

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR HILLSBOROUGH COUNTY, FLORIDA
-CIVIL DIVISION-**

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,

PLAINTIFF,

v.

CASE NO.:
DIVISION.:

JUUL LABS, INC.,

DEFENDANT.

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (“Plaintiff” or the “Attorney General”), hereby sues Defendant, Juul Labs, Inc., (“Defendant” or “Juul”) and alleges as follows:

I. INTRODUCTION

1. The Attorney General brings this action for: (a) a permanent injunction pursuant to Section 501.207(1)(b) of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (“FDUTPA”); (b) additional temporary or permanent equitable or legal relief pursuant to Section 501.207(3), Florida Statutes, including, but not limited to, equitable restitution and disgorgement of ill-gotten gains; (c) civil penalties and attorney’s fees and costs provided for by

Sections 501.2075 and 501.2077, Florida Statutes; and (d) any additional statutory, legal or equitable relief the Court deems proper.

2. From its first launch of the Juul device in 2015 and continuing until at least 2018, Juul has been a dominant player in the electronic cigarette or “e-cigarette” market. Juul rose to this position by willfully engaging in an advertising campaign that appealed to adolescents even though Juul’s e-cigarettes are both illegal for them to purchase and particularly unsafe for them to use. Reversing decades of progress in combatting underage nicotine use and addiction, Juul emulated the marketing tactics that addicted generations to combustible cigarettes and in so doing addicted a new generation to nicotine, ensuring itself customers for decades to come.

3. Juul relentlessly marketed to underage users with launch parties, advertisements using trendy-looking and young models, social media posts, and free samples. It created a technology-focused, sleek design that could be easily concealed and sold its product in flavors known to be attractive to underage users. Juul also manipulated the chemical composition of its product to make the vapor less harsh on the throats of the young and inexperienced consumers it courted. To preserve its young customer base, Juul relied on age-verification techniques that it knew were ineffective.

4. Juul’s advertising and social media posts failed to disclose that its product contained nicotine. It has deceived consumers about its nicotine strength, misrepresented the nicotine equivalency of its products to traditional cigarettes, and understated the risks of addiction that occur with such powerful levels of nicotine.

5. Through its youth-oriented advertising and unlawful sales practices, Juul created a market for e-cigarettes among underage consumers. Millions of kids and teenagers have tried and become addicted to Juul. The U.S. Food and Drug Administration (“FDA”) and the U.S. Surgeon General have both declared teenage use of e-cigarettes, or “vaping”, an epidemic, with the latter declaring that “[w]e have never seen use of any substance by America’s young people rise as rapidly as e-cigarette use is rising.”¹

II. PARTIES

6. The Attorney General is an enforcing authority of FDUTPA pursuant to Sections 501.203(2), Florida Statutes, and is authorized to bring this action and to seek injunctive and other statutory relief.

7. The Attorney General conducted an investigation of the alleged matters and determined that this enforcement action serves the public interest.

¹ U.S. Department of Health & Human Services. “Surgeon General releases advisory on E-cigarette epidemic among youth.” 18 Dec. 2018. www.hhs.gov/about/news/2018/12/18/surgeon-general-releases-advisory-e-cigarette-epidemic-among-youth.html

8. Juul is a Delaware corporation and, according to its filings with the Florida Department of State, Division of Corporations, its principal place of business is in Washington, D.C.

9. Juul designs, manufactures, sells, markets, advertises, promotes and distributes Juul e-cigarette devices, Juul pods and accessories.

III. JURISDICTION AND VENUE

10. The violations alleged herein affect or occurred in more than one judicial circuit in the State of Florida.

11. Venue is proper in the Circuit Court of the Thirteenth Judicial Circuit, for Hillsborough County, Florida pursuant to Section 47.051, Florida Statutes. Juul promotes, markets, advertises, and sells its products in Hillsborough County.

12. Juul regularly conducts business within the State of Florida and derives substantial revenue from goods sold and/or consumed in Florida.

