of nicotine than a traditional combustible cigarette.

8 94. JUUL is delivering doses of nicotine that are several times higher than those
9 allowed in normal cigarettes. Blood test results in JUUL's 2014 patent application show that
10 JUUL's nicotine solution delivers more nicotine to the bloodstream than a Pall Mall cigarette,
11 creates a peak nicotine blood concentration that is 36% higher than a Pall Mall cigarette, and
12 increases the heart rate faster than a Pall Mall cigarette. Yet JUUL has failed to disclose to
13 consumers that its pods nicotine salt formulation delivers an exceptionally potent dose of nicotine.

14 95. In a 2015 interview, Ari Atkins, JUUL's research & development engineer and one
15 of the inventors of the JUUL device, said this about the role of acids: "In the tobacco plant, there
16 are these organic acids that naturally occur. And they help stabilize the nicotine in such a way that
17 makes it, I've got to choose the words carefully here: Appropriate for inhalation."

18 96. JUUL's manipulation of nicotine pH directly affects the palatability of nicotine
19 inhalation by reducing the "throat hit" users experience when vaping. Benzoic acid reduces the pH
20 of solutions of nicotine, an alkali with a pH of 8.0 in its unadulterated, freebase form. This reduction
21 in pH converts naturally occurring unprotonated nicotine, which causes irritation in the throat and
22 respiratory tract, to protonated nicotine, which is not be absorbed in the throat or upper respiratory
23 tract and, therefore, does not irritate the throat. A recent study found that JUUL's e-liquid had a
24 pH of under 6.0, suggesting that the JUUL contains almost no freebase (*i.e.*, non-salt form)
25 nicotine.⁴⁵

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28 ⁴⁵ Lauterbach, One More Time Unprotonated Nicotine in ϵ -Cigarette Aerosols: Is It Really There? (20 18) www.coresta.org/sites/default/files/abstracts/20_18_TSRC83_Lauterbach.pdf (as of July 5, 2019); Other studies have

1 97. JUUL lowers the pH of nicotine, which prevents the harsh throat irritation usually
 2 associated with cigarettes. This reduction in pH converts naturally occurring nicotine, which
 3 causes irritation in the throat and respiratory tract, into salt nicotine.⁴⁶

4 98. A recent study found JUUL's e-liquid had a pH of under 6.0, suggesting JUUL
 5 contains almost no freebase (non-salt) nicotine.⁴⁷

6 99. High overall nicotine levels and low freebase nicotine levels allow JUUL users to
 7 vape aerosols with minimal harshness when they inhale.⁴⁸ The study concluded "[t]his may well
 8 contribute to the current prevalence of JUUL products among youth."⁴⁹

9 100. Similarly, a recent study of JUUL pods found "[t]he nicotine levels delivered by
 10 the JUUL are similar to or even higher than those delivered by cigarettes."⁵⁰ JUUL delivers up to
 11 36% more nicotine per puff than a Marlboro.⁵¹

12 101. Because "nicotine yield is strongly correlated with tobacco consumption," a JUUL
 13 pod with its greater absorbable nicotine will strongly correlate with higher rates of consumption
 14 of JUULpods, generating more revenue for JUUL.

15 102. The high nicotine levels found in JUUL create a greater addiction potential than
 16 traditional cigarettes.

17 103. JUUL PRODUCTS amplify the health risks associated with nicotine consumption
 18 because their users receive a far more potent dose than if they smoked a traditional cigarette.

19
 20
 21 confirmed the low ratio of freebase nicotine in JUUL products. See Duell *et al.*, Free-Base Nicotine Determination in
 22 Electronic Cigarette Liquids by tH NMR Spectroscopy (Jun 18, 2018) 31 *Chern. Res. Toxicol.* 431-434,
www.ncbi.nlm.nih.gov/pmc/articles/PMC6008736/ (as of July 5th, 2019).

23 ⁴⁶ Anna K. Duell, *et al.*, *Free Base Nicotine Determinations in Electronic Cigarette Liquids by H NMR Spectroscopy*,
 31(6) *CHEM. RES. TOXICAL* 431 (2018)

24 ⁴⁷ *Id.*

25 ⁴⁸ *Id.*

26 ⁴⁹ *Id.*

27 ⁵⁰ Samantha M. Reilly *et al.*, *Free Radical, Carbonyl, and Nicotine Levels Produced by JUUL Electronic*
 28 *Cigarettes*, *NICOTINE AND TOBACCO RESEARCH*, (October 20, 2018),
<https://www.ncbi.nlm.nih.gov/pubmed/30346584>

⁵¹ *E-Cigarettes*, *EC.EUROPA.EDU*, https://ec.europa.eu/health/sites/health/files/tobacco/docs/fs_ecigarettes_en.pdf
 (last visited August 5, 2019); Ronny Linder, *JUUL Warns it Will Fight Israel Over Potential Ban on Its E-
 cigarettes*, *HAARETZ.COM* (June 3, 2018 9:52 p.m.), [https://www.haaretz.com/israel-news/business/juul-warns-
 it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058](https://www.haaretz.com/israel-news/business/juul-warns-it-will-fight-israel-over-potential-ban-on-its-e-cigarettes-1.6140058)

1 104. JUUL's design allows them to be consumed anywhere, including indoors.
2 Therefore, the traditional "smoke breaks" do not apply.

3 105. Since a JUUL pod contains approximately 20 cigarettes and has no automatic off
4 switch, JUUL users can inhale JUUL regularly without having to relight or grab another cigarette.

