

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

THE PEOPLE OF THE STATE OF ILLINOIS,)
)
Plaintiff,)
)
v.) No. 2019CH14302
)
JUUL LABS, INC., a Delaware corporation,)
)
) Hearing Date: 4/10/2020 9:30 AM - 9:30 AM
) Courtroom Number: 2008
Defendant.) Location: District 1 Court
Cook County, IL

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The Plaintiff, the People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, brings this action against Defendant, JUUL Labs, Inc., for violating the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1-1 *et seq.* (“Consumer Fraud Act”) and states as follows:

I. SUMMARY OF THE CASE

Big Tobacco companies addicted generations of people to nicotine by targeting a specific and vulnerable group— children. The government eventually regulated the tactics that Big Tobacco relied on to appeal to youth with remarkable results. The percentage of high school teenagers who reported currently smoking combustible cigarettes dropped from 36.4% in 1997¹

¹ CTRS. FOR DISEASE CONTROL AND PREVENTION, U.S. DEP’T OF HEALTH AND HUMAN SERVICES, TRENDS IN CIGARETTE SMOKING AMONG HIGH SCHOOL STUDENTS ---UNITED STATES, 1991—2001, MORBIDITY AND MORTALITY WEEKLY REPORT (May 17, 2002), *available at* <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5119a1.htm> (last visited Nov. 26, 2019).

to 5% in 2017². It seemed possible that younger generations would never know the unrelenting grip of a nicotine addiction. Now, a new class of products has changed all that by successfully adopting Big Tobacco's tactics for the 21st Century, with Defendant JUUL Labs, Inc. (JUUL) leading the way.

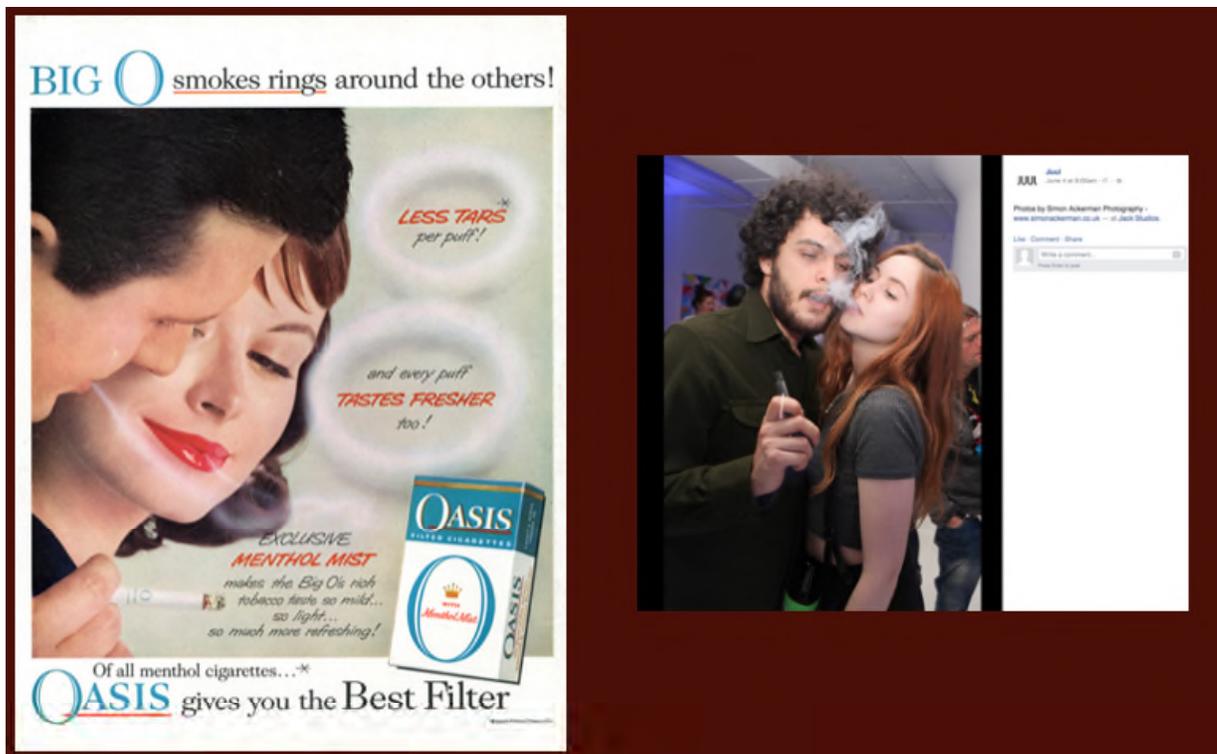
In 2015, JUUL launched an e-cigarette that looked nothing like what came before it. JUUL had created a sleek device more akin to the latest technology popular with youth than the clunky e-cigarettes already available on the market. JUUL then sold millions of its products, by employing many of the tactics most relied upon by Big Tobacco to attract minors. From 2017 to 2018 alone there was a 78% increase (from 11.7% to 20.8%) in high school students using e-cigarettes within the past 30 days.³ JUUL had a central role in undoing years of work by government agencies and anti-tobacco activists in order to addict a whole new generation to nicotine.

Besides the device itself, JUUL was also able to appeal to minors by creating a proprietary nicotine solution that was less harsh and thus easier for inexperienced smokers to use. And JUUL masked whatever bit of nicotine a person may be able to taste by releasing its products in youth-friendly flavors like fruit medley, cool mint, and crème brulee.

JUUL then marketed this youth-friendly device in an eerily similar way to Big Tobacco's favorite advertisement strategies but with a new millennium twist. Like Big Tobacco, JUUL's advertisements featured bright colors, young models in flirtatious and playful poses, and a sense that using the product would put consumers in a desirable social stratum.

² Teresa W. Wang et al., *Tobacco Product Use Among Adults — United States, 2017*, 67 MORBIDITY AND MORTALITY WEEKLY REPORT 1225–32 (Nov. 9, 2018), available at <https://www.cdc.gov/mmwr/volumes/67/wr/pdfs/mm6744a2-H.pdf>.

³ U.S. FOOD AND DRUG ADMIN., 2018 NYTS DATA: A STARTLING RISE IN YOUTH E-CIGARETTE USE, <https://www.fda.gov/tobacco-products/youth-and-tobacco/2018-nyts-data-startling-rise-youth-e-cigarette-use> (last visited Nov. 26, 2019).



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JUUL took these tried-and-true youth-marketing strategies and renovated them for modern times by blasting these images all over social media. JUUL ran its own official Twitter, Instagram, and Facebook accounts where it was able to get its messaging, that JUUL was for the “cool kids”, right in front of minors. JUUL also heavily relied on celebrities and social media influencers to hawk its products to unsuspecting minors. JUUL would even host parties and sampling events where influencers and the public alike could attend and get free JUUL products all while getting Instagram-worthy pictures to post the next day.

After JUUL had laid the groundwork to attract youth to its products, it then utilized a substandard age-verification system on its online store, thus, allowing minors to purchase its

⁴ (SRITA database) http://tobacco.stanford.edu/tobacco_main/images-comp.php?token2=fm_tn_st328.php&token1=fm_tn_img10799.php&theme_file=fm_tn_mt035.php&theme_name=Cigs%20vs.%20eCigs&subtheme_name=Cigs%20vs.%20eCigs%20JUUL (Last visited Dec. 2, 2019).

products. When the company that JUUL used to age-verify its consumers warned JUUL about various pitfalls that would allow minors to purchase its products, JUUL chose to turn a blind eye and eliminated elements that would make it harder for a minor to purchase its products.

Not only was JUUL deceptively marketing its products to minors, the company also misrepresented the amount of nicotine contained in its products and made other deceptive health and safety claims. JUUL created a product with a much higher nicotine concentration than had been previously seen on the e-cigarette market and then it advertised its product misleadingly in order to downplay this fact. The misrepresentation of nicotine content is especially concerning considering the heightened effect nicotine has on young people. JUUL made other misleading and unsubstantiated representations designed to convince consumers that its products posed little to no risk to health or safety and/or were considerably healthier and safer than traditional cigarettes.

Faced with intense scrutiny over its youth-friendly marketing tactics, JUUL set its sights on a different, but still vulnerable, group of consumers— smokers looking to quit cigarettes. In 2018, JUUL launched the “Make the Switch” campaign which featured former smokers espousing the benefits of “switching” from combustible cigarettes and completely replacing them with JUUL products. While creating a smoking cessation device is a laudable effort, it requires extensive evidence and approval from the U.S. Food and Drug Administration (FDA). JUUL’s product is not approved by the FDA as a smoking cessation device and has not put forth credible evidence to support such approval. However, JUUL continues to market its product as if it did so.

JUUL's actions since its introduction until present day are unfair, deceptive, and illegal under Illinois law. The State brings this lawsuit to enjoin ongoing and future misconduct and hold Defendant accountable for its role in the youth e-cigarette epidemic.

II. PUBLIC INTEREST

1. The People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, believes this action to be in the public interest of the citizens of the State of Illinois and brings this law suit pursuant to the Consumer Fraud Act, 815 ILCS 505/7(a).

III. JURISDICTION AND VENUE

2. This action is brought for and on behalf of the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois, pursuant to the provisions of the Consumer Fraud Act.
3. Venue for this action properly lies in Cook County, Illinois, pursuant to section 2-101 of the Illinois Code of Civil Procedure, 735 ICLS 5/2-101, in that some of the activities complained of herein out of which this action arose occurred in Cook County.

IV. PARTIES

4. Plaintiff, the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois, is charged with enforcement of the Consumer Fraud Act.
5. Defendant JUUL Labs, Inc. is a Delaware corporation with its principal place of business in San Francisco, California.⁵

⁵ The brand JUUL was originally owned by Pax Lab, Inc. but was spun out into a standalone corporation in 2017.

V. BACKGROUND

A. The History of Traditional Tobacco Regulation

6. A 2014 Surgeon General report noted that, when surveyed, 86.9% of adults between the ages of 30-39 that had ever smoked daily reported they had tried their first cigarette by the time they were 18 years of age.⁶ The tobacco industry historically has heavily marketed its product to minors.⁷ This marketing glamorized the use of tobacco in many ways including through cartoon characters like Joe Camel, attractive models, celebrity endorsements, and dramatization of tobacco use such as the Marlboro Man.
7. Big Tobacco's marketing strategy was one consideration that resulted in a wave of litigation of State Attorneys General against the tobacco industry. This litigation resulted in the Master Settlement Agreement ("MSA") in 1998. The MSA included extensive limitations on the tobacco industry's ability to market to youth. These restrictions include a prohibition on youth targeting, a ban on the use of cartoons such as Joe Camel, as well as restrictions on advertising, free samples, and sponsorships.
8. Following the enactment of the MSA, tobacco rates among adults and youth were dramatically reduced. In 2017, these rates of combustible tobacco use hit a record low since 1965, when National Health Interview Survey first started tracking smoking statistics, with only 14% of adults smoking cigarettes, a decrease of 67%.⁸ In 2017, only 5% of adolescents reported smoking cigarettes in the past month.⁹

⁶ U.S. DEP'T OF HEALTH AND HUMAN SERVICES, THE HEALTH CONSEQUENCES OF SMOKING—50 YEARS OF PROGRESS: A REPORT OF THE SURGEON GENERAL 708 (2014), available at https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf.

⁷ Cheryl L. Perry, *The Tobacco Industry and Underage Youth Smoking: Tobacco Industry Documents from the Minnesota Litigation*, 153 ARCH. OF PEDIATR.ADOLESC. MED. 935-41 (1999).

⁸ *Supra* note 2, at 1229.

⁹ U.S. DEP'T OF HEALTH AND HUMAN SERVICES, ADOLESCENTS AND TOBACCO: TRENDS (2019), available at <https://www.hhs.gov/ash/oah/adolescent-development/substance-use/drugs/tobacco/trends/index.html>.

B. The Rise of Electronic Cigarettes

a. *How electronic cigarettes work*

9. E-cigarettes commonly have three main components: 1) a battery, 2) a heating element, and 3) a place to hold a liquid.¹⁰ E-cigarettes come in a variety of shapes and sizes and the different designs that evolved over time are sometimes categorized by “generation.”
10. Electronic cigarettes work by heating a liquid to produce an aerosol that is then puffed or inhaled by the user from the device.¹¹ Using an e-cigarette is sometimes referred to as “vaping.”
11. The liquid used with electronic cigarettes commonly contains nicotine, flavorings, and other chemicals, such as propylene glycol, which help create the aerosol when heated.¹² E-cigarettes are available in tobacco, mint, menthol and a variety of other flavors, including a plethora of candy, dessert, and fruit flavors.
12. For the most part, e-cigarettes were introduced into the U.S. market between the mid-2000’s and early 2010’s.¹³

b. *JUUL’s introduction to the market*

13. JUUL’s products were first introduced by PAX Labs, Inc. in June 2015.¹⁴

¹⁰ CTRS. FOR DISEASE CONTROL AND PREVENTION, ABOUT ELECTRONIC CIGARETTES (E-CIGARETTES), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html (last visited Nov. 11, 2019).