IV. ALLEGATIONS

13. Use of e-cigarettes increased rapidly over the past decade across the United States, particularly among youth²—a development that raised significant

² Jamal A, Gentzke A, Hu SS, et al. *Tobacco use among middle and high school students - United States, 2011-2016*. MMWR Morb Mortal Wkly Rep 2017;66:597–603. doi:10.15585/mmwr.mm6623a1. <https://www.cdc.gov/mmwr/volumes/66/wr/mm6623a1.htm>.

public health concerns about the creation of a new generation of nicotine dependency.³

14. Nicotine is a highly addictive neurotoxin—meaning it is poisonous to the human brain, and, as noted by one court, “Nicotine is among the most addictive substances used by humans.” *Nicopure Labs, LLC v. Food & Drug Admin.*, 944 F.3d 267, 270 (D.C. Cir. 2019).

15. The brains of teenagers are particularly vulnerable to nicotine and have what one study describes as “exquisite sensitivity” to nicotine’s neurotoxic effects.⁴ Even small and brief exposures to nicotine can cause lasting neurobehavioral damage in adolescents.⁵ Additionally, when a teenager gets addicted to nicotine, it makes it much more likely that he or she will later become a user of traditional cigarettes or illegal drugs.⁶

³ Grana RA, *Electronic cigarettes: a new nicotine gateway?* J Adolesc Health 2013;52:135–6. doi:10.1016/j.jadohealth.2012.11.007. [https://www.jahonline.org/article/S1054-139X\(12\)00736-7/fulltext](https://www.jahonline.org/article/S1054-139X(12)00736-7/fulltext); See Also CDC Release: *Progress Erased: Youth Tobacco Use Increased During 2017-2018* <https://www.cdc.gov/media/releases/2019/p0211-youth-tobacco-use-increased.html> (According to the Centers for Disease Control and Prevention (“CDC”) Director Robert Redfield, “The skyrocketing growth of young people’s e-cigarette use over the past year threatens to erase progress made in reducing youth tobacco use. It’s putting a new generation at risk for nicotine addiction”).

⁴ Abreu-Villaça Y; et al., *Nicotine is a neurotoxin in the adolescent brain: critical periods, patterns of exposure, regional selectivity, and dose thresholds for macromolecular alterations*, 979 Brain Research 114-28 (July 25, 2003), <https://www.ncbi.nlm.nih.gov/pubmed/12850578>.

⁵ *Id.*

⁶ U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*, 2016 at p. 99. https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf

16. One of the great public health success stories over the past decade was the reduction in youth tobacco use and in nicotine addiction. Youth smoking rates plummeted from 28% in 2000 to 7.6% in 2017.⁷ However, the introduction of new e-cigarette devices shifted the types of tobacco products used by youths.⁸

17. For Florida, shifting tobacco use patterns meant that by 2019 one in every four high school students reported using e-cigarettes within the last 30 days.⁹ Despite prevention efforts, nicotine use by youths has not returned to levels seen prior to the widespread availability of e-cigarettes.¹⁰

18. Juul was the largest producer of e-cigarettes during the period of fastest youth uptake. By the end of 2018, Juul held more than 75% of the e-cigarette market.¹¹

⁷ Gentzke AS, Creamer M, Cullen KA, et al. *Vital Signs: Tobacco Product Use Among Middle and High School Students — United States, 2011–2018*. MMWR Morb Mortal Wkly Rep 2019;68:157–164. DOI: <http://dx.doi.org/10.15585/mmwr.mm6806e1external icon>. (“A considerable increase in e-cigarette use among U.S. youths, coupled with no change in use of other tobacco products during 2017–2018, has erased recent progress in reducing overall tobacco product use among youths.”).

⁸ US Department of Health and Human Services. *Surgeon General’s advisory on e-cigarette use among youth*. Washington, DC: US Department of Health and Human Services, Office of the Surgeon General; 2018. <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

⁹ Florida Youth Tobacco Survey (FYTS), Florida Department of Health, Bureau of Epidemiology, 2019.