5 106. Unlike combustible cigarettes that have a definite and natural stopping point, JUUL
6 only stops when the device runs out of battery or the pod runs out of liquid. This leads JUUL users
7 to have less awareness of their total nicotine consumption and a greater amount of nicotine
8 consumed.

9 107. The amount of 12th grade students who reported vaping nicotine nearly doubled
10 from 11 to 21 percent in 2018. Sixty-three percent of JUUL users did not know JUUL pods
11 always contain nicotine.

12 108. Despite making numerous revisions to its packaging since 2015, JUUL did not add
13 nicotine warnings to the JUUL device, JUUL pods, or their product labels until very recently when
14 the exterior packaging was changed to add the following language: "Warning: This product
15 contains nicotine. Nicotine is an addictive chemical."

16 109. The exterior packaging also contains, in small print, the phrase "The Alternative
17 for Adult Smokers."

18 110. The recently added warning fails to disclose the highly addictive nature of the
19 product itself, including, *inter alia*, that the JUUL pods' nicotine salt formulation delivers an
20 exceptionally potent dose of nicotine, that JUUL is delivering doses of nicotine that are several
21 times higher than those allowed in normal cigarettes, that the efficiency with which the product
22 delivers nicotine into the bloodstream increases its addictiveness, that it can be more addictive
23 than traditional cigarettes and that it poses serious health risks.

24 111. JUUL never disclosed to consumers that its e-cigarettes and pods are at least as
25 addictive as, if not more addictive than, traditional cigarettes and pose serious health risks.

26 112. Instead, JUUL marketed its products as an "alternative to cigarettes," thereby
27 giving the false impression that they are a healthy alternative to cigarette use.
28

1 113. JUUL’s deceitful advertising campaign has proven successful, as use of JUUL
2 products is widespread, particularly among vulnerable youth.

3 114. JUUL actively concealed the nicotine content and nicotine potency of JUUL e-
4 cigarettes from Wakefield, Plaintiff, and the public while simultaneously disclosing false or
5 misleading evidence concerning nicotine content.

6 115. JUUL concealed material information regarding the effect of JUUL e-cigarettes
7 and made misrepresentations from the time the JUUL e-cigarette was announced to this day.
8 Defendant still has not disclosed the truth about JUUL e-cigarettes.

9 116. JUUL operates an “auto ship” subscription service through its website that allows
10 for the routine shipment of its pods. Every time a subscriber purchases five, four-packs of JUUL
11 pods, the next four-pack is shipped free of charge. This business model plays into the hands of
12 adolescents who often hide their JUUL use from parents and allows for a continuous stream of
13 pods without the need for adult intervention so long as an adolescent has access to a credit card
14 for the initial purchase.

15 **E. Defendant’s Conduct Caused Wakefield’s Death**

16 117. Daniel David Wakefield was an 18-year-old resident of Pasco County, Florida.

17 118. Around age 15, Wakefield was exposed to Defendant’s advertising and
18 promotional efforts via many sources, including social media, peer pressure, online sources, and
19 direct emails.

20 119. Wakefield, a child of parents who smoked combustible cigarettes, was attracted
21 to Defendant’s candy-like flavors, sleek and discreet design, and its representations that it was a
22 healthier alternative to combustible cigarettes. Wakefield did not smoke traditional cigarettes.

23 120. Wakefield tried numerous JUUL flavors and purchased JUULpods from various
24 sources, including convenience stores and online.

25 121. In response to Plaintiff’s concerns regarding the safety of JUUL products,
26 Wakefield informed his mother that he read materials indicating JUUL was safe and did not pose
27 the health risks that accompany combustible cigarettes. He was unaware of its addictive
28 properties and that it was unsafe for anyone under the age of 26.

1 122. Wakefield was an active, healthy teenager who excelled in school before he began
2 using JUUL. He was in the gifted, advanced program from elementary school and into high school.

3 123. Once Wakefield began using JUUL, his interest and performance in school
4 significantly declined and his emotional well-being was substantially altered. Within a few weeks
5 of use, Wakefield became intensely addicted to JUUL. He was no longer interested in academics
6 and decided to abandon school for virtual teaching - and ultimately took his GED - rather than
7 graduating. In addition, he suffered severe mood swings if he did not have access to JUUL.
8 Plaintiff recalled an instance where Wakefield became enraged and threw a mini refrigerator from
9 the top floor of his home because he was angry about not being able to vape.

10 124. Less than a year after he began using JUUL, Wakefield was hospitalized for three
11 days due to breathing and lung complications at Saint Joseph's North Children's Hospital. He
12 was so addicted to JUUL that hospital staff affixed nicotine patches to Wakefield's skin
13 throughout his hospitalization.

14 125. Wakefield continued using JUUL after his release from the hospital. He was
15 regularly inundated with JUUL advertisements and marketing materials via his Gmail account.
16 He was adamant that JUUL was safe and did not pose any health risks.

17 126. On the night of August 30, 2018, Wakefield slept at his father's house. He had
18 spent the day helping his mother move boxes in their home, getting an oil change, and spending
19 time with friends. Plaintiff spoke to Wakefield at approximately 7:00 p.m., at which time
20 Wakefield told his mother he was going to watch television with his friend and dad at his father's
21 house. Plaintiff did not detect any signs of labored breathing or wheezing during their call. At
22 approximately 10:00 p.m., Wakefield texted his mother to let her know he would be spending the
23 night at his father's house.