¹¹ *Id.*; CONSUMER ADVOCATES FOR SMOKE FREE ALTERNATIVES ASSOC., ABOUT ELECTRONIC CIGARETTES, <http://www.casaa.org/electronic-cigarettes/> (last visited Nov. 11, 2019).

¹² *Supra* note 9.

¹³ U.S. DEP’T OF HEALTH AND HUMAN SERVICES, E-CIGARETTE USE AMONG YOUTH AND YOUNG ADULTS: A REPORT OF THE SURGEON GENERAL, Chapter 1 10 (2016), *available at* https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_SGR_Chap_1_508.pdf.

¹⁴ See JUUL’s Response to NC’s Complaint, ¶¶27, 56; Ryan Lawler, *Vaporization Startup Pax Labs Introduces Juul, Its Next-Gen E-Cigarette*, TECHCRUNCH (April 21, 2015, 7:00 AM), [https://techcrunch.com/2015/04/21/pax-juul/](https://techcrunch.com/2015/04/21/pax-juul/2015/04/21/pax-juul/).

14. JUUL's e-cigarette device's sleek design resembles a USB flash drive and it can be charged via a USB port.¹⁵ JUUL manufactures disposable pods or "JUULPods" with "e-liquid" contents that include nicotine and flavoring. The pods are inserted into the JUUL device.
15. JUUL's 2015 launch included an aggressive and youth-oriented marketing campaign which utilized young trendsetters and celebrities, focused on social media accounts and influencers, and included events created and hosted by JUUL, including a trendy launch party in New York City.
16. JUUL's products can be used discreetly, have a high nicotine content and come in various flavors, all contributing to their appeal to youth.
17. In the short period from 2015 to 2017, JUUL rocketed from a little-known brand to the largest retail electronic cigarette brand in the United States.¹⁶
18. In 2017, PAX Labs, Inc. split into two separate companies. PAX Labs, Inc. was renamed JUUL Labs, Inc., which continued to manufacture and sell JUUL's electronic cigarette products.¹⁷
19. In December 2018, Altria Group Inc., the parent company of Philip Morris USA, purchased a 35% share of JUUL for over \$12 billion.¹⁸
20. By the end of 2018, JUUL was so dominant that it held a more than 75% share of the e-cigarette market.¹⁹

¹⁵ JUUL, THE DEVICE, <https://www.juul.com/learn/device>.

¹⁶ Jidong Huang et al., *Vaping versus JUULing: how the extraordinary growth and marketing of JUUL transformed the US retail e-cigarette market*, 28 TOBACCO CONTROL 146 (March 2019), available at <https://tobaccocontrol.bmj.com/content/tobaccocontrol/28/2/146.full.pdf>.

¹⁷ See JUUL's Response to NC's Complaint, ¶27.

¹⁸ See JUUL's Response to NC's Complaint, ¶32.

¹⁹ Richard Craver, *Juul Ends 2018 With 76 Percent Market Share*, WINSTON-SALEM JOURNAL (Jan. 8, 2019), https://www.journalnow.com/business/juul-ends-with-percent-market-share/article_6f50f427-19ec-50be-8b0c-d3df18d08759.html.

C. The Current Electronic Cigarette Public Health Epidemic

21. JUUL's meteoric rise has been part of an alarming trend of increased e-cigarette use amongst young people in the United States.
22. In 2018, more than 3 million U.S. high school students reported using e-cigarettes within the previous 30 days, compared to just 220,000 in 2011, an over 1,200% increase.²⁰
23. In 2019, e-cigarette use continued to rise at alarming rates. Over 5 million young people reporting having used e-cigarettes in the past 30 days and nearly one million reporting daily use.²¹
24. These distressing statistics are very similar for Illinois. In 2018, more than 1 in 4, or 27%, of 12th graders in Illinois reported using an electronic cigarette within the last 30 days, up from 18% in 2016.²² That percentage of e-cigarette use was as high as 31% amongst 12th graders in urban/suburban counties outside of the Chicago metro area.²³

This rate is double the reported rate of adult combustible cigarette smokers in Illinois in 2018.²⁴

²⁰ Karen A. Cullen et al., *Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students – United States, 2011–2018*, 67 MORBIDITY AND MORTALITY WEEKLY REPORT 1276, 1276 (Nov. 16, 2018), available at <https://www.cdc.gov/mmwr/volumes/67/wr/pdfs/mm6745a5-H.pdf>.

²¹ U.S. FOOD AND DRUG ADMIN., YOUTH TOBACCO USE: RESULTS FROM THE NATIONAL YOUTH TOBACCO SURVEY, <https://www.fda.gov/tobacco-products/youth-and-tobacco/youth-tobacco-use-results-national-youth-tobacco-survey>.

²² CTR. FOR PREVENTION RESEARCH AND DEV., ILLINOIS YOUTH SURVEY 2018 FREQUENCY REPORT: STATE OF ILLINOIS 3 (2018), available at https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2018/Freq18_IYS_Statewide.pdf; CTR. FOR PREVENTION RESEARCH AND DEV., ILLINOIS YOUTH SURVEY 2016 FREQUENCY REPORT: STATE OF ILLINOIS 3 (2017), available at https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2016/Freq16_IYS_Statewide.pdf.

²³ CTR. FOR PREVENTION RESEARCH AND DEV., ILLINOIS YOUTH SURVEY 2018 FREQUENCY REPORT: OTHER URBAN/SUBURBAN 3 (2018), available at https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2018/Freq18_IYS_OtherUrbanSuburban.pdf.

²⁴ UNITED HEALTH FOUNDATION, AMERICA'S HEALTH RANKINGS, <https://www.americashealthrankings.org/explore/annual/measure/Smoking/state/IL> (last visited Nov. 25, 2019).

25. Even amongst kids as young as 8th grade, 7% of surveyed students reported using an electronic cigarette within the last 30 days.²⁵
26. One high school in Cook County found that the percentage of freshman who reported using an electronic cigarette during the prior month quintupled between 2016 and 2018, going from 6% to 30%.²⁶
27. Similarly alarming, in 2018, 15% of 12th graders in urban/suburban Illinois counties reported that they perceived “no risk” with the use of electronic cigarettes and another 36% reported perceiving only a “slight risk” with such use.²⁷
28. Relatedly, a 2018 nationwide survey found that 24.7% of 10th graders and 25.7% of 12th graders reported that they thought they were only vaping flavoring when using vaping devices.²⁸ A study specific to JUUL users found that 63% of 15-to-24 year olds did not know that nicotine was present in all JUUL products.²⁹
29. More than half of high school students who reported vaping nicotine in the past month said that JUUL was their usual e-cigarette brand.³⁰ Underage JUUL users consistently favored JUUL’s mint and mango flavors.³¹

²⁵ CTR. FOR PREVENTION RESEARCH AND DEV., ILLINOIS YOUTH SURVEY 2018 FREQUENCY REPORT: STATE OF ILLINOIS 3 (2018), *available at* https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2018/Freq18_IYS_Statewide.pdf.

²⁶ Jonah Meadows, *Huge Spike In Vaping Among New Trier Freshmen*, PATCH (Aug. 28, 2018, 2:16 PM), <https://patch.com/illinois/winnetka/vaping-rate-among-new-trier-freshman-rises-sharply>.

²⁷ CTR. FOR PREVENTION RESEARCH AND DEV., ILLINOIS YOUTH SURVEY 2018 FREQUENCY REPORT: OTHER URBAN/SUBURBAN 15 (2018), *available at* https://iys.cprd.illinois.edu/UserFiles/Servers/Server_178052/File/state-reports/2018/Freq18_IYS_OtherUrbanSuburban.pdf.

²⁸ NATIONAL INSTITUTE ON DRUG ABUSE, MONITORING THE FUTURE 2018 SURVEY RESULTS, *available at* <https://www.drugabuse.gov/related-topics/trends-statistics/infographics/monitoring-future-2018-survey-results>.

²⁹ Willett JG, et al., *Recognition, Use and Perceptions of JUUL Among Youth and Young Adults*, 28 TOBACCO CONTROL 115-116 (Apr. 18, 2018), *available at* <https://tobaccocontrol.bmj.com/content/28/1/115>

³⁰ Sean McMinn and Connie Hanzhang Jin, *More Teens Than Ever Are Vaping. Here’s What We Know About Their Habits*, NPR (Nov. 6, 2019), <https://www.npr.org/sections/health-shots/2019/11/06/776397270/more-teens-than-ever-are-vaping-heres-what-we-know-about-their-habits>.

³¹ Adam M. Leventhal et al., *Flavors of E-Cigarettes Used By Youths In The United States*, JAMA (Nov. 5, 2019), https://jamanetwork.com/journals/jama/fullarticle/2755264?guestAccessKey=6cd13a73-46aa-460e-95c7-0cb2d9b66fdf&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tfl&utm_term=110519.

30. The exponential growth in the use of e-cigarettes by youth is especially concerning given that young people are at particular risk for the damaging effects of nicotine.
31. A person's brain continues to develop until approximately 25 years of age, making exposure to nicotine during this time especially damaging.
32. In December 2018, the Surgeon General issued an Advisory on e-cigarette use, identifying use of e-cigarettes among young people as a public health epidemic. He stated that "[n]icotine exposure during adolescence can impact learning, memory and attention. Using nicotine in adolescence can also increase risk for future addiction to other drugs."³²
33. Added to impacts on brain function is the fact that e-cigarettes often contain much higher concentrations of nicotine than combustible cigarettes.³³
34. The majority of adults who use e-cigarettes also smoke combustible cigarettes according to studies.³⁴
35. Many other studies have produced findings on the health effects and dangers of using e-cigarettes, including that e-cigarette aerosol exposure can cause DNA damage and reduced viability of cells.³⁵
36. E-cigarettes may be just as harmful to the heart, if not more, than traditional cigarettes, according to a recent study conducted at the Smidt Heart Institute at Cedars-Sinai.³⁶

³² U.S. DEP'T OF HEALTH AND HUMAN SERVICES, SURGEON GENERAL'S ADVISORY ON E-CIGARETTE USE AMONG YOUTH, available at <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

³³ See, e.g., Robert K. Jackler and Divya Ramamurthi, *Nicotine Arms Race: JUUL And The High-Nicotine Product Market*, 28 TOBACCO CONTROL 623 (Nov. 2019).

³⁴ See, e.g., Allison Inzerro, *Who Uses E-Cigarettes More: Current Smokers or Former Smokers?*, AJMC (July 20, 2018), <https://www.ajmc.com/newsroom/who-uses-ecigarettes-more-current-smokers-or-former-smokers-->.

³⁵ See, e.g., Chastain Anderson et al., *E-Cigarette Aerosol Exposure Induces Reactive Oxygen Species, DNA Damage, And Cell Death In Vascular Endothelial Cells*, 154 TOXICOLOGICAL SCIENCES 332–340 (2016), available at <https://academic.oup.com/toxsci/article/154/2/332/2632724>.

³⁶ *Study: E-Cigarettes May Be More Harmful To Heart Health Than Tobacco*, CEDARS SINAI (Nov. 11, 2019), <https://www.cedars-sinai.org/newsroom/study-e-cigarettes-may-be-more-harmful-to-heart-health-than-tobacco/>.

37. Exposure to e-cigarette smoke with nicotine caused lung cancer and bladder abnormalities in mice in another recent study conducted at New York University.³⁷
38. Studies on the flavorants used in e-cigarettes have found evidence that chemicals in these e-liquids can react to create new compounds and molecules that are especially harmful.³⁸
39. Given the rapid rise in the use of e-cigarettes since their introduction to the U.S. market, research into the health effects and dangers of e-cigarettes is ongoing and much is unknown, particularly about the long-term health implications of using these products.

VI. TRADE AND COMMERCE IN ILLINOIS

40. Subsection 19(f) of the Consumer Fraud Act, 815 ILCS § 505/1(f), defines “trade” and “commerce” as follows:

The terms ‘trade’ and ‘commerce’ mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

41. Defendant is at all times relevant hereto engaged in trade and commerce in the State of Illinois by offering, selling, marketing and promoting its products, including electronic cigarettes, to Illinois consumers.