¹⁰ U.S. Food and Drug Administration, *Get the Latest Facts on Teen Tobacco Use*. January 13, 2021. (“[Y]outh use of e-cigarettes remains a public health issue that is affecting children, families, schools and communities.”)

¹¹ Richard Craver, *Juul Ends 2018 With 76 Percent Market Share*, Winston-Salem Journal (Jan. 8, 2019), https://journalnow.com/business/juul-ends-2018-with-76-percent-market-share/article_6f50f427-19ec-50be-8b0c-d3df18d08759.html.

19. Juul produced a battery-operated device of the same name that heats a nicotine cartridge containing liquid creating an aerosol (often called a vapor) that users inhale. Unlike previous clunky e-cigarettes, Juul’s product design is sleek and modern, with cartridges that look like USB sticks.¹² The Juul device is discrete, and small enough to fit into a closed hand or a pocket.

20. Juul cartridges, called “pods,”¹³ contain a proprietary blend of nicotine liquid that had ten times the amount of nicotine of previous e-cigarette products on the market,¹⁴ yet provided a “smoother” smoking experience that was less harsh on the user’s throat.¹⁵ The concentration of nicotine and reduction of irritation was possible through the use of nicotine salts. The idea to use nicotine salts to soften the impact of high nicotine content for new and inexperienced users can be traced back to an RJ Reynold’s research memo on which Juul relied.¹⁶

¹² Robert K. Jackler, *Juul Advertising over its First Three Years on the Market*, STAN. U. RES. INTO THE IMPACT OF TOBACCO ADVERT., at 2 (Jan. 31, 2019), https://tobacco-img.stanford.edu/wp-content/uploads/2021/07/21231836/JUUL_Marketing_Stanford.pdf (hereinafter “*Juul Advertising*”).

¹³ Melia Robinson, *The Company Behind the 'iPhone of Vaporizers' Is Reinventing the E-Cigarette*, Business Insider (Aug. 22, 2016), <https://www.businessinsider.com/pax-labs-takes-on-tobacco-2016-8>.

¹⁴ Will Yakowicz, *This Silicon Valley Company Just Raised \$47 Million to Smoke Cigarette Makers*, Inc. (June 10, 2015), <https://www.inc.com/will-yakowicz/pax-labs-vaporizer-company-raises-47-million.html>.

¹⁵ Emily Baumgaertner, *Juul Wanted to Revolutionize Vaping. It Took a Page from Big Tobacco’s Chemical Formulas*, LOS ANGELES TIMES (Nov. 19, 2019), <https://www.latimes.com/politics/story/2019-11-19/juul-vaping-chemical-formulas-based-in-big-tobacco>.

¹⁶ *Id.*

Juul Marketing

21. Juul claims that its product is intended as an alternative for adult smokers.¹⁷

22. However, Juul's advertising did not focus on switching from traditional cigarettes until 2018.¹⁸ Rather, from its inception, Juul directed its marketing at youth.¹⁹

23. Juul created a product with a design that was attractive to minors and filled it with a nicotine solution that was easy for inexperienced smokers to use. It marketed its product, not to the older demographic it now claims it was seeking, but to the under-aged, by using social media accounts, celebrities, influencers, youth-oriented events, and an advertising campaign featuring youthful models styled with the playfulness and fashion of teenagers. Juul's policies, including an inferior age-verification protocol, enabled minors to purchase Juul products.

24. Seeking to appeal to tech-savvy, fashionable youth, Juul hired Steve Baillie to develop a new creative concept. Baillie assembled "mood boards" composed of pictures of fashionable, young models in playful and sexually suggestive poses. Baillie conceived of the "Vaporized" tagline for his campaign.

¹⁷ *Juul*, <https://www.juul.com/> The homepage reads, "The mission of Juul Labs is to transition the world's billion adult smokers away from combustible cigarettes, eliminate their use, and combat underage usage of our products."

¹⁸ *Juul Advertising* at 16.