24 127. At approximately 4:00 a.m., Wakefield's dad went into the kitchen to get a drink
25 of water. He noticed Wakefield looked funny; he touched his son and found him stiff and
26 unresponsive. Wakefield was declared deceased the morning of August 31, 2018. He was 18
27 years old. His death was attributed to breathing complications.

1 128. Wakefield’s death had a devastating impact on Plaintiff. She does not know how
2 to continue on without her son. She has not been able to sleep, has not been able to work, and
3 cries every single day. She is, in her words, “sentenced to a life of sadness.”

4 129. Defendant’s conduct and the defects in JUUL PRODUCTS were a substantial
5 factor in causing Wakefield’s death.

6 **V. CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 **Strict Products Liability – Design Defect – Consumer Expectations Test**

9 **(Against Defendants JUUL and DOES 1 through 30)**

10 130. Plaintiff incorporates the above and below allegations by reference.

11 131. At all relevant times, Defendant JUUL Labs, Inc., aided by DOES 1-30, inclusive,
12 designed, manufactured, marketed, distributed, and/or sold the JUUL PRODUCTS that
13 Wakefield consumed.

14 132. JUUL PRODUCTS were defective in design. They were not as safe for their
15 intended or reasonably foreseeable use as ordinary consumers were led to believe.

16 133. Defendant JUUL Labs, Inc., and DOES 1 through 30, inclusive, had constructive
17 notice of knowledge and knew, or with reasonable care should have known, that JUUL
18 PRODUCTS were dangerous and defective in design due to the high risk of addiction to nicotine.

19 134. Defendant JUUL Labs, Inc., and DOES 1 through 30, inclusive, had constructive
20 notice or knowledge, knew, or with reasonable care should have known, that JUUL PRODUCTS
21 were dangerous and defective in design because delivering potent high doses of nicotine and other
22 toxic chemicals to adolescents could cause addiction, thereby permanently altering the structure
23 of the user’s developing brain, as well as cause harm to the airways, throat, and lungs. Each of
24 these risks can result in catastrophic, life-altering injuries.

25 135. As a result of Defendant JUUL Labs, Inc., and DOES 1 through 30’s conduct,
26 Wakefield suffered death and Plaintiff was severely harmed as described herein.

27 136. The defects in JUUL PRODUCTS were a substantial factor in causing Wakefield’s
28 death and Plaintiff’s harm.

SECOND CAUSE OF ACTION

Strict Products Liability – Design Defect – Risk Utility Test

(Against Defendants JUUL and DOES 1 through 30)

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

138. At all relevant times, Defendant JUUL Labs, Inc., aided by DOES 1 through 30, inclusive, designed, manufactured, marketed, distributed, and/or sold the JUUL PRODUCTS that Wakefield consumed.

139. JUUL PRODUCTS' defective design poses a great risk of harm that outweighs any purported benefits. Defendants JUUL Labs, Inc., and DOES 1 through 30, designed JUUL PRODUCTS to be attractive and palatable to teens and nonsmokers by making JUUL PRODUCTS in youth-friendly colors and pod flavors that minimize the harsh taste and discomfort of traditional smoking. Defendants could have designed the product to appeal to adult smokers over the age of 26 who smoked conventional cigarettes without teen-friendly flavors and colors. Defendants could have designed JUUL PRODUCTS with a significantly lower nicotine concentration that would deliver enough nicotine to satisfy adult consumers, in order to reduce the risks from high exposure to nicotine and repeated exposures to the toxic chemicals in JUUL PRODUCTS.

140. Defendants, and each of them, had constructive notice or knowledge, knew, or should by reasonable case should have known that JUUL PRODUCTS were dangerous and defective in design. Delivering potent high doses of nicotine and other toxic chemicals to adolescents could cause addiction, thereby permanently altering the structure of their developing brains, and causing risk of bodily injury including but not limited to injury to the airway, throat and lungs. Each of these risks can result in catastrophic, life-altering injuries.

141. As a result of the defect in JUUL PRODUCTS, Wakefield suffered death and Plaintiff was harmed as described herein.

142. The defects in JUUL PRODUCTS were a substantial factor in causing Wakefield's death and Plaintiff's harm.

///

THIRD CAUSE OF ACTION

Strict Products Liability – Failure to Warn

(Against Defendants JUUL and DOES 1 through 30)

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2
3
4 143. Plaintiff incorporates the above and below allegations by reference.

5 144. At all relevant times, Defendant JUUL Labs, Inc., aided by DOES 1 through 30,
6 inclusive, designed, manufactured, marketed, distributed, and/or sold the JUUL PRODUCTS that
7 Wakefield consumed.

8 145. The JUUL PRODUCTS that Wakefield consumed had potential risks that were
9 known, or knowable, considering the scientific and medical knowledge regarding nicotine
10 addiction and its consequences that were generally accepted in the scientific community at the
11 time of manufacture, distribution, or sale.

12 146. The potential risks presented a substantial danger when the JUUL PRODUCTS
13 were both used and misused in an intended or reasonably foreseeable way.

14 147. The ordinary consumer of JUUL PRODUCTS would not have recognized the
15 potential risks without any warning from Defendants.