³⁷Moon-shong Tang et al., *Electronic-Cigarette Smoke Induces Lung Adenocarcinoma And Bladder Urothelial Hyperplasia In Mice*, 116 PNAS 21727–31 (2019), available at <https://www.pnas.org/content/116/43/21727>; see Jessica Bursztynsky, *Researchers Find E-Cigarettes Cause Lung Cancer In Mice In First Study Tying Vaping To Cancer*, CNBC (Oct. 8, 2019, 10:38 AM), <https://www.cnbc.com/2019/10/07/e-cigarettes-cause-lung-cancer-in-mice-finds-first-study-tying-vaping-to-cancer.html>.

³⁸ See, e.g., Hanno C. Erythropel et al., *Flavorant-Solvent Reaction Products And Menthol in JUUL E-Cigarettes and Aerosol*, 57 AM. J. OF PREVENTIVE MED. 425–27 (Sept. 2019), available at [https://www.ajpmonline.org/article/S0749-3797\(19\)30187-4/pdf](https://www.ajpmonline.org/article/S0749-3797(19)30187-4/pdf).

42. In the course of this trade or commerce, Defendant has engaged in acts and practices declared unlawful under the Illinois Consumer Fraud Act. Defendant's conduct, described in more detail below, is ongoing and has the potential to impact Illinois consumers.

VII. DEFENDANT'S UNFAIR AND DECEPTIVE ACTS AND PRACTICES

A. JUUL deceptively created a product that would appeal to minors

43. In Illinois, for much of the relevant time period, it was illegal to sell tobacco products to an individual under the age of 18-years-old. Effective July 1, 2019, this age was raised to 21-years-old. 720 ILCS 675/1.
44. JUUL created a product that attracted minors, including through the design of the device, the proprietary chemical formula, and the child-friendly flavors of the nicotine solution, even though it knew that in order to use tobacco products in Illinois an individual needed to be at least 18 years old.

1. JUUL designed a sleek and easy-to-conceal e-cigarette it knew would appeal to minors

45. As a way to appeal to young people, JUUL designed its e-cigarette to look strikingly similar to a USB drive, a device commonly found in classrooms and used by students throughout the United States.
46. In fact, in order to charge the e-cigarette, users need to plug it into a computer in a very similar way to how one would plug a USB drive into a computer adding to the concealability of the product in a classroom, home, or other settings.

47. The ability to conceal JUUL's e-cigarette allows youth to use the product without detection, including while in school. School bathrooms are now often referred to as "JUUL rooms" because students commonly use them to smoke JUUL products³⁹
48. In addition to designing its product in a manner that made it easy for youth to hide in plain sight, JUUL also made a design that is sleek and akin to products already popular with minors.
49. JUUL aligned itself with technology popular with youth by touting its product as the "I-Phone of e-cigarettes." This slogan continuously appeared on JUUL's website and in promotional materials.
50. Once JUUL had a device that would attract youth it then created a nicotine formula that would be easy for inexperienced smokers, including minors, to use.

2. JUUL created a formula agreeable to a youth's lack of experience with cigarettes

51. JUUL's proprietary chemical formula is notably less harsh on new users' throats than traditional combustible cigarettes and many other e-cigarettes.
52. Traditional combustible cigarettes and many early e-cigarettes contain solutions with an unprotonated nicotine formula, also known as free-base nicotine. This form of nicotine has a strong nicotine concentration which can cause an adverse experience for the user, such as harsh throat irritation.⁴⁰

³⁹ Moriah Balingit, *In the 'Juul room': E-cigarettes spawn a form of teen addiction that worries doctors, parents and schools*, The Washington Post (Jul. 26, 2019), https://www.washingtonpost.com/local/education/helpless-to-the-draw-of-nicotine-doctors-parents-and-schools-grapple-with-teens-addicted-to-e-cigarettes/2019/07/25/e1e8ac9c-830a-11e9-933d-7501070ee669_story.html.

⁴⁰ Jessica L. Barrington-Trimis and Adam M. Leventhal, *Adolescents' Use of "Pod Mod" E-Cigarettes — Urgent Concerns*, THE NEW ENGLAND JOURNAL OF MEDICINE 1099-1102 (Sept. 26, 2018), available at <https://www.nejm.org/doi/full/10.1056/NEJMp1805758>.

53. Instead of containing unprotonated nicotine, JUUL’s formula contains protonated nicotine derived from the nicotine salts found in loose-leaf tobacco.⁴¹
54. Using protonated nicotine allows for a higher concentration of nicotine than found in e-cigarettes that use a free-base formula but drastically reduces the harshness associated with unprotonated nicotine.⁴²
55. Nicotine in high concentrations is a cause for concern for many reasons but, in particular, the ease at which an individual could become addicted. However, Ari Atkins, an engineer that helped develop JUUL’s products, admitted that JUUL does not “think a lot about addiction...because [JUUL] [is] not trying to design a cessation product. Mr. Atkins also stated that “anything about health is not on [JUUL’s] mind.”⁴³
56. JUUL’s formula does such a good job at masking the harsh effects of nicotine that in one survey, 63% of 15-to-24 year-olds did not even know that nicotine is present in all JUUL products.⁴⁴
57. By masking the harshness of nicotine, JUUL created a product targeted at and attractive to inexperienced smokers, including minors.
58. Even JUUL’s instructions to new users on how to get started on its products make clear that the target audience is inexperienced smokers. These instructions explain to consumers that they should start with small puffs so they can “get a feel for the vapor.” It then encourages users “don’t give up” if it feels too harsh and to try to just puff more gently on the product to “find your perfect puff”.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Nitasha Tiku, *Startup behind the Lambo of vaporizers just launched an intelligent e-cigarette*, The Verge (Apr. 21, 2015), <https://www.theverge.com/2015/4/21/8458629/pax-labs-e-cigarette-juul>.

⁴⁴ *Supra* note 28.

Get Started

Remove colored cap and insert pod into device (this is the mouthpiece).
Keep pods sealed until ready to be used.

Make sure JUUL is fully charged before use. No buttons required to turn it on.

First, take small puffs to get a feel for the vapor, then ease into inhaling. Like any new experience, JUUL may take getting use to. **If it feels too harsh, try inhaling less and puff more gently.** Don't give up, you'll find your perfect puff.

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59. These instructions clearly are not meant for smokers of traditional combustible cigarettes.

3. JUUL's products come in a variety of youth-friendly flavors

60. It is not just JUUL's chemical formula that makes its products more palatable to youth, but also the flavors that JUUL offers.

61. Since its introduction to the market, JUUL's products have been offered in a variety of flavors appealing to youth.

62. Originally JUUL offered its pods in four flavors: "Fruut", "Bruule", "Miint", and "Tobaac." As described by JUUL, Bruule tasted like the desserts vanilla cake and silky custard, Fruut had notes of apples, peaches, and berries, and Miint was a crisp peppermint flavor with a smooth after taste.

⁴⁵ Image obtained pursuant to Office of the Illinois Attorney General's investigation.

63. According to the 2019 National Youth Tobacco Survey, the top three flavor categories chosen by youth were fruit, menthol or mint, and candy, desserts, or other sweets.⁴⁶
64. This means that three-out-of-four of JUUL’s original flavors were in a category most popular with youth.
65. After launching the original four flavors, JUUL continued to create and sell products in youth-favorite flavor categories such as “Coco Mint” and its most popular flavor to date, “Mango.” Additionally, JUUL has at various points in time made other youth-friendly flavors such as “Ginger Peach Tea”, “Mixed Berry”, “Peanut and Jam”, “Cinnamon Snap”, and “Spicy Watermelon.”
66. Flavors play an important role in initiating youth usage of tobacco products.⁴⁷ Almost 81% of youth ages 12-to-17 reported that their first use of an e-cigarette was a flavored product.⁴⁸
67. Further, of high school students currently using tobacco products, 73% reported using a flavored tobacco product.⁴⁹
68. Comparatively, only 38.5% of adults aged 45-to-64 and 28.6% of adults over 65 who are currently using tobacco products reported using a flavored tobacco product.⁵⁰
69. JUUL’s focus on the creation of flavored tobacco products, especially those in the fruit, dessert, and mint categories, was not geared toward adults, who according to data are less

⁴⁶ Karen A Cullen, Andrea S. Gentzke, et al., *e-Cigarette Use Among Youth in the United States, 2019*. JAMA. (Nov. 5, 2019), doi: 10.1001/jama.2019.18387

⁴⁷ Ambrose BK et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*, 314(17) JAMA 1871-73 (Nov. 3, 2015), available at <https://jamanetwork.com/journals/jama/fullarticle/2464690>.

⁴⁸ *Id.*

⁴⁹ Corey CG et al., *Flavored Tobacco Product Use Among Middle and High School Students - United States, 2014*, 64(38) MORBIDITY AND MORTALITY WEEKLY REPORT 1066-70 (Oct. 2, 2015), available at <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6438a2.htm>.

⁵⁰ Villanti AC et al., *Flavored Tobacco Product Use in Youth and Adults: Findings from the First Wave of the PATH Study (2013-2014)*, 53(2) AMERICAN JOURNAL OF PREVENTIVE MEDICINE 139-51 (Mar. 16, 2017), available at <https://www.ncbi.nlm.nih.gov/pubmed/28318902>.

likely to use flavored tobacco products than youth. Rather, JUUL focused on flavored tobacco products to appeal to minors.

B. Defendant deceptively marketed its products to minors

70. Once JUUL developed a product that was attractive to youth in its design, formula, and flavoring, it then marketed it to appeal to minors.
71. JUUL’s marketing effort focused on advertising that featured young-looking models and bright colors; using social media, including celebrities and social media influencers who marketed the product to their young audiences; hosting youth-oriented events; and using traditional media, such as magazines, popular with youth.

1. JUUL promoted and marketed its products to minors in the advertisements and visuals used to launch its product

72. JUUL launched its e-cigarette in June 2015 with a marketing campaign it called “#Vaporized.” According to JUUL, the advertisements for this campaign would center around ten New York City trendsetters who would “embody the JUUL brand” and would speak to those who wanted a “stylish and simple” device.
73. Although most smokers of traditional cigarettes fall into the age category of 45-to-64-years-old, JUUL used twenty-something trendsetters to model for its launch campaign.⁵¹ From crop tops to ripped jeans, JUUL styled the already young looking models to give them the appearance of teenagers, not mature adults looking to eliminate their smoking habit.
74. The #vaporized advertisements emphasized the youthful models by posing them in playful and flirtatious positions against a backdrop of bright colors as shown below.

⁵¹ Ahmed Jamal et al., *Current Cigarette Smoking Among Adults—United States, 2016*, MORBIDITY AND MORTALITY WEEKLY REPORT 53-59 (Jan. 19, 2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5772802/>.



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75. Following its core advertisement campaign, trendsetters as the models in JUUL’s #Vaporized campaign became “the core of [JUUL’s] influencer marketing strategy” to promote the JUUL brand online and at events.

2. JUUL promoted and marketed its products to minors by using social media and enlisting celebrities and influencers to endorse and use its products on social media platforms

76. Since its inception, JUUL has relied on social media marketing to advertise its products. Beginning with the launch of its products, JUUL had its own Twitter, Instagram, and Facebook accounts.

77. These accounts promoted various hashtags such as “#JUULVAPOR” and ‘#VAPORIZED’ to encourage users to post about their experiences with JUUL’s products.⁵³

⁵² (SRITA database) http://tobacco.stanford.edu/tobacco_web/images/pod/juul/vaporized/large/vaporized_5.jpg (Last Visited Nov. 19, 2019).