¹⁹ *Juul Advertising* at 1.

25. Juul adopted this youth-oriented approach, despite the concern of Juul employees and its board of directors that models photographed for the Vaporized campaign appeared too young.

26. Juul launched its Vaporized campaign, introducing its product to America's youth, with high profile promotional and sampling opportunities. These were youth-oriented entertainment events, featuring rock music and roof-top movies, including one all-night "slumber party," the primary purpose of which was to distribute free samples of Juul devices and flavor pods to a youthful audience in order to help establish Juul in the vapor marketplace.

27. Juul's Twitter account posted numerous free sample events; for example, in July 2015, Juul tweeted an invitation to an event at which all attendees could get a free Juul kit. Later invitations, like one in October 2017, acknowledged that "FDA regulations prohibit manufacturers from providing free samples of nicotine related products," and instead indicated there would be a \$1 charge.²⁰

28. Juul used this same cynical method of sidestepping regulations in Florida, tweeting an invitation for a demo event for \$1 in Miami in December 2017.

29. Juul posted photographs from the events on social media and encouraged guests to post and hashtag their own pictures.

²⁰ *Juul Advertising* at 6.

30. Juul’s advertising channels clearly were not aligned to the media preferences typical of the baby boom (1946-1964) and Gen X (1965-1980) generations. Juul made minimal use of newspapers, magazines, radio and television advertisement. Instead, it conducted its marketing through Instagram, Twitter and Facebook. A study of Juul’s official Twitter account found that 45% of its followers were between the ages of 13 and 17, and only 20% were 21 and older.²¹ The only magazine in which Juul initially advertised was VICE magazine, a pop culture publication that claims to be the “largest youth media company in the world.”²²

31. Juul used a hashtag marketing strategy to promote its products through social media platforms.

32. Juul labelled its social media posts with hashtags such as #juul, #juulvapor, #vaporized, and #juulallnight, which allowed social media users to search for and follow Juul’s posts. Users were also able to label their own posts with hashtags, including #juul and Juul’s other hashtags.

33. By 2018, #juul had over a quarter of a million followers and hundreds of thousands of associated posts, many of which were created by and featured underage Juul users.²³

²¹ Sidani *et al.*, *I wake up and hit the Juul: Analyzing Twitter for Juul nicotine effects and dependence*, *Drug Alcohol Depend.*, Aug. 30, 2019, <https://doi.org/10.1016/j.drugalcdep.2019.06.005>.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6878169/>

²² <http://nymag.com/intelligencer/2018/06/inside-vice-media-shane-smith.html>

²³ *Juul Advertising* at 19.

34. Juul monitored the use of its hashtags, and knew, or should have known, that underage consumers were following its social media accounts and advertising posts.

35. Studies have shown that exposure to e-cigarette advertising on social networking sites among youth who had never used e-cigarettes increases the likelihood of subsequent e-cigarette use.²⁴

36. Until 2018, Juul also paid influential social media users to promote its product in blog and Instagram posts.

37. Juul utilized “influencers,” social media users with the power to affect the purchasing decisions of others. Juul relied on influencers with large numbers of young followers to promote Juul products on social media. Through influencers, Juul harnessed the power of user-created content to expand its reach far beyond what it could accomplish with company advertisements alone, and at a much lower cost.

²⁴ Camenga D, Gutierrez KM, Kong G, Cavallo D, Simon P, Krishnan-Sarin S, *E-cigarette advertising exposure in e-cigarette naïve adolescents and subsequent e-cigarette use: A longitudinal cohort study*. *Addict Behav.* 2018;81:78-83. 67 <https://pubmed.ncbi.nlm.nih.gov/29432916/>; Pokhrel P, Fagan P, Herzog TA, Laestadius L, Buente W, Kawamoto CT, Lee HR, Unger JB, *Social media e-cigarette exposure and e-cigarette expectancies and use among young adults*. *Addict Behav.* 2018;78:51-58. 68 <https://pubmed.ncbi.nlm.nih.gov/29127784/>; Dai H, Hao J. *Exposure to Advertisements and Susceptibility to Electronic Cigarette Use Among Youth*, *J Adolesc Health.* 2016; 59: 620-626 <https://pubmed.ncbi.nlm.nih.gov/27528472/>

38. Juul knew, or should have known, that many of the influencers were young and popular with adolescents and that many of their followers were underaged.