16 148. JUUL PRODUCTS were defective and unreasonably dangerous when they left
17 Defendants' possession. They failed to contain adequate warnings, including that JUUL
18 PRODUCTS are powerfully addictive and unsafe for anyone under 26, that JUUL PRODUCTS
19 may impair learning and cognition, and that JUUL PRODUCTS may cause injury including but
20 not limited to injury to the airway, throat, and lungs, as well as permanent brain changes and
21 mood disorders. Instead, as described herein, Defendants, and each of them, made their products
22 available in youth-friendly colors and flavors. Defendants also designed their products to be more
23 palatable to youth and nonsmokers by minimizing the traditional discomfort associated with
24 smoking and maximizing the level of nicotine that is absorbed by users, making them even more
25 addictive and dangerous.

26 149. JUUL PRODUCTS were defective and unreasonably dangerous when they left
27 Defendants' possession because they lacked sufficient instructions regarding product usage.
28 JUUL PRODUCTS did not include instructions that they should not be used by anyone under age

1 26 and should not be used concurrently with cigarettes. JUUL PRODUCTS failed to provide
2 instructions regarding how many pods are safe to consume in one day.

3 150. Defendants, and each of them, had constructive notice or knowledge, knew, or
4 with reasonable care should have known that JUUL PRODUCTS were dangerous and defective
5 without adequate warnings or instructions because delivering potent high doses of nicotine and
6 other toxic chemicals to adolescents could lead cause addiction, thereby permanently altering the
7 structure of their developing brain, and that they could cause other physical injury including but
8 not limited to injury to the airway, throat, and lungs. Each of these risks can result in catastrophic,
9 life-altering injuries.

10 151. Defendants, and each of them, failed to adequately warn or instruct concerning the
11 potential risks of the JUUL PRODUCTS.

12 152. As a result of Defendants' conduct, Wakefield suffered death and Plaintiff was
13 severely harmed.

14 153. The lack of sufficient instructions and warnings was a substantial factor in causing
15 Wakefield's death and Plaintiff's harm.

16 **FOURTH CAUSE OF ACTION**

17 **Negligence and/or Gross Negligence**

18 **(Against Defendants JUUL and DOES 1-30)**

19 154. Plaintiff incorporates the above and below allegations by reference.

20 155. Defendants, and each of them, designed, produced, manufactured, assembled,
21 packaged, labeled, advertised, promoted, marketed, sold, supplied and/or otherwise placed JUUL
22 PRODUCTS into the stream of commerce, and therefore owed a duty of reasonable care to avoid
23 causing harm to those who consumed it, such as Wakefield.

24 156. Defendants' products could endanger others if negligently made or promoted.
25 Defendants knew the risks that young people would be attracted to JUUL PRODUCTS given the
26 teen-friendly colors and flavors. Defendants knew or should have known the importance of
27 ensuring that the products were not sold and/or distributed to anyone under age 26.

1 157. Defendants were negligent in designing, manufacturing, supplying, inspecting,
2 testing (or not testing), marketing, promoting, advertising, packaging, and/or labeling JUUL
3 PRODUCTS.

4 158. Defendants knew or should have known that JUUL PRODUCTS, as a powerfully
5 addictive and dangerous nicotine-delivery device, needed to be researched, tested, designed,
6 advertised, marketed, promoted, produced, packaged, labeled, manufactured, inspected, sold, and
7 supplied without defects and with due care to avoid needlessly causing harm. Defendants knew
8 or should have known that JUUL PRODUCTS could cause serious risk of harm, particularly to
9 young persons like Wakefield.

10 159. Defendant JUUL Labs, Inc., and/or its predecessor(s)-in-interest, along with
11 Defendants DOES 1 through 30, were negligent, reckless and careless and failed to take the care
12 and duty owed to Wakefield, thereby causing Wakefield to suffer death and Plaintiff to suffer
13 harm.

14 160. The negligence and extreme carelessness of Defendants and/or their
15 predecessor(s)-in-interest includes, but is not limited to, the following:

- 16 a. Failure to take reasonable care in the design of JUUL PRODUCTS;
- 17 b. Failure to use reasonable care in the production of JUUL PRODUCTS;
- 18 c. Failure to use reasonable care in the manufacture of JUUL PRODUCTS;
- 19 d. Failure to use reasonable care in the assembly of JUUL PRODUCTS;
- 20 e. Failure to perform adequate testing of JUUL PRODUCTS prior to
21 marketing to ensure safety, including long-term testing of the products,
22 testing for injury to the brain, respiratory, and cardiovascular systems, and
23 testing for other related medical conditions;
- 24 f. Failure to use reasonable care in supplying JUUL PRODUCTS;
- 25 g. Failure to use reasonable care in advertising, promoting, and marketing
26 JUUL PRODUCTS;
- 27 h. Promotion of JUUL PRODUCTS to young people under age 26;
- 28

- 1 i. Use of flavors and design to appeal to young people under age 26, in that
- 2 JUUL PRODUCTS smell good, look cool and are easy to conceal from
- 3 parents and teachers;
- 4 j. Use of design that maximizes nicotine delivery while minimizing
- 5 “harshness,” thereby easily creating and sustaining addiction;
- 6 k. Failure to prevent JUUL PRODUCTS from being sold to young people
- 7 under age 26;
- 8 l. Failure to prevent use of JUUL PRODUCTS among young people under
- 9 age 26;
- 10 m. Failure to curb use of JUUL PRODUCTS among young people under age
- 11 26;
- 12 n. Failure to develop tools or support to help people addicted to JUUL
- 13 PRODUCTS quit using the products;
- 14 o. Failure to reasonably and properly test and properly analyze the testing of
- 15 JUUL PRODUCTS under reasonably foreseeable circumstances;
- 16 p. Failure to warn customers about the dangers associated with use of JUUL
- 17 PRODUCTS, in that they are powerfully addictive and unsafe for anyone
- 18 under age 26; significantly increase risk of injury, including but not limited
- 19 to injury to the airway, throat, and lungs; and can cause permanent brain
- 20 changes, mood disorders, and impairment of thinking and cognition;
- 21 q. Failure to instruct customers not to use JUUL PRODUCTS if they are
- 22 under age 26;
- 23 r. Failure to provide any instructions regarding a safe amount of JUULpods
- 24 to consume in a day;
- 25 s. Failure to warn customers that Defendants had not adequately tested or
- 26 researched JUUL PRODUCTS to ensure safety, including long-term
- 27 testing of the products for potential injury to the brain, respiratory, and
- 28