⁵³ Robert K. Jackler et al., *JUUL advertising over its first three years on the market*, Stanford Research into the Impact of Tobacco Advertising (Jan. 31, 2019), http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf



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78. Additionally, JUUL used non-JUUL specific hashtags such as “fashion” and “tech” to comeingle its advertising with images related to those two terms.⁵⁵
79. By doing so, JUUL was able to use word-of-mouth-marketing on social media platforms to promote its products.
80. Besides its official accounts, JUUL also sought to get its products in front of minors through social media influencers who often market products to their young audiences in a way that does not always look like an advertisement; thus, gaining more authenticity and credibility with the targeted audience.
81. Even prior to its launch, JUUL sought to gain such credibility through influencers. While planning the launch of its product, JUUL wanted to [REDACTED]

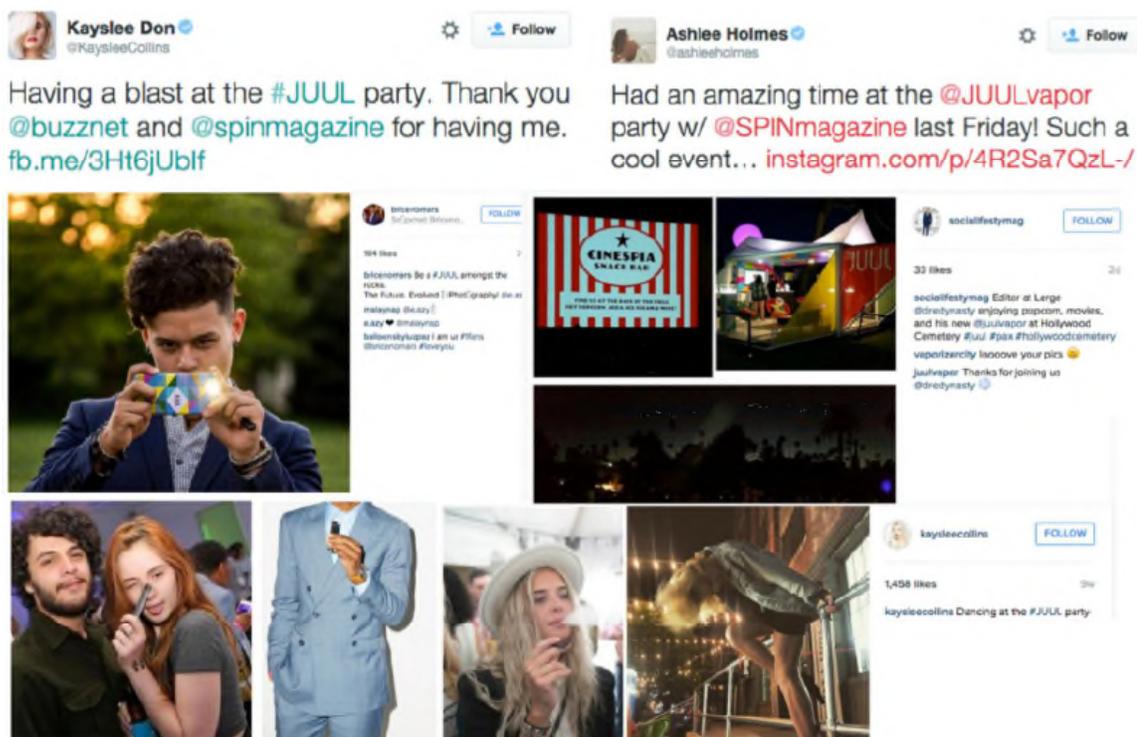
⁵⁴ (SRITA database) http://tobacco.stanford.edu/tobacco_web/images/pod/juul/twitter/large/twitter_10.jpg (Last visited Nov. 19, 2019).

⁵⁵ *Supra* note 52.

[REDACTED]

[REDACTED]

- 82. JUUL hired a third-party agency, Grit Creative Group, whose main purpose was to find and hire social media influencers for the JUUL brand.
- 83. Once JUUL hired social media influencers to advertise its products, it maintained control over what was posted and which social media platforms were used.
- 84. For example, JUUL would provide influencers with hashtags to use in their posts such as “#Vaporized” and “#JUULallnight”. JUUL would also tell the influencers how many posts needed to be made, and what social media to use such as Twitter, Instagram, and Snapchat.
- 85. By maintaining this level of control, JUUL was able to get its products on social media platforms where official JUUL social media accounts did not exist, such as Snapchat.
- 86. JUUL even provided the below examples of social media posts as a reference point for these influencers.



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87. As demonstrated above, the images and social media posts show JUUL’s product being used by attractive, young-looking people in playful situations. However, the images and posts fail to make it obvious that the post is an advertisement for a product that contains nicotine.
88. By utilizing influencers and their social media accounts, in addition to running its own official social media accounts, JUUL guaranteed that its products would be seen by underage users.
89. A report from June 2015, the same month and year that JUUL’s products launched, showed that of Snapchat’s adult users (aged 18 and over) 45% were in the youngest

⁵⁶ Image obtained pursuant to Office of the Illinois Attorney General’s investigation.

demographic of 18-to-24-year-olds. Additionally, 73% of teenagers reported they used Instagram with 32% reporting that it was the most important social network to them.⁵⁷

90. By contrast, only 6% of 55-to-64-year-olds reported using Snapchat and only 12% of the same age demographic reported using Instagram.⁵⁸

91. JUUL's own social media accounts were largely followed by minors. One analysis of JUUL's Twitter account shows that 45% of its followers are 13-to-17-years old.⁵⁹

92. Clearly, JUUL's reliance on social media as a primary form of marketing was not to reach adult smokers but instead was used to market its products to minors.

93. And it is not just social media influencers that JUUL relied on to position its products as ones for the "cool crowd." JUUL also heavily relied on getting its products in the hands of celebrities that were popular among youth.

94. A list from 2015 shows that JUUL sent its products to [REDACTED]

95. JUUL also posted pictures to its official social media platforms of celebrities popular with youth, such as Katy Perry, using its products.⁶⁰

96. JUUL did all of this promotional work with celebrities despite [REDACTED]

⁵⁷ Business Insider Intelligence, *The Social Media Demographics Report 2015: Differences in age, gender, and income at the top platforms*, Business Insider (Jun. 2, 2015) <https://www.businessinsider.com/the-social-media-demographics-report-2015-differences-in-age-gender-and-income-at-the-top-platforms-2015-6>.

⁵⁸ *Id.*

⁵⁹ Annice E. Kim et al., *Estimated Ages of JUUL Twitter Followers*, JAMA PEDIATRICS 690-92 (May 20, 2019), available at 173(7) <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2733855>.

⁶⁰ *Supra* note 52.

97. Although JUUL began to receive criticism as early as 2015 for how youthful its initial #Vaporized campaign was, it continued to utilize influencers and celebrities to target underage users.⁶¹
98. For example, in September 2017 JUUL invited influencers to represent the brand in social media posts. One such influencer, Christina Zayas, said she was chosen by JUUL because the company liked her “edgy style and that [she] appealed to the younger market.”⁶²
99. In late 2017 and early 2018, JUUL continued to send its products, without age verification, to celebrities, including models as young as 18 years old.
100. In December 2017, [REDACTED] [REDACTED] JUUL did this despite recognizing that she had a young following.
101. All of these marketing decisions were made well after JUUL knew it was popular with underage users.
102. JUUL also had an Affiliate Program which it continued to operate well beyond the time when it knew its products were popular among minors. This program allowed anyone to apply to receive a referral link through which they could then make a commission as an affiliate. These links usually gave anyone who clicked on it access to a discounted JUUL product. The links were promoted by an affiliate on his or her social media accounts or websites.

⁶¹ Declan Harty, *JUUL hopes to reinvent e-cigarette ads with ‘Vaporized’ campaign*, AdAge (Jun. 23, 2015), <https://adage.com/article/cmo-strategy/juul-hopes-reinvent-e-cigarette-ads-campaign/299142>.

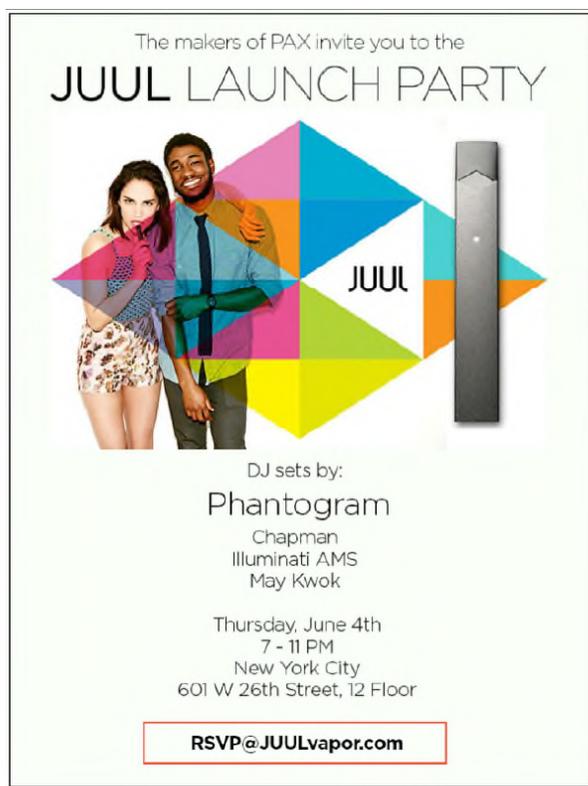
⁶² Michael Nedelman et al., *#JUUL: How social media hyped nicotine for a new generation*, CNN (Dec. 19, 2018), <https://www.cnn.com/2018/12/17/health/juul-social-media-influencers/index.html>.

103. Applications for the Affiliate Program were automatically approved making it easy for minors to become affiliates.
104. The Affiliate Program was not terminated until October 2018.⁶³
105. Much of JUUL's marketing strategy relied on a strong online presence through its own social media accounts, the Affiliate Program, social media influencers, and celebrities. JUUL then furthered the impact made by influencers and celebrities online by participating in, creating, and/or hosting youthful events that influencers, celebrities, and other attendees could post about online to their young audiences.

3. JUUL promoted and marketed its products to minors by participating in and/or hosting youthful events

106. To coincide with the launch of JUUL through the youth-oriented #Vaporized advertisement campaign, JUUL hosted a launch party featuring musicians popular with young audiences.

⁶³ *Id.*



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107. JUUL invited influencers and celebrities, some as young as 18-years-old, to attend the event with the intention that these people would then post pictures with the hashtag “#LightsCameraVapor” to market the product to their social media audience.
108. The launch party featured musicians popular with youth and a photo booth in which attendees could have their picture taken.
109. JUUL also held a national sampling tour whereby JUUL set up a custom container in various spaces, such as parking lots and music festivals, for people to try its products. JUUL noted that these events would be open to the public so they could stop whoever was nearby and invite them to try the product.

⁶⁴ Image obtained pursuant to Office of the Illinois Attorney General’s investigation.

110. JUUL estimated that the sampling tour, on top of reaching members of the public, could get the product in the hands of 12,500 influencers and introduce the product to 1.5 million people.

111. JUUL instructed the company who designed the custom container for the sampling tour to [REDACTED]

[REDACTED]

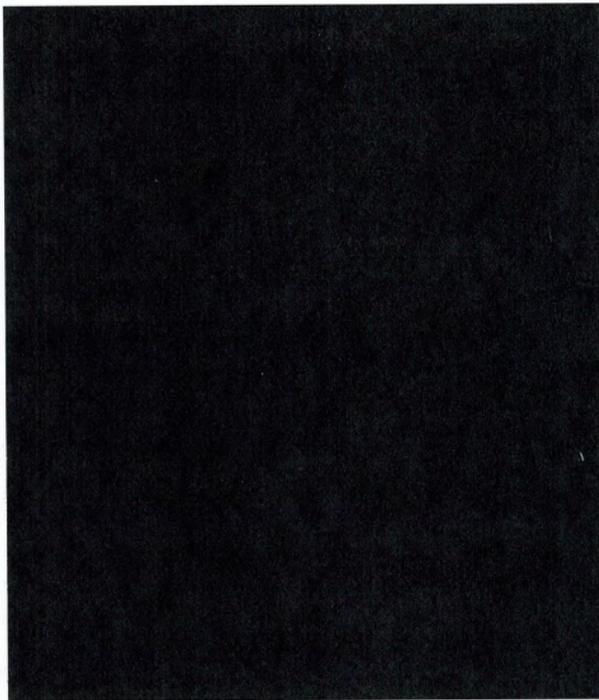
[REDACTED]



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112. In addition to controlling the appearance of the space in which the sampling tours took place, JUUL also dictated what employees at the sampling event needed to wear. A sample of an outfit acceptable by JUUL looks more like what a teenager would wear to class than what a mature adult would wear to work.

⁶⁵ Image obtained pursuant to Office of the Illinois Attorney General's investigation.



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113. At these sampling tours, JUUL employees were instructed to give out coupons to attendees. When one JUUL employee questioned what type of age verification needed to take place, a superior answered that while online people need to be age verified, at events people needed to just be “(somewhat) age verified.” Further, the superior instructed for certain coupons the employees did not need to check identification at all. Instead, employees were instructed to just hand out coupons to people who looked to be around 30-years-old.

⁶⁶ Image obtained pursuant to Office of the Illinois Attorney General’s investigation.