Juul Flavors and Composition

39. Flavored e-cigarettes are an enticing gateway for underage users. Youth perceive that flavored e-liquid advertisements are meant for them.²⁵

40. The understanding that flavors attract underage users is not new. In 2009, the FDA banned cigarettes containing flavoring (other than tobacco or menthol). The FDA reasoned flavored cigarettes are a gateway for many children and young adults to become regular smokers.

41. Despite this, Juul launched its e-cigarettes with an array of flavors, including Mint, Fruit, and Creme Brulee, and added Cool Cucumber, Coco Mint, and Mango.

42. In addition to flavoring its nicotine, Juul appealed to young users by altering the chemical composition of the nicotine in its products to be less harsh on the throats of new users, while at the same time delivering high doses of addictive nicotine.

²⁵ McKelvey K, Baiocchi M, Ramamurthi D, McLaughlin S, Halpern-Felsher B, *Youth Say Ads for Flavored e-liquids Are for Them*, *Addict Behav.* 2018; pii:S0306-4603: 30957-62.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6663555/>

43. Juul’s use of nicotine salts to obtain a lower pH level of the nicotine in its e-cigarettes was an intentional decision to make inhalation “smoother” for the inexperienced smoker.

44. This chemical composition made Juul products simultaneously more appealing to non-smokers, such as underage first-time users, while also making the products highly addictive.

45. Juul also designed its e-cigarette device in a way that it knew would appeal to young users.

46. The device was designed to look like the latest tech invention and resembles an inconspicuous USB drive. Initial reviews of the product included comparisons between Juul devices and iPhones, and Juul even marketed the device as “the iPhone of E-cigs.”

47. In addition to being rechargeable through a computer’s USB port, the design makes Juul devices easily concealable, a feature that is attractive to underage users. The sleek design allows students to use the device in classrooms, locker rooms, hallways, lunchrooms and school bathrooms without detection.

48. Further belying Juul’s claim that its product was intended solely for the experienced, adult smoker, Juul outfitted its device with a movement-sensing “party-mode” that lights up in a rainbow of colors when it is waived around. This feature serves no functional purpose but has youth appeal.

Age-Verification Procedure

49. Despite the obvious and acknowledged youthful appeal of its product, Juul declined to put in place adequate screening for online purchases.

50. By design, the third-party, online age-verification system used by Juul, Veratad, was porous, and did not always analyze the potential customer's name, full address, and date of birth when confirming identity and age.

51. Juul decided to stop checking day and month of birth as part of its age-verification process, despite the knowledge that it made it easier for underaged users to pass with their parent's information.

52. Juul used minors' personal email addresses, submitted during the age-verification process, to send marketing and advertising materials, despite knowing that these minors did not pass age verification. Juul was aware of and did not correct this issue for years, updating its policy only in August 2018.

53. Initially, Juul required an adult signature upon delivery of its products; however, on or about October 2016, Juul stopped requiring a delivery signature and made it an option available at an additional expense.

54. Juul knew of and allowed a loophole by which minors could receive a device merely by submitting the serial number of a device sold to someone of legal age through Juul's warranty replacement program. No money changed hands and no age-verification procedure was employed. Juul had actual knowledge that minors

were taking advantage of this loophole because parents of such minors complained to the company. Although Juul knew that the limited warranty provided a way for minors to obtain the product for free, Juul did not terminate this policy.

55. Because Juul's system verified 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.

Deception Regarding Nicotine

56. Juul misled consumers to believe that its product (i) did not include nicotine at all, (ii) contained a lower concentration of nicotine than it does, and that (iii) consuming one Juul pod was the equivalent of smoking one pack of combustible cigarettes.