1 cardiovascular systems, and other related medical conditions prior to
2 marketing;

3 t. Failure to utilize proper materials and components in the design of JUUL
4 PRODUCTS to ensure they would not deliver unsafe doses of nicotine;

5 u. Failure to use due care under the circumstances;

6 v. Failure to take necessary steps to modify JUUL PRODUCTS to avoid
7 delivering high doses of nicotine to young people and repeatedly exposing
8 them to toxic chemicals;

9 w. Failure to recall JUUL PRODUCTS; and

10 x. Failure to inspect JUUL PRODUCTS for them to operate properly and
11 avoid delivering unsafe levels of nicotine to young persons.

12 **FIFTH CAUSE OF ACTION**

13 **Negligent Failure to Recall**

14 **(Against Defendant JUUL)**

15 161. Plaintiff incorporates the above and below allegations by reference.

16 162. Defendants acted negligently by failing to recall JUUL PRODUCTS prior to
17 Wakefield's death in 2018.

18 163. Defendants, and each of them, designed, manufacturer assembled, produced,
19 marketed, distributed, maintained, and/or sold JUUL PRODUCTS.

20 164. Defendants knew, or reasonably should have known that, when used as intended,
21 JUUL PRODUCTS presented or were likely to present dangers to users, especially adolescents
22 like Wakefield. Defendants knew or reasonably should have known that JUUL PRODUCTS
23 delivered highly concentrated doses of nicotine which cause addiction, that JUUL PRODUCTS
24 were unsafe for anyone under the age of 26, and that JUUL PRODUCTS cause physical injury to
25 the respiratory system, permanent brain changes, mood disorders, strokes, heart attacks, and other
26 cardiovascular injuries.

27 165. After JUUL PRODUCTS were placed on the market in 2015 and before 2018,
28 Defendants knew, or reasonably should have known JUUL PRODUCTS were being consumed

1 by people under age 26. Defendants knew or reasonably should have known the highly
2 concentrated doses of nicotine JUUL PRODUCTS delivered were unsafe for consumers under the
3 age of 26 and could cause addiction, respiratory system damage, permanent brain damage, mood
4 disorders, stroke, heart attack, and other cardiovascular injuries. Despite this, Defendants failed
5 to recall, repair, or warn of the dangers JUUL PRODUCTS posed to consumers.

6 166. A reasonable designer, manufacturer, distributor, or seller facing the same or
7 similar circumstances as Defendants, in the exercise of reasonable care, would have recalled
8 JUUL PRODUCTS to ensure young consumers, like Wakefield, were not harmed.

9 167. Defendants' failure to timely recall JUUL PRODUCTS was a substantial factor in
10 causing Wakefield's death. Had Defendants recalled JUUL PRODUCTS when they knew, or
11 should have known, the risks, Wakefield would not have used the products and would not have
12 suffered death.

13 **SIXTH CAUSE OF ACTION**

14 **Fraudulent Concealment**

15 **(Against Defendants JUUL and DOES 1 through 30)**

16 168. Plaintiff incorporates the above and below allegations by reference.

17 169. Defendants had a duty to disclose material facts about JUUL PRODUCTS to
18 Wakefield and other consumers. Defendants intentionally failed to disclose facts to Wakefield
19 and other consumers regarding the nature and safety of JUUL PRODUCTS that were known only
20 to Defendants and could not have been reasonably discovered.

21 170. At all times relevant, Defendants fraudulently and deceptively sold or partnered to
22 sell JUUL PRODUCTS to Wakefield as safe or not harmful, when Defendants knew it to be
23 untrue.

24 171. Defendants fraudulently and deceptively downplayed or minimized any risk
25 associated with JUUL PRODUCTS especially for young persons under age 26. At all relevant
26 times, Defendant JUUL Labs, Inc., represented its products on its website as a "smarter" choice.
27 Defendant JUUL Labs, Inc., pitched investors by claiming that JUUL PRODUCTS were not
28 harmful, and therefore any concern about addiction was irrelevant. Defendants and/or others

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

6 172. Defendants failed to disclose to Wakefield that the JUUL PRODUCTS can cause
7 injury to the airway, throat, lungs, and other life-threatening illnesses.

8 173. Defendants failed to disclose that they had not adequately researched or tested the
9 safety of JUUL PRODUCTS before placing them on the market and promoting them to young
10 people under age 26.

11 174. At all times relevant to Plaintiff, Defendants failed to disclose that the nicotine
12 salts contained JUUL PRODUCTS were highly addictive in nature, and therefore that it would
13 be extremely difficult to stop using and/or purchasing JUULpods.