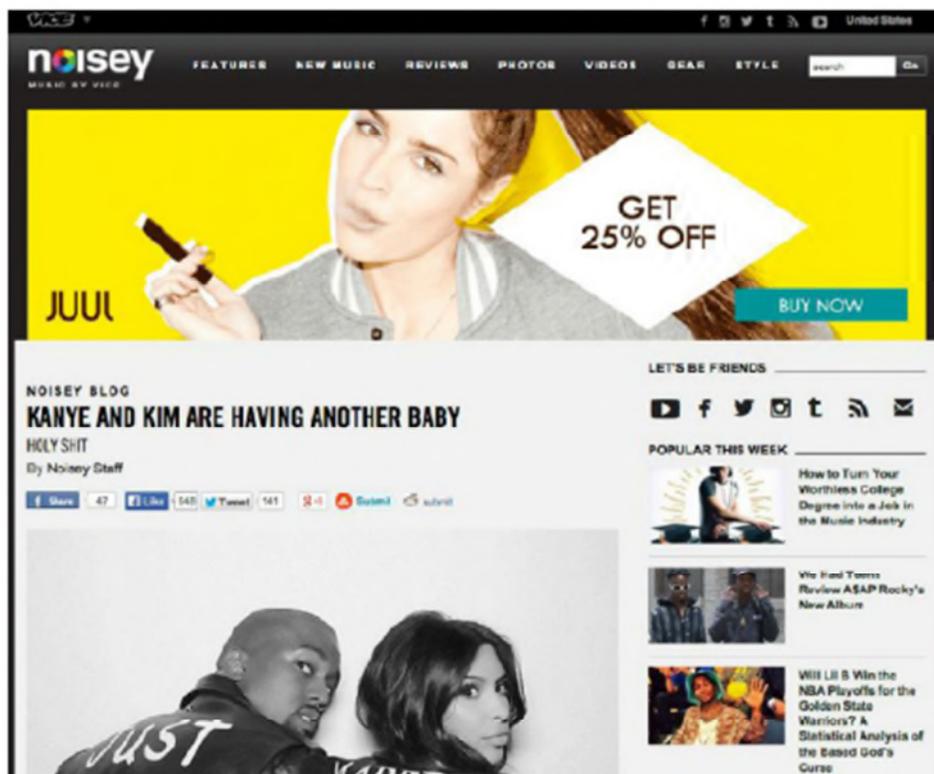
114. The sampling tour, like the launch party, included an animated photo booth where attendees were encouraged to get their pictures taken and presumably share them on social media, thus furthering JUUL's online presence with youthful audiences.
115. The sampling tour was clearly successful with JUUL noting that there was a substantial increase in sales in areas where the sampling tour took place.
116. In addition to creating and hosting its own events, JUUL also partnered with pre-existing event companies that had a youthful audience.
117. For example, in 2015 JUUL partnered with Cinespia, an organization that hosts screenings of movies around Los Angeles, California, to provide samples of its products during a Cinespia movie screening. The event was advertised as a slumber party and was open to all ages. Even though JUUL was aware that the event was open to minors and this could cause issues with keeping minors out of or "age-gating" the sampling area, JUUL decided to move forward and partner with Cinespia.
118. JUUL was able to take these events and use them for online marketing not only by encouraging attendees to post about the events on social media but also by producing sponsored articles about the events with magazines that had a young audience.

4. JUUL promoted and marketed its products to minors by creating sponsored content and placing advertisements in youth-oriented magazines

119. In addition to marketing on social media, JUUL also used more traditional approaches, like advertisements with traditional media companies and sponsored articles, to market its products to youth.
120. JUUL placed advertisements using images from its youthful #Vaporized campaign on websites that had demographics that skewed young. Notably, JUUL took out a full-page advertisement on the inside cover of *Vice Magazine*. Vice Media proudly calls itself the

“#1 Youth Media Company in the World” and in 2016 reported that it reached twice as many 18-to-34-year-olds when compared to other media channels.

121. The bright and youthful advertisements surrounded news stories on websites that had articles about celebrities popular with minors, such as Ariana Grande, Kanye West, and Kim Kardashian.



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122. JUUL also sponsored articles with established media websites to further promote its product to a young audience. One such article with the media website *Studio@Gizmodo* of Gawker Media described the launch party as attended by “fashion types, blazered tech

⁶⁷ Image obtained pursuant to Office of the Illinois Attorney General’s investigation.

aficionados, and Bushwick hipsterati...” and that the dance floor was filled with people in chunky heels and black crop tops.⁶⁸

123. Another media company JUUL partnered with to create sponsored content was *HypeBeast*, which lists its readership demographic as made up by individuals aged 18-to-35-years-old.⁶⁹
124. When JUUL was not directly sponsoring articles, it provided interviews for articles that led to content highlighting its attractiveness to youth. For example, James Monsees, a co-founder of JUUL, provided an interview in 2015 for an article with *The Greatist*. JUUL also placed advertisements for its products surrounding this article online. JUUL noted that of all the advertisements it placed with JUUL-related articles during the launch period, the article with *The Greatist* resulted in the most visits from readers to its homepage. The tone of this article was patently youth-oriented and is best demonstrated by the below excerpt:

My e-cig of choice was JUUL... which I mostly picked because I'm a sucker for their advertising. Like a hipster rave at the Marlboro Man's ranch, this exact commercial played for weeks on a Times Square billboard outside of my office.

Are they advertising a drug or H&M? Why are they having so much fun? Why can't I have that much fun? Will a JUUL e-cigarette make me dress better and get invited to parties?...

My first impression after using my new toy? As a drug, this sh!t was *good*. The nicotine hit felt stronger than a cigarette, often to the point that my knees would wobble and I'd need to sit down. JUUL gets you *high*.⁷⁰

⁶⁸ Anna Schumacher for Pax Labs, *Last week's invite-only party with Phantogram was (literally) smokin'*, Studio@Gizmodo (Jun. 5, 2015), <https://studioatgizmodo.kinja.com/last-nights-invite-only-party-with-phantogram-was-lite-1709286886>.

⁶⁹ *Advertising*, HypeBeast, <https://hypebeast.com/advertise>.

⁷⁰ Nick English, *Why I'm deliberately taking up an e-cigarette habit*, *The Greatist* (Sept. 3, 2015) <https://greatist.com/connect/e-cigarettes-healthy-or->

125. JUUL created a product that by design would resonate with minors and then marketed it to a youthful audience through social media, influencers, events, and traditional media. JUUL then further contributed to the underage e-cigarette crisis by allowing minors to purchase its product because JUUL used an inferior age-verification system.

5. JUUL enabled sales to minors by using an inferior age-verification system

126. JUUL currently claims that its online store only makes sales to individuals who are 21 years old or older and verifies each individual's age through a third-party system called Veratad. According to JUUL, each individual who attempts to make a purchase on JUUL's online store must enter his or her name, date of birth, permanent address, and the last four digits of the consumer's social security number which Veratad will then check against public records.⁷¹

127. Additionally, in order to access JUUL's website a user needs to click a box confirming that the user is 21 years old or older and agrees to be age verified at purchase.

128. Many of these seemingly more stringent age-verification processes were not used by JUUL until over 2 years after the launch of JUUL's products, providing ample time and opportunity for minors to take advantage of JUUL's inferior age verification system.

129. When JUUL first launched, its age verification process required a consumer to enter a name, date of birth, and address. If the consumer failed the age verification process then the consumer either entered the last 4 digits of his or her social security number or the consumer was given a chance to re-input a name, date of birth, and address.

not?utm_source=Sailthru&utm_medium=email&utm_campaign=daily_newsletter_2015-09-08_mails_daily_new_header#1.

⁷¹ *Is Age Verification Required?* JUUL <https://support.juul.com/hc/en-us/articles/360023361954-Is-Age-Verification-required-> (Last Visited Nov. 27, 2019).

130. Once implemented, JUUL internally discussed ways to water down the above-described age-verification process in order to increase sales.
131. In October 2015, three months after the launch of JUUL, an employee noted that the age verification system resulted in lost sales when consumers failed the process. JUUL, therefore, contemplated removing the back-up step of requiring the last 4 digits of a consumer's social security number or not requiring age verification in some states.
132. JUUL then actually terminated requirements that made it more difficult for minors to obtain its products. Initially, JUUL required an adult signature upon delivery of its products. However, on or about October 2016, JUUL stopped requiring signature upon delivery. Instead, JUUL made signature confirmation an option for the consumer to select at an additional charge and the requirement of a signature from an adult an even more expensive option.
133. Even once JUUL implemented additional criteria for its age verification process in August 2017, minors were still able to receive products through programs or policies initiated by JUUL.
134. One such policy, the limited warranty that comes with each JUUL device, allowed for minors to not only receive JUUL products but to receive them for free.
135. In order to make a request for a new JUUL device via JUUL's limited warranty, a minor need only obtain a serial number from a JUUL device and submit that number along with a name and date of birth of a person of legal age. Because no money is exchanged with warranty replacements, a credit card number is not used in the age verification process.
136. JUUL had actual knowledge that minors were taking advantage of this loophole because parents of such minors complained to the company. While discussing the issue, JUUL

employees noted that a JUUL device does not need to be originally bought from the JUUL online store to qualify for a warranty replacement. Therefore, a minor could simply take a serial number from someone else's JUUL device or use a serial number from an illegally obtained JUUL and still get the free warranty replacement.

137. Further, JUUL originally did not have limitations for the number of warranty requests a consumer could make. So, there was no cap on the number of free products a minor could receive via the warranty replacement loophole. In a time period of just 4 weeks in 2018,



138. Although JUUL knew that the limited warranty provided a way for minors to obtain JUUL products for free, JUUL did not terminate this policy.
139. Another JUUL-initiated program that allowed consumers to escape the allegedly more rigorous age-verification process was JUUL's Auto-Ship Program. When JUUL began to only make online sales to individuals 21 years old or older in August 2017, it did not require consumers who signed up to its Auto-Ship Program to be re-age verified. 18-to-20-years-olds already signed up to the Auto-Ship Program could still make JUUL purchases despite JUUL's announcement it would only sell to those 21 years of age or older.
140. Further, if a minor was able to pass through the previous, inferior age verification system he or she would not need to be re-age verified as part of the Auto-Ship Program, once the more stringent processes were put in place.
141. JUUL also had actual knowledge that minors were easily bypassing what age verification system it did have in place. One common way minors purchased JUUL products on its online store was to input a parent's information for the components that were compared

- to public records. Because JUUL's system verified the age based on the billing address and not the shipping address, minors were able to ship the product in their own name but still pass the age verification system with their parent's information.
142. JUUL also had actual knowledge that minors were signed up for its email marketing list but, for at least two years, chose not to terminate these users from the email list serve.
143. In November 2017, over two years after the launch of its products, JUUL started to look into how to remove individuals under the age of 21 from its email marketing list. During this process, JUUL employees pushed back on age-verifying its email marketing list. One JUUL employee noted that he could only confirm the age for 30% of the email list and if JUUL were to stop sending emails to those not age-verified then it would lose the leads on over 100,000 individuals.
144. Even when Veratad tried to inform JUUL about various issues, JUUL was not responsive. For example, JUUL asked Veratad how it interpreted a date of birth supplied by a consumer that was under the age requirement but where a date of birth over the age requirement was found in public records. Veratad informed JUUL this could possibly be a minor, for instance, in the case of a son with the same name as a father living at the same address. Instead of heeding Veratad's warning that this could possibly be a minor, JUUL chose to interpret this scenario as a user who accidentally inputted the wrong date of birth, and proceed with the order.
145. This father/son scenario was not just a hypothetical because JUUL did receive complaints from parents that their child was able to purchase JUUL products online because they had the same name as an adult in the household.

146. JUUL created a product that design-wise attracted minors and then filled it with a nicotine solution that was easy for inexperienced smokers to use. The company took its youth-friendly product and marketed it to minors by using social media accounts, celebrities and influencers, youth-oriented events, and advertisement campaigns featuring bright colors and young models. JUUL then enabled minors to purchase its tobacco products by implementing programs and policies that allowed minors to obtain its products and by having an inferior age-verification system.

C. JUUL deceptively marketed the content and safety of its products

147. JUUL made unfair and deceptive statements to consumers about the content of the solution in its pods, including the amount of nicotine it contains, by omitting information and making inaccurate comparisons. JUUL also misrepresented the safety of its products by omitting certain information and implying its products included only FDA-approved ingredients.

1. JUUL deceptively marketed the amount of nicotine contained in its products

148. JUUL states on its packaging that its chemical formula has a “5% nicotine strength” but does not explain what “strength” means. On its online store, JUUL states that “each JUULpod contains ~0.7mL with 5% nicotine by weight.”⁷²

149. These descriptions fail to inform consumers that JUUL’s measurement of nicotine deceptively minimizes the amount of nicotine in JUUL’s pods when compared to other e-cigarette companies.