14 175. Defendants failed disclose to Wakefield that JUUL PRODUCTS are designed to
15 create and sustain an addiction to nicotine, particularly in young consumers. Defendants also
16 manipulated the formulations of JUUL PRODUCTS in ways that could and would impact their
17 potency and addictiveness. Defendants did so without notifying Wakefield. Defendants actively
18 concealed the nicotine content and potency of JUUL PRODUCTS.

19 176. Each of the misrepresentations and omissions concerned material facts that were
20 essential to the analysis undertaken by Wakefield as to whether to purchase or consume JUUL
21 PRODUCTS.

22 177. Wakefield and Plaintiff did not know of the facts that Defendants concealed.

23 178. Defendants intended to deceive Wakefield, Plaintiff, and the public by concealing
24 these facts in order to continue profiting.

25 179. Defendants had a duty to accurately provide this information to Wakefield. In not
26 so informing Wakefield, Defendants breached their duty.

27 180. Defendants had ample opportunities to disclose these facts to Wakefield, through
28 packaging, advertising, retail outlets, on their website, on social media, via e-mail distribution,

1 and even directly to the extent Wakefield purchased JUUL PRODUCTS directly through
2 Defendant JUUL Labs, Inc.'s online store. Defendants concealed material information at all
3 relevant times, through today. Defendants have yet to disclose the truth about JUUL PRODUCTS.

4 181. Wakefield relied to his detriment on Defendants' fraudulent omissions. Had
5 Wakefield been adequately informed of the material facts concealed from him regarding the
6 safety of JUUL PRODUCTS, and not intentionally deceived by Defendants, he would not have
7 purchased or used JUUL PRODUCTS and would not have suffered death.

8 182. Defendants' fraudulent concealment was a substantial factor in Wakefield's death
9 and Plaintiff's harm as described herein.

10 183. Defendants' acts and omissions as described herein were committed maliciously,
11 oppressively, deliberately, with intent to defraud, and in reckless disregard of Wakefield and
12 Plaintiff's rights, interests, and well-being to enrich Defendants. Defendants' conduct warrants
13 an assessment of punitive damages in an amount sufficient to deter such conduct in the future,
14 which amount is to be determined according to proof.

15 **SEVENTH CAUSE OF ACTION**

16 **Conspiracy to Commit Fraudulent Concealment**

17 **(Against Defendants JUUL and DOES 21 through 30)**

18 184. Plaintiff incorporates the above and below allegations by reference.

19 185. During all relevant times, including before Wakefield consumed JUUL
20 PRODUCTS, Defendant JUUL Labs, Inc. was part of a conspiracy with tobacco and e-cigarette
21 industry players, DOES 1 through 30, to fraudulently conceal, misrepresent, and downplay the
22 risks of e-cigarettes to boost profits at the expense of public health. For research and development,
23 marketing, and distribution purposes, Defendant JUUL Labs, Inc., and DOES 1 through 30
24 engaged consultants, pundits, academics, lobbyists, media personalities, reporters, researchers,
25 and other influencers to tout the safety of e-cigarettes, and benefits of nicotine, while minimizing
26 or downplaying the dangers, particularly to those under age 26. These tactics mimic those used
27 by the tobacco industry to sow seeds of doubt and confusion among the public, to initiate new
28

1 users, to keep customers buying JUUL PRODUCTS, and to avoid regulation or legislative efforts
2 to control sales.

3 186. Defendants JUUL Labs, Inc., and DOES 1 through 30 were aware that others in
4 the e-cigarette and tobacco industry planned to engage in a campaign of doubt to mislead,
5 downplay, deflect concerns about the risks of e-cigarettes and nicotine, and to fraudulently
6 conceal material information about the safety of these products and compounds.

7 187. Defendants JUUL Labs, Inc., and DOES 1 through 30 agreed with others in the e-
8 cigarette and tobacco industry and intended that the conspiracy to commit fraudulent concealment
9 be committed.

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

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

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

21 **EIGHTH CAUSE OF ACTION**

22 **Intentional Misrepresentation**

23 **(Against Defendants JUUL and DOES 1 through 30)**

24 191. Plaintiff incorporates the above and below allegations by reference.

25 192. At all times relevant, Defendants falsely represented through advertisements on
26 social media, traditional media outlets, and Defendant JUUL Labs, Inc.'s websites and packaging
27 that JUUL PRODUCTS were safe and not harmful.
28

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

5 194. Defendants intended for Wakefield to rely on these representations.

6 195. Each of the misrepresentations concerned material facts that were essential to the
7 analysis undertaken by Wakefield as to whether to purchase or consume JUUL PRODUCTS.

8 196. Wakefield reasonably relied on these representations and was harmed as described
9 herein. Wakefield's reliance on Defendants' representations was a substantial factor in causing
10 his severe injuries. Had Defendants told Wakefield the truth about the safety and composition of
11 JUUL PRODUCTS, he would not have purchased them.

12 197. Defendants' fraud was a substantial factor in Wakefield's death and Plaintiff's
13 harm as described herein.

14 198. Defendants' acts and omissions as described herein were committed maliciously,
15 oppressively, deliberately, with intent to defraud, and in reckless disregard of Wakefield and
16 Plaintiff's rights, interests, and well-being to enrich Defendants. Defendants' conduct warrants
17 an assessment of punitive damages in an amount sufficient to deter such conduct in the future,
18 which amount is to be determined according to proof.