⁷² *Virginia Tobacco* JUUL <https://www.juul.com/shop/pods/virginia-tobacco-5-percent> (Last Visited Nov. 27, 2019)

150. Prior to JUUL's introduction to the e-cigarette market, it was standard for e-liquid manufacturers to label and advertise their products' nicotine concentrations by volume.⁷³
151. JUUL diverged from this norm and labeled its products with nicotine measured by weight instead of volume. If JUUL had labeled the nicotine potency of its products by volume the percentage would have been approximately 5.9% instead of 5%.⁷⁴ This deviation from the typical way e-cigarettes measured nicotine content allowed JUUL to market its chemical formula with a misleadingly lower nicotine concentration.
152. JUUL's pods had an astronomically higher nicotine potency than e-cigarettes already on the market. When JUUL first launched, e-cigarettes typically had a nicotine concentration of 1%-2% by volume, with 3% considered very strong.⁷⁵ At 5.9% nicotine by volume, JUUL's pods had nearly double the nicotine concentration of even the strongest products available.
153. JUUL's measurement by weight also made it very difficult for a consumer to figure out exactly how much nicotine is in its product.
154. When the nicotine concentration is communicated by weight, as JUUL's own engineering team noted, a person would need to know the density of the solution in order to know how much nicotine is actually in the formula. JUUL did not provide the density of the solution to a consumer. Therefore, a consumer could not truly understand how much nicotine is actually in the solution.

⁷³ Hanae Armitage, *5 Questions: Robert Jackler says JUUL spurs 'nicotine arms race'*, *Stanford Medicine* (Feb. 6, 2019), <https://med.stanford.edu/news/all-news/2019/02/5-questions-robert-jackler-says-juul-spurs-nicotine-arms-race.html>.

⁷⁴ *Id.*

⁷⁵ *Id.*

155. In fact, figuring out how much nicotine is in JUUL's formula is so difficult that JUUL's own sales team had to get an in-depth explanation from a chemist on JUUL's product development team.
156. Not only was it nearly impossible for consumers to figure out the amount of nicotine contained in JUUL's products based on the measurements and numbers provided, but JUUL also minimized the nicotine potency and addictive quality of its products through marketing and information found on its online store.
157. In 2015, JUUL's customer service team and online store reported to consumers that a JUULpod contained 0.8 milliliters of its chemical solution with a 5% nicotine strength. JUUL actually contained 0.7 milliliters of its chemical solution with a 5% nicotine strength. In effect, JUUL was communicating that its product had less nicotine than it did in reality. When JUUL discovered that it had been reporting the wrong amount of chemical solution, an employee brushed it off as merely a "mistake."
158. Evidence that JUUL wanted to downplay that its product contained nicotine can also be found in how it approached one-on-one interactions with consumers. [REDACTED]
[REDACTED]
[REDACTED]
159. Similarly, the "Frequently Asked Questions" section of JUUL's website posed the question "Why is this juice so freaking good? Why can't I put this thing down?" and answered it by simply saying "Because our chemists and engineers are awesomely talented."

160. In reality, JUUL had created a product with unprecedented levels of an addictive chemical—nicotine — in order to hook consumers and then did all it could to minimize this fact when communicating with consumers.
161. JUUL not only misled consumers about the nicotine potency of its product through how it measured and marketed its nicotine concentration, but JUUL also misrepresented the potency by making comparisons that were not accurate.

2. JUUL misrepresented its products' nicotine equivalency to that of traditional combustible cigarettes

162. JUUL communicates to consumers via its advertisements, websites, and public comments that one JUULpod has the equivalent amount of nicotine as 200 puffs on a traditional combustible cigarette or the equivalency of one pack of traditional combustible cigarettes.⁷⁶
163. Even if a JUULpod contains the same amount of nicotine, in weight, as a pack of traditional combustible cigarettes, it would still be deceptive for JUUL to make this comparison. In reality, the amount of nicotine a consumer takes into his or her bloodstream per JUULpod is significantly more than the amount of nicotine taken into the bloodstream from a traditional combustible cigarette.
164. While the average traditional combustible cigarette contains 8-to-9 milligrams of nicotine, only about 1-to-1.5 milligrams of nicotine are absorbed in the bloodstream. This means in a pack of cigarettes, which contains 20 individual cigarettes, one person would absorb approximately 20-to-30 milligrams of nicotine.⁷⁷

⁷⁶ *JUUL Savings Calculator* JUUL <https://www.juul.com/calculator> (Last Visited Nov. 27, 2019).

⁷⁷ *Supra* note 32.

165. Comparatively, an individual absorbs about 41.3 milligrams of nicotine per JUULpod. Therefore, an individual absorbs anywhere from approximately 10-to-20 more milligrams of nicotine per JUULpod than a pack of cigarettes.⁷⁸
166. This drastic difference is likely due to JUUL's patented nicotine salts chemical solution. These nicotine salts allow for faster absorption into the bloodstream. Indeed, one study showed that adolescents who used e-cigarettes like JUUL had a higher concentration of nicotine in their body than adolescents who smoke cigarettes.⁷⁹
167. Additionally, JUUL's own patent for its nicotine salt formulation showed that absorption of nicotine into the bloodstream was higher in the first 90 seconds from inhalation after a consumer used nicotine salts than when a consumer smoked a traditional cigarette.⁸⁰
168. JUUL knew that its nicotine solution contained more nicotine than necessary for a pack-a-day smoker [REDACTED]
[REDACTED]
[REDACTED] Despite having this knowledge, JUUL created a nicotine solution with 5% nicotine, by weight, and stated that this would be equivalent to one pack of cigarettes.

3. JUUL misrepresented the chemicals actually consumed by users of its products and misrepresented its ingredients as FDA-approved

169. In addition to its multiple misrepresentations regarding the nicotine content and overall addictive quality of its e-liquid, JUUL also misrepresented what chemicals consumers were consuming by only informing consumers of the ingredients present in the liquid form of its chemical solution and not telling consumers what chemicals were present in

⁷⁸ *Id.*

⁷⁹ Susanne E. Tanski, "Legislation to Reverse the Youth Tobacco Epidemic, AMERICAN ACADEMY OF PEDIATRICS (Oct. 16, 2019), available at <https://docs.house.gov/meetings/IF/IF14/20191016/110091/HHRG-116-IF14-Wstate-TanskiS-20191016.pdf>.

⁸⁰ Pax Labs 2013 U.S Patent 9215895.

the aerosolized form of its chemical solution. This distinction is crucial because JUUL intended that its products be consumed in aerosol, not liquid, form.

170. JUUL routinely advertises to consumers that its chemical solution simply contains glycerol, propylene glycol, flavor, nicotine, and benzoic acid.

171. Although JUUL emphasizes to consumers that its tobacco solution does not contain many ingredients, let alone chemicals that are potentially harmful, JUUL knew that this was not the case particularly when the solutions were put to their intended use— in other words, converted into an aerosol for vaping.

172. By focusing consumers on what few ingredients the solution has, JUUL purposefully created the image that its products were a healthy and safe alternative to combustible cigarettes, which notoriously contain many unsafe ingredients.

173. JUUL users, however, do not consume the chemical solution in liquid form but rather heat it and inhale it in aerosol form.

174. [REDACTED]

175. This analysis showed that [REDACTED]

176. Further, [REDACTED]

177. All of these chemicals are on the FDA's Harmful and Potentially Harmful Constituents (HPHCs) list. HPHCs are chemicals or chemical compounds found in tobacco products and are known to be linked to the five most serious health effects of tobacco use (cancer, cardiovascular disease, respiratory effects, reproductive problems, and addiction),⁸¹

178. Even before these analyses, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

179. Despite JUUL knowing that these chemical were present in its products, it did not warn consumers about their presence.

180. JUUL also knew that its product, when used as intended, not only contained dangerous chemicals but could also have negative health consequences

181. [REDACTED]
[REDACTED]
[REDACTED] Yet, JUUL did not disclose this information to consumers.

182. JUUL fostered the idea that its products were safe and included few ingredients when it knew that when consumers used the product as intended, in its aerosol form, there were actually more chemicals created that could seriously injure a consumer.

⁸¹ Harmful and Potentially Harmful Constituents (HPHCs), U.S. FOOD AND DRUG ADMINISTRATION, <https://www.fda.gov/tobacco-products/products-ingredients-components/harmful-and-potentially-harmful-constituents-hphcs>.

183. JUUL also provided misleading information about its chemical solution in liquid form. For example, JUUL had a section on its website that addressed whether or not its solution ever expired.
184. In the “Frequently Asked Questions” section, JUUL assured consumers that its JUULpods did not expire and that the only risk associated with an older JUUL pod was a decrease in flavor.
185. JUUL, however, knew that the chemical solution in the JUULpods did more than just lose flavor. [REDACTED]
[REDACTED] Despite this knowledge, JUUL continued to tell consumers its pods did not expire.
186. JUUL also misrepresented its ingredients as ones that were approved by the FDA.
187. JUUL claimed on its online store that it could not make health and safety claims to consumers but then provided links to five articles and studies so that consumers could do their own research on the topic.
188. These JUUL-curated selections that were conveniently provided to consumers made a wide-range of health claims to consumers.
189. For example, one article reported that regular exposure to e-cigarettes “has generally benign effects in healthy people.” The article goes on to state that propylene glycol and glycerin, ingredients found in JUUL products, are harmless and are “found in toothpaste, hand sanitizer, asthma inhalers, and many other FDA-approved foods, cosmetics and

pharmaceuticals.”⁸² Thus, equating the safety of JUUL products, which are not FDA-approved, with products that are FDA-approved.

190. JUUL actually ended up adopting the above language for its website by stating its products contain glycerol and propylene glycol which are “also used in a number of consumer products like toothpaste.” JUUL also deceptively aligned the ingredients in its products with FDA approval in an article it sponsored and helped to edit.
191. In July 2015, the *Thrillist* published a JUUL-sponsored article that claimed its e-juice was a “blend of nicotine, flavoring, and propylene glycol, and FDA-approved food additive, found in all sorts of stuff.” The article then gave examples such as liquor and ice cream, ignoring the fact that JUUL users do not consume these ingredients but inhale them.⁸³
192. JUUL created a product that had a dramatically higher nicotine concentration than what was available on the market at the time. However, JUUL misrepresented the nicotine potency to consumers by measuring nicotine in a way that was difficult to understand, by making comparisons that were not accurate, and by using marketing tactics to minimize the addictive quality of its products. JUUL also deceived consumers by creating the overall image that its products were healthy and safe by omitting crucial information. Finally, JUUL added to the deceptive notion that its products were safe by aligning its ingredients with FDA approval.

⁸² Sally Satel, *How e-cigarettes could save lives*, The Washington Post (Feb. 14, 2014), https://www.washingtonpost.com/opinions/how-e-cigarettes-could-save-lives/2014/02/14/31bce704-8d18-11e3-98ab-fe5228217bd1_story.html.

⁸³ John Marshall, *7 things you didn't know about e-cigarettes*, Thrillist (Jul. 14, 2015), <https://www.thrillist.com/vice/how-e-cigarettes-actually-work>.

D. Defendant Marketed its Product as a Modified Risk Product without FDA Approval

193. The Federal Food, Drug and Cosmetic Act restricts when a manufacturer of tobacco products may represent its product as being safer than other tobacco products.
194. Section 911 of the Federal Food, Drug, and Cosmetic Act defines a “Modified Risk Tobacco Product” as any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.” 21 USC § 378k(b)(1).
195. In order to market a product as safer than other tobacco products, a manufacturer must file an application with the FDA to have its product designated as a Modified Risk Tobacco Product. 21 USC § 387k(d).
196. When reviewing the application, the FDA must make certain findings including a determination as to whether consumers who do not already use tobacco products will begin to use the proposed Modified Risk Tobacco Product. 21 USC 387k(g)(2)(c)(4)(c).
197. Even after a product receives the Modified Risk Tobacco Product designation, it must still restrict its labeling and advertising of this designation to an explicit or implicit representation that the product is either free of a specific substance or contains a reduced level of a substance, or a reduced exposure to a substance found in tobacco smoke. *See* 21 USC 387k(g)(2)(ii).
198. Since the statute permitting the designation of Modified Risk Tobacco Products was enacted in 2009, the FDA has only designated one product as a Modified Risk Tobacco Product, in October 2019.

199. Despite lacking the FDA's authorization to market its product as a Modified Risk Tobacco Product, JUUL represents in its advertisements that its product is safer than combustible cigarettes.
200. JUUL's website provides that JUUL is on a "mission to improve the lives of the world's one billion adult smokers by eliminating cigarettes."⁸⁴
201. JUUL operates a website called JLI Science, www.jliscience.com, whose stated purpose is to address the fact that "nearly 16 million people have a smoking-related disease and almost half a million deaths a year are attributed to cigarette consumption."⁸⁵
202. JUUL, through its website JLI Science, projects an image that its products are the subject of thorough research that demonstrates the relative safety of its products when compared to combustible cigarettes
203. The JLI Science website includes a "Research Library" containing articles relating to scientific studies, most of which are conducted by authors affiliated with JUUL Labs, Inc.
204. JUUL placed articles in the "Research Library" section of the JLI Science website which suggest that vaping products are safer than combustible cigarettes.⁸⁶
205. Several of the studies in JUUL's "Research Library" are studies of consumers "switching" to JUUL's products from combustible cigarettes and the health benefits obtained from doing so.
206. JUUL's "Research Library" only includes studies which present both e-cigarettes, in general and JUUL's products, specifically, as safe for consumption, or as comparatively safer than combustible cigarettes.

⁸⁴ *Our Mission*, JUUL (November 26, 2019), <https://www.juul.com/mission-values>; JLI SCIENCE <https://jliscience.com/> (Last visited November 26, 2019).

⁸⁵ *Our Vision for Vapor*, JLI SCIENCE, <https://jliscience.com/our-vision> (Last visited November 20, 2019).

⁸⁶ *Research Library*, JLI SCIENCE, <https://jliscience.com/research-library> (Last visited November 20, 2019).

207. For example, on October 15, 2019, JUUL posted in the JLI Science “Research Library” an article entitled “Changes in Biomarkers of Exposure Associated with Switching for 5 days from Combusted Cigarettes to Nicotine Salt Pod System.” The article’s “primary hypothesis is that switching from use of usual brand combustible cigarettes to exclusive use of four JUUL 5% ENDS (Virginia Tobacco, Cool Mint, Mango, or Crème Brulee) for 5 days will result in a significant decrease” in exposure to harmful chemicals contained in cigarettes.⁸⁷
208. Several of the authors of this October 15, 2019 article were affiliated with JUUL.
209. JUUL’s websites and advertisements frequently refer to its product as designed to “improve the lives of the world’s one billion adult smokers by eliminating cigarettes.”⁸⁸
210. JUUL, on its website, states, “Smoking alternatives can seem complicated and intimidating, but we believe that vaping can have a positive impact when used by adult smokers. JUUL was developed with you in mind.”⁸⁹
211. On April 3, 2019, JUUL posted an article to its website regarding the decline in cigarette sales highlighting that cigarettes are the leading cause of preventable death in the U.S. In the same paragraph, JUUL stated that the decline in consumption relates to “JUUL Labs’ mission to improve the lives of the world’s one billion adult smokers by eliminating cigarettes.”⁹⁰

⁸⁷ JOANNA JAY, ET AL., *Changes in Biomarkers of Exposure Associated with Switching for 5 days from Combusted Cigarettes to Nicotine Salt Pod System*, JLI Science, <https://jliscience.com/> (Last visited November 26, 2019).

⁸⁸ JUUL, www.juul.com (Last visited November 20, 2019).

⁸⁹ *Id.*

⁹⁰ JUUL, *Cigarette Sales in the U.S. Continue Historic Decline into the First Quarter of 2019* (April 3, 2019) <https://newsroom.juul.com/cigarette-sales-in-the-u-s-continue-historic-decline-into-the-first-quarter-of-2019/>.

212. JUUL’s statements that its product will improve or have a positive impact on the lives of smokers and that its goal is to eliminate combustible cigarettes communicates to consumers that the product is safer or healthier than combustible cigarettes.
213. JUUL’s product shares some of the same risks as combustible cigarettes and poses additional risks not found in smoking.
214. Both JUUL pods and combustible cigarettes contain significant quantities of nicotine which is known to affect adolescent brain development and harm both pregnant women and their fetuses.⁹¹
215. Toxic metals such as lead, chromium, manganese, and nickel along with other toxins such as arsenic and aldehyde have also been detected in both cigarette smoke and e-cigarette aerosol.⁹²
216. While combustible cigarettes are a known cause of chronic bronchitis, at least one study has concluded that “adolescent e-cigarette users had increased rates of chronic bronchitis symptoms” and that the long-term effects of e-cigarettes on respiratory health required ongoing investigation.⁹³

⁹¹ U.S. FOOD AND DRUG ADMIN, Nicotine: The Addictive Chemical in Tobacco Products, <https://www.fda.gov/tobacco-products/products-guidance-regulations/nicotine-addictive-chemical-tobacco-products>. (As visited on November 20, 2019)

⁹² Olmedo P, Goessler W, et al. *Metal concentrations in e-cigarette liquid and aerosol samples: the contribution of metallic coils*. Environmental Health Perspectives, 2018 Feb 21;126(2):027010. doi: 10.1289/EHP2175. PMID: 29467105; Rob McConnel, et al., *Electronic Cigarette Use and Respiratory Symptoms in Adolescents*. AM. J. OF RESPIRATORY AND CRITICAL CARE MED. Vol. 195, No. 8 (april 15, 2017). <https://doi.org/10.1164/rccm.201604-08040C> (Also citing two additional studies of adolescents linking e-cigarettes to both chronic bronchitis and asthma.)

⁹³ McConnel, et al., *supra* note 91.

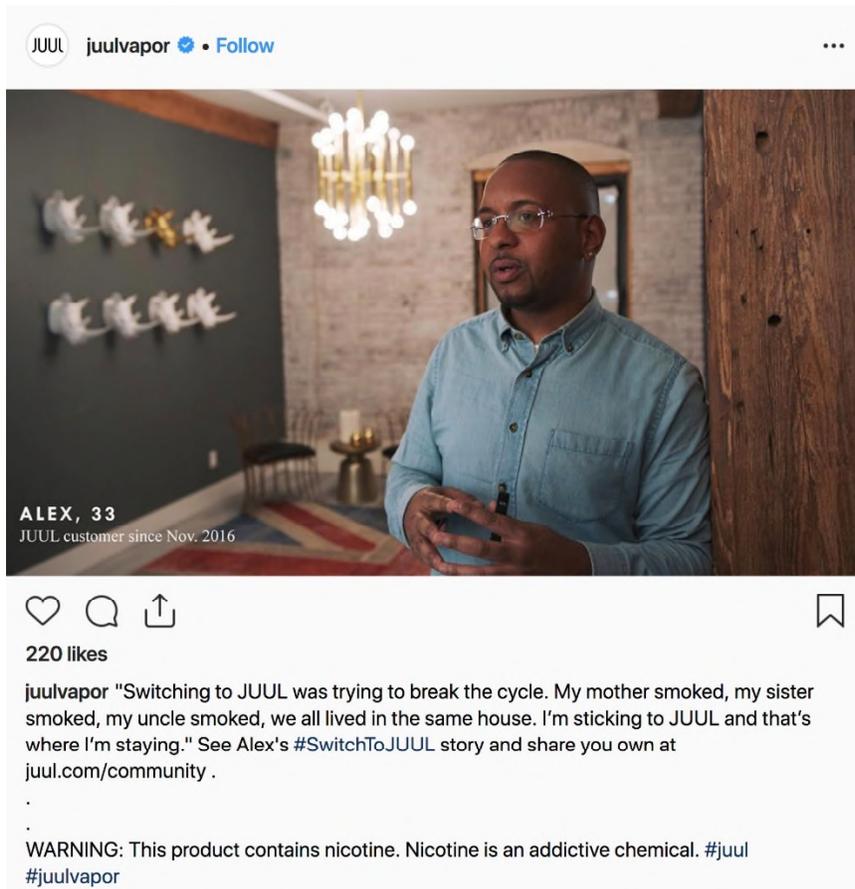
217. A study found that e-cigarettes are as harmful, or even potentially more harmful to heart health than combustible cigarettes, suggesting that “e-cigarette use is associated with coronary vascular dysfunction at rest, even in the absence of physiologic stress.”⁹⁴
218. JUUL, through its website and in its advertisements, advertises that its product is safer than combustible cigarettes and presents a reduced risk of harm compared to combustible cigarettes despite lacking the approval from the FDA to market its products as a Modified Risk Tobacco Product.

E. JUUL Made Deceptive and Unsubstantiated Claims about its Product’s Ability to Help Consumers Quit Smoking

219. For a product to be marked as a smoking cessation device, the product must apply for and receive approval from the FDA’s Center for Drug Evaluation and Research. *See* 21 C.F.R. § 1100.5; 21 U.S.C. § 321(g)(1)(B).
220. Despite lacking such approval, JUUL advertised that its products help consumers quit smoking.
221. In 2018, JUUL began an advertising campaign through social media and its own website encouraging consumers to “Make the Switch.”
222. JUUL’s “Make the Switch” campaign advertises to consumers that its products can help them achieve their goal of quitting cigarettes, help them in their struggle to quit smoking, or help them achieve their resolutions to quit smoking.
223. JUUL, as part of its “Make the Switch” campaign, placed an advertisement on social media that implied if a consumer had repeatedly tried and failed to quit smoking, JUUL’s product would help them succeed.

⁹⁴ *Study: E-Cigarettes May Be More Harmful To Heart Health Than Tobacco*, CEDARS SINAI (Nov. 11, 2019), <https://www.cedars-sinai.org/newsroom/study-e-cigarettes-may-be-more-harmful-to-heart-health-than-tobacco/>.

226. JUUL, on its Instagram account, placed an advertisement with a testimonial by a consumer identified as “Alex, 33” who stated, “Switching to JUUL was trying to break the cycle. My mother smoked, my sister smoked, my uncle smoked, we all lived in the same house. I’m sticking to JUUL and that’s where I’m staying.”

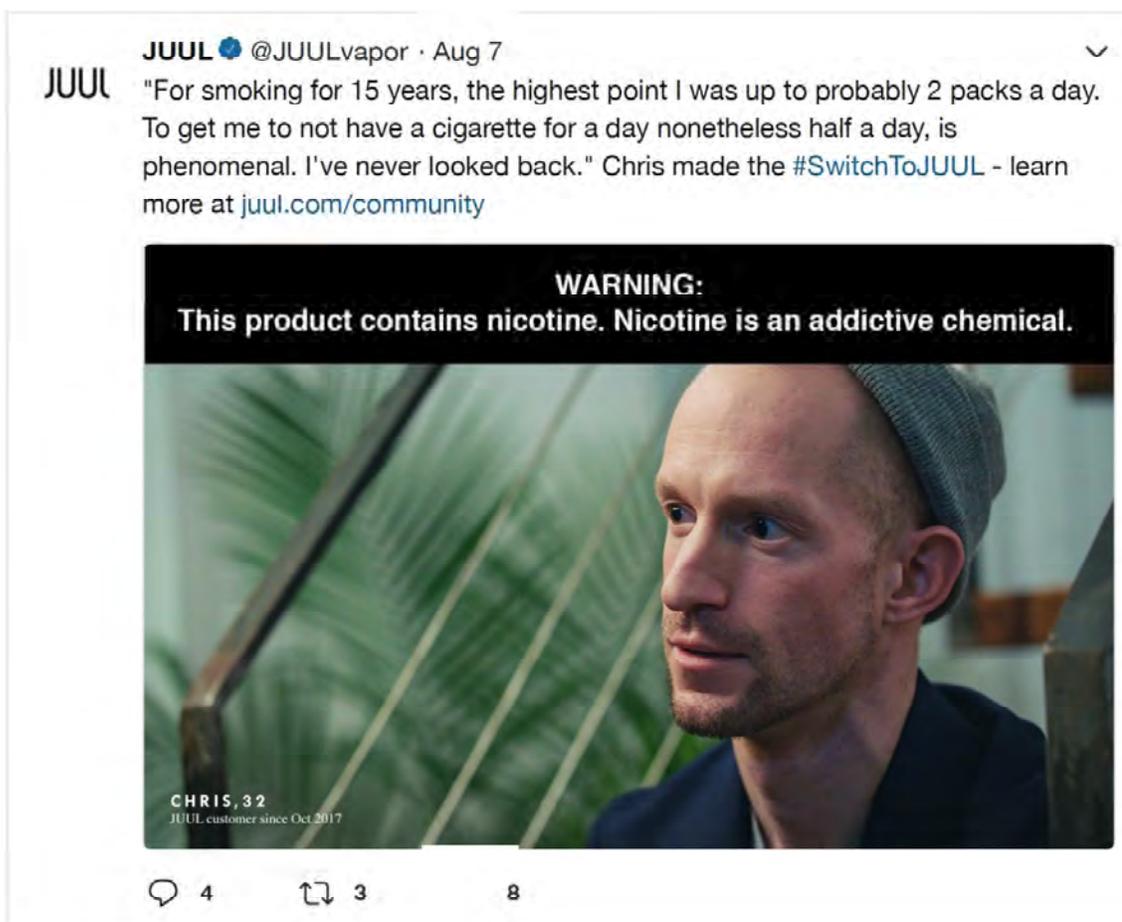


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227. Similarly, on its Twitter account, JUUL posted an advertisement with a testimonial from a consumer identified as “Chris, 32” which stated, “For smoking for 15 years, the highest point I was up to probably 2 packs a day. To get me to not have a cigarette for a

⁹⁶ (SRITA Database) http://tobacco.stanford.edu/tobacco_web/images/pod/juul/switch/large/tojuul_29.jpg (Last visited November 20, 2019).

day nonetheless half a day, is phenomenal. I've never looked back.' Chris made the #SwitchToJUUL.”