19 **NINTH CAUSE OF ACTION**

20 **Negligent Infliction of Emotional Distress**

21 **(Against Defendants JUUL and DOES 1 through 30)**

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

23 200. Defendants' conduct herein, preying on youth and poisoning kids for profit, is so
24 outrageous in character and so extreme in degree as to go beyond all possible bounds of decency.
25 Defendants' conduct is atrocious and utterly intolerable. Defendants' outrageous conduct caused
26 and/or substantially contributed to Wakefield's death and Plaintiff' injuries alleged herein.

27 201. Defendants' egregious conduct toward Wakefield and Plaintiff was both intentional
28 and reckless. Defendants' conduct of intentionally addicting teenagers to nicotine to create lifelong

1 customers was directed primarily at young people like Wakefield, through their manipulation of
2 advertisements, social media, warnings, and even use of social media influencers indirectly to
3 target America's youth.

4 202. Defendant also acted with reckless disregard when they knew that JUUL products
5 were powerfully addictive, contained more nicotine than necessary, and carried serious physical,
6 mental and emotional health risks, especially when used by young people, yet they marketed the
7 products to young people with reckless disregard of young consumers like Wakefield and with
8 reckless disregard of the probability that their conduct would cause severe emotional distress to
9 Wakefield and Plaintiff.

10 203. Defendant's intentional and reckless conduct caused and continues to cause harm
11 and severe emotional distress to Plaintiff. Defendants interjected their product and themselves into
12 Wakefield and his family's personal life, causing severe stress and dependence on their product,
13 and invading Wakefield and his parents' mental and emotional tranquility.

14 204. Defendant invaded Plaintiff's peace of mind, without any right or privilege to do
15 so. The severe nicotine addiction caused by Defendant's product resulted in behavior and
16 symptoms so severe as to interfere with Wakefield's everyday life and health. Defendant's product
17 ultimately cost Wakefield his life.

18 205. Further, as described herein, Wakefield's addiction was a physical injury that
19 damaged and altered his developing brain. This addiction was no accident. It was the result of
20 Defendant's intentional, calculated behavior to addict young people like Wakefield to nicotine to
21 create a life-long customer. Wakefield's life was cut short because of Defendants' outrageous
22 conduct.

23 206. If it weren't for Defendant's intentional and reckless conduct, Wakefield would have
24 never tried JUUL, would not have been dependent on nicotine, and would still be alive today.

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TENTH CAUSE OF ACTION

Violations of the Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200 *et seq.*

(Against Defendants JUUL and DOES 21 through 30)

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

208. The UCL prohibits acts of “unfair competition,” including any “unlawful, unfair or fraudulent business act or practice.”

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

- a. By violating the California Consumer Legal Remedies Act, as described below;
- b. By concealing the health risks associated with JUUL PRODUCTS, including, but not limited to, injury to the airway, throat, and lungs; addiction; permanent brain changes, mood disorders and learning and cognitive impairments;
- c. By concealing that JUUL PRODUCTS are unsafe for anyone under age 26;
- d. By downplaying and minimizing the risks of JUUL PRODUCTS and promoting them as safe and not harmful;
- e. By conspiring with others in the tobacco industry to downplay and minimize the risks of e-cigarette products, create confusion and doubt in the public regarding the safety of e-cigarettes, overstate the benefits of nicotine and e-cigarette products, and undermine the public health efforts to prevent and curb use of e-cigarettes by those under age 26;
- f. By misrepresenting the delivery of nicotine as “approximately equivalent to one pack of cigarettes” when in fact, as consumed, JUUL PRODUCTS deliver much higher quantities of nicotine;
- g. By concealing that JUUL PRODUCTS are designed to create and sustain addiction among young people rather to transition adult smokers from conventional cigarettes;

1 h. By knowingly and intentionally designing JUUL PRODUCTS in a way that
2 deliberately appeals to young people, including but not limited to:

- 3 i. Making the pods available in flavors that Defendants knew that teens
4 would find irresistible and would not associate with tobacco or
5 smoking;
- 6 ii. Intentionally advertising and marketing JUUL PRODUCTS in ways
7 that make them appear deceptively harmless, including concealing that
8 they are highly addictive, pose long-term risks to developing brains
9 (mood disorders, permanent impairment of impulse control,
10 concentration and learning), cause repeated exposure to toxic
11 chemicals and can cause injury to the respiratory system;
- 12 iii. Designing JUUL PRODUCTS so that they maximize nicotine delivery,
13 while minimizing “harshness,” to recruit and retain young people as
14 the next generation of tobacco customers;
- 15 iv. Designing the JUUL device so that it is small and can easily be
16 concealed;
- 17 v. Designing the JUUL device so that it resembles a USB flash drive,
18 which can be charged in the USB port of laptop, so that parents and
19 teachers will have trouble identifying when a young person is
20 JUULing;
- 21 vi. Making the smell emitted when a young person exhales
22 indistinguishable from other common scents, so that parents and
23 teachers will not be any the wiser; and
- 24 vii. Promoting JUUL PRODUCTS on social media sites such as Twitter
25 and Instagram in order to appeal to the younger generation.

26 210. Defendants’ unfair and fraudulent business acts and practices caused Wakefield to
27 purchase JUUL PRODUCTS.
28

1 211. Defendants violated UCL by deceiving and misleading young consumers under
2 age 26 to purchase a product that is highly addictive and unsafe for them. JUUL PRODUCTS
3 have no benefit to its teen users. JUUL PRODUCTS deliver highly concentrated doses of nicotine
4 and other toxic chemicals that carry risks of respiratory and cardiovascular harm. Despite all
5 these risks, they are advertised as harmless. Defendants were and are aware that young persons
6 are unable to appreciate the risk of JUULING to their health and welfare, and that many young
7 people do not even know that JUUL PRODUCTS **always contain** nicotine, which is addictive or
8 unsafe for them in any amount. In this way, Defendants unfairly target young persons in order to
9 get customers for life.