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228. In January 2018, JUUL posted an advertisement to Twitter stating JUUL’s products can help consumers whose New Year’s resolution was to quit smoking.

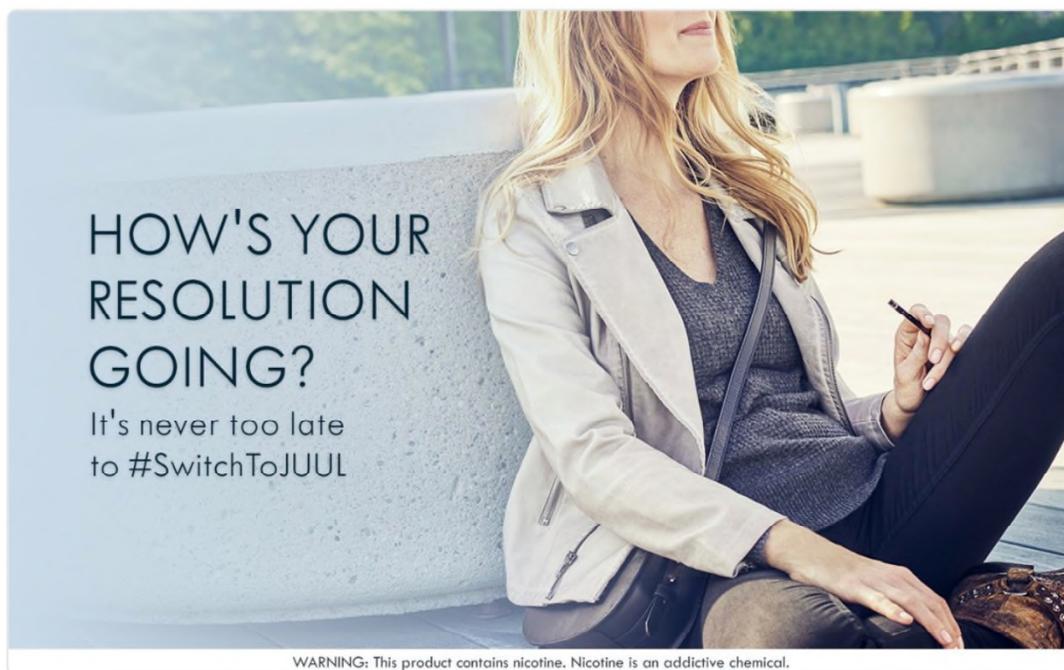
⁹⁷ (SRITA Database) http://tobacco.stanford.edu/tobacco_web/images/pod/juul/switch/large/tojuul_108.jpg (Last visited November 20, 2019).

JUUL

JUUL  @JUULvapor · Jan 17



Resolutions are hard - we're here to help. Make the switch from cigarettes today:
bit.ly/2ET0wI0 #SwitchToJUUL



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229. JUUL’s website reinforced the messages from its “Make the Switch” campaign of helping consumers to stop smoking.
230. Elsewhere on its website, JUUL invites users to join its “JUUL Action Network” which JUUL describes as “a platform for advocates committed to protecting adult access to vapor products that help adult smokers switch from combustible cigarettes.”⁹⁹
231. On its website, JUUL greeted consumers with the message “JUUL was developed as a satisfying alternative to cigarettes. Learn about our mission to improve the lives of the world’s one billion adult smokers by eliminating cigarettes.”¹⁰⁰

⁹⁸ (SRITA Database) http://tobacco.stanford.edu/tobacco_web/images/pod/juul/switch/large/tojuul_66.jpg (Last visited November 20, 2019).

⁹⁹ *JUUL Action Network*, JUUL <https://www.juul.com/actionnetwork> (Last visited November 20, 2019).

¹⁰⁰ *Id.*

232. JUUL’s website includes a section called “The JUUL Community” on which consumers provide testimonials as to when they switched to using JUUL and how they have benefited from “Making the Switch.”¹⁰¹
233. JUUL’s “The JUUL Community” website has the appearance of a support group for individuals dealing with an illness or trying to break an addiction.
234. On “The JUUL Community” website, JUUL states that “the community of over one million adult smokers who have switched are at the heart of our mission” and encourages visitors to join the community to “learn, share, support and join the conversation.”
235. JUUL’s “The JUUL Community” website invites consumers to “Be an Advocate” and to support JUUL’s “mission to end cigarettes.”
236. JUUL, on “The JUUL Community” website, shares quotes from consumers that relate to how JUUL helped them stop smoking or how switching to JUUL was an accomplishment.
237. JUUL placed on its “The JUUL Community” website the testimonial of a consumer identified as “Tim, 34” which states, “Keep your faith in it and it will work just fine! Don’t let your mind trick you!” and a testimonial from “Matthew, 31” which states, “Don’t give up. It’s worth it.”¹⁰²
238. As another example, JUUL placed on its “The JUUL Community” website a statement from an individual identified as “Jennifer, 49” which provides, “After 35 years of being a smoker, my friend convinced me to just try hers. Best decision I ever made. I no longer smoke cigarettes.”¹⁰³

¹⁰¹ *Community*, JUUL. <https://www.juul.com/community> (Last visited November 20, 2019).

¹⁰² *JUUL STORIES*, JUUL. <https://www.juul.com/community/stories> (Last visited November 19, 2019).

¹⁰³ *Id.*

239. JUUL has also marketed its products directly to hospital systems, employers, and health insurance companies as a way to help their employees stop smoking cigarettes.¹⁰⁴
240. Contrary to JUUL's representations, at present, no study has demonstrated that any e-cigarette, including JUUL's product, aids consumers in quitting smoking.
241. The FDA, in enacting its Deeming Rule in August 2016, noted that studies conducted as of that date had not demonstrated the efficacy of e-cigarettes as a smoking cessation device.¹⁰⁵
242. In addition, studies have shown that vaping has no effect on quitting smoking, with at least one study revealing that e-cigarette users were less likely to quit smoking than non-e-cigarette users.¹⁰⁶
243. A 2017 study found that most smokers who tried to use e-cigarettes to quit smoking ended up smoking both the e-cigarettes and the combustibles.¹⁰⁷
244. An addiction to smoking combustible cigarettes is an addiction to the nicotine contained within the cigarettes.¹⁰⁸
245. As described above, JUUL's products contain high levels of nicotine which they deliver more efficiently into the human body than combustible cigarettes.

¹⁰⁴ Angelica LaVito and Christina Farr, *Juul is pitching its e-cigarette as an anti-smoking tool to employers and insurers*, CNBC (March 7, 2019). <https://www.cnbc.com/2019/03/07/juul-e-cigarette-maker-pitches-employers-insurers.html>.

¹⁰⁵ Deeming Tobacco Products to be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Product. 81 Fed. Reg. 28973, (May 10, 2016) pps. 29037-8.

¹⁰⁶ H McRobbie, et al., *Electronic cigarettes for smoking cessation*. COCHRANE DATABASE SYST REV.2014 Doi: 10.1002/14651858.CD010216.pub2. Epub 2014 Dec 17, available at <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub2/full> (Last visited November 20, 2019).

¹⁰⁷ Ralph S. Caraballo, et al. *Quit Methods Used by US Adult Cigarette Smokers, 2014–2016*. PREV CHRONIC DIS 2017; 14:160600. DOI: <https://doi.org/10.5888/pcd14.160600>.

¹⁰⁸ U.S. FOOD AND DRUG ADMIN, Nicotine: The Addictive Chemical in Tobacco Products, <https://www.fda.gov/tobacco-products/products-guidance-regulations/nicotine-addictive-chemical-tobacco-products>. (As visited on November 20, 2019)

246. Instead of breaking consumers of their addiction to smoking, JUUL’s products prey upon consumers’ addiction to nicotine.
247. Consumers who “Make the Switch” to JUUL’s products merely transfer their addiction to smoking combustible cigarettes to being addicted to e-cigarettes.¹⁰⁹
248. When former smokers try to quit e-cigarettes, they experience both the same withdrawal symptoms as consumers trying to quit combustible cigarettes, in addition to potentially additional withdrawal symptoms.¹¹⁰
249. JUUL lacked both FDA approval and substantiation for its claims that its products help consumers stop smoking; nevertheless, JUUL marketed its products to consumers as a smoking cessation device.

VIII. APPLICABLE STATUTES

250. Section 2 of the Consumer Fraud Act 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 shall 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.
815 ILCS 505/2

¹⁰⁹ John R. Hughes, et al., *Withdrawal Symptoms from E-Cigarette Abstinence among Former Smokers: A Pre-Post Clinical Trial*. *Nicotine & Tobacco Research*. 2019 Jul 28. Doi: 10.1093/ntr/ntz129..

¹¹⁰ *Id.*

IX. VIOLATIONS

251. The State incorporates Paragraphs 1 through 250 herein as if set forth in their entirety.
252. While engaged in trade or commerce, JUUL committed the following unfair and/or deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud Act, with the intent that consumers rely on the deceptive acts and practices, 815 ILCS 505/2:
- a. Designing, offering for sale, and selling an e-cigarette device to appeal to minors;
 - b. Designing, offering for sale, and selling a nicotine solution that would be easier for new nicotine users, a substantial portion of which are minors;
 - c. Designing, offering for sale, and selling flavored nicotine products to appeal to minors;
 - d. Creating and using marketing and advertising strategies and campaigns targeted to youth, a substantial portion of which are minors;
 - e. Using ineffective age verification systems for online sales, thereby allowing underage users to obtain JUUL products;
 - f. Advertising the nicotine potency of its e-cigarette products in a deceptive and confusing manner;
 - g. Making inaccurate comparisons between its products and other tobacco products;
 - h. Engaging in conduct to minimize the addictive nature of its product, including by obfuscating the fact that they contain nicotine;
 - i. Failing to disclose to consumers that the by-products of the vaporization of its chemical solution include dangerous chemicals;
 - j. Making misrepresentations and/or unsubstantiated claims about the safety and risks associated with use of its products;
 - k. Representing to consumers that its products presents a modified or reduced risk of harm compared to other tobacco products without first obtaining the approval the FDA as required by 21 USC § 387k(d);
 - l. Representing to consumers that its products can help consumers quit smoking without first applying for and obtaining approval from the FDA as required by 21 C.F.R. § 1100.5 and 21 U.S.C. § 321(g)(1)(B); and

- m. Making misrepresentations and/or unsubstantiated claims to consumers that its products can help consumers quit their addiction to smoking.

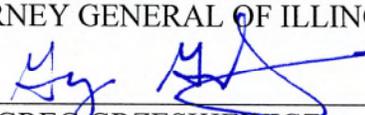
X. PRAYER FOR RELIEF

Wherefore, the State prays for the following relief:

- A. Finding that Defendant violated Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by engaging in unlawful acts and practices including, but not limited to, the unlawful acts and practices alleged herein;
- B. Permanently enjoining the Defendant from engaging in the unfair and/or deceptive acts or practices described herein;
- C. Ordering Defendant to pay a civil penalty of \$50,000 per deceptive or unfair act or practice, and an additional amount of \$50,000 for each act or practice found to have been committed with the intent to defraud, all as provided in Section 7 of the Consumer Fraud Act, 815 ILCS 505/7;
- D. Disgorging all revenues, profits, and gains achieved in whole or in part through the deceptive and unfair acts or practices complained of herein;
- E. Requiring full restitution be made to consumers;
- F. Requiring the Defendant to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act, 815 ILCS 505/10; and
- G. Providing such other and further relief as justice and equity may require.

THE PEOPLE OF THE STATE OF
ILLINOIS, by KWAME RAOUL
ATTORNEY GENERAL OF ILLINOIS

BY:



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