10 212. Defendants violated UCL by deceptively selling JUUL PRODUCTS to Wakefield
11 as harmless, and a “safer” alternative to cigarettes, while concealing that JUUL PRODUCTS are
12 unsafe for anyone under age 26, deliver a more potent dose of nicotine than conventional
13 cigarettes, are highly addictive, and can cause life-altering illnesses.

14 213. Defendants’ misrepresentations and omissions as alleged herein were consistent
15 with and part of their scheme to lure young persons into becoming customers for life and to
16 maximize profits at the expense of public health.

17 214. Accordingly, Plaintiff has suffered harm as a result of Defendants’ unlawful,
18 unfair and fraudulent business practices.

19 215. Plaintiff seeks to enjoin further unlawful, unfair and fraudulent acts or practices
20 by Defendants under Bus. & Prof. Code § 17200.

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

26 217. Defendants’ conduct, as described herein, is unfair because it is immoral, unethical,
27 unscrupulous, oppressive, and substantially injurious. Under the guise of creating an alternative
28 for adult cigarette smokers, Defendants developed highly addictive and dangerous products and

1 marketed them to young people as cool, fun, and harmless. Their scheme successfully attracted
2 millions and millions of teens, including Wakefield, who have become addicted to their products
3 and have been exposed to high doses of nicotine and other toxic chemicals. As a result of
4 Defendants' conduct, Wakefield and Plaintiff suffered harms as described herein, and others are
5 at risk of the same or similar injuries. Defendants created this epidemic and bear responsibility
6 for its consequences.

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

18 219. Wakefield, and Plaintiff by extension, could not have reasonably avoided injury
19 from Defendants' unfair conduct. Wakefield did not know, and had no reasonable means of
20 learning, that JUUL PRODUCTS could harm him as they did. Nor did Wakefield or Plaintiff
21 know that JUUL PRODUCTS had been designed to lure and trap Wakefield and other teens into
22 becoming a customer for life.

23 220. Defendants' misleading statements and omissions were a substantial factor in
24 causing Wakefield's death and Plaintiff's harm.

25 221. The requested injunction under the UCL will primarily benefit the interests of the
26 general public. It will have the primary purpose and effect of prohibiting acts that threaten injury
27 to members of the public who have or will be exposed to Defendants' conduct.

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1 **TENTH CAUSE OF ACTION**

2 **Wrongful Death and Survival**

3 **(Against Defendants JUUL and DOES 1 through 30)**

4 222. Plaintiff incorporates the above and below allegations by reference.

5 223. Wakefield's death was the result of Defendants false representations through
6 advertisements on social media, traditional media outlets, and Defendant JUUL Labs, Inc.'s
7 websites and packaging that JUUL PRODUCTS were safe and not harmful.

8 224. Defendants knew these representations were false or made them recklessly without
9 regard for their truth as well as the health and lives of its customers. Defendants intended for -
10 and Wakefield did - rely on Defendants' representations.

11 225. At all times and places mentioned herein, Defendants acted carelessly and
12 negligently and failed to protect Wakefield as a user of their product.

13 226. During all times relevant to the allegations in this complaint, Defendants, and each
14 of them, their agents, employees, and representatives acted carelessly, negligently, and recklessly
15 with respect to Wakefield and Plaintiff, causing economic loss and death.

16 227. Wakefield died as the direct and proximate result of the careless, negligent, and/or
17 reckless neglect and conduct of the Defendants.

18 228. Accordingly, Plaintiff Lisa Marie Vail, individually and on behalf of the Estate of
19 Daniel David Wakefield, deceased, suffered the loss of love, comfort, care, and society of her son.

20 229. As a further direct and proximate result of Defendants' negligent acts, omissions
21 and conduct, and of the resulting injuries and death, Plaintiff has incurred expenses in an amount
22 not yet known.

23 230. Plaintiff prays for judgment against the Defendants, as set forth below.

24 **VI. PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff respectfully requests that the Court:

- 26 1. Award Plaintiff compensatory, restitutionary, rescissory, genera, consequential,
27 punitive and exemplary damages in an amount to be determined at trial, and also
28 but not limited to:

- 1 a. General Damages;
- 2 b. Special Damages, including all expenses, incidental past and future
- 3 expenses, medical expenses, and loss or earnings and earning
- 4 capacity;
- 5 2. Award pre-judgement interest as permitted by law;
- 6 3. Enter an appropriate injunction against Defendants and their officers, agents,
- 7 successors, employees, representatives, and assigns;
- 8 4. Appoint a monitor and retain jurisdiction to ensure that Defendants comply with
- 9 the injunctive provisions of any decree of this Court;
- 10 5. Enter other appropriate equitable relief;
- 11 6. Award reasonable attorney's fees and costs, as provided for by law; and
- 12 7. Grant such other and further relief as the Court deems just and proper.

13 **VII. JURY TRIAL DEMAND**

14 Plaintiff demands a jury trial.

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17 Dated: October 15, 2019

LEVIN SIMES ABRAMS LLP

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21 Rachel Abrams
22 Mahzad K. Hite
23 Sara B. Craig
24 Angela J. Nehmens

Attorneys for Plaintiff