57. Like combustible cigarettes and other e-cigarettes, Juul is a nicotine delivery device.

58. Juul's nicotine salt formula patent application contains a blood plasma study that shows incorporating nicotine salts into e-cigarettes caused nicotine to be absorbed quicker and at higher amounts than the control combustible cigarette.²⁶

59. The nicotine salt formula Juul has utilized since entering the market delivers considerably more nicotine to the blood than the formula from the patent

²⁶ Nicotine Salt Formulations for Aerosol Devices and Methods Thereof, U.S. Patent No. 9,215,895-B2 (filed Oct. 10, 2014) (issued Dec. 22, 2015), cols. 25-27
<https://patentimages.storage.googleapis.com/e2/9a/99/5a55ed883b0523/US9215895.pdf>

study. Juul sells a nicotine salt formula that is 5% nicotine strength by weight. According to Juul, the e-cigarette formula it sells causes approximately 70% more nicotine to be absorbed into the blood five minutes after inhalation than the control combustible cigarette from the blood plasma study.

60. Until approximately 2017, Juul misled consumers by failing to mention nicotine, or its harmful effects, in its product marketing. None of Juul's advertisements, billboards, or social media posts disseminated as part of its launch contained the word "nicotine," nor did Juul's marketing warn that the e-cigarette is addictive.

61. Between product launch in June 2015 and April 2016, no mention was made of Juul's nicotine content in promotional emails. An independent review of 171 promotional e-mails sent by Juul during this time found not a single mention of nicotine.²⁷ In April 2016, Juul added a nicotine warning in the fine print at the bottom of its emails.

62. Juul's Twitter feed did not add a nicotine warning until October 2017. Not until August 9, 2018, did Juul's video testimonials on Instagram commence with a prominent warning.²⁸

²⁷ *Juul Advertising* at 25.

²⁸ *Id.*

63. Juul’s packaging also contained no disclosure. From its launch in 2015 until at least 2017, the packaging for Juul pods identified them as “5% strength.” The packaging gave no indication that “5% strength” referred to nicotine content.

64. Juul did not include the word “nicotine” on the front of its packaging until mid-2018, right before the FDA required all e-cigarette products to carry a nicotine warning.

65. Not until later in 2018 did Juul finally update its packaging to indicate that its e-cigarette contained “5% nicotine strength.”

66. By failing to disclose that its product contained nicotine Juul hid the true nature of its product.

67. As a predictable consequence of Juul’s efforts to mislead its consumers, many of them were confused as to whether Juul always contained nicotine. A 2019 study found that only 37% of 15- to 24-year-olds who used Juul products in the last thirty days reported that Juul always contained nicotine.²⁹

68. Juul’s representations of “5% strength” and “5% nicotine strength” are misleading.

69. When Juul entered the market, it was standard for e-cigarette manufacturers to label and advertise their products’ nicotine concentration by

²⁹ Jeffrey G. Willett et al., *Recognition, Use and Perceptions of Juul among Youth and Young Adults*, TOBACCO CONTROL 2019;28, at 115-116.
<https://tobaccocontrol.bmj.com/content/28/1/115>

volume, the number of milligrams (mg) of nicotine per milliliter (mL) of liquid in an e-liquid container (mg/mL).

70. Juul deviated from the industry standard by measuring its nicotine concentration by weight, the number of milligrams (mg) of nicotine per milligrams (mg) of liquid in an e-liquid container (mg/mg). Had Juul followed the standard approach, it would have had to label the concentration of nicotine in its Juul pods as 5.9% nicotine concentration—18% more than the 5% concentration representation.

71. Juul's deceptive representation about its nicotine strength hid its higher nicotine potency compared to other e-cigarettes on the market.

72. On its website, in advertisements, and in public statements, Juul misrepresented that one Juul pod was equivalent to one pack of cigarettes.

73. Juul's own research shows that the representation that one Juul pod is equivalent to a pack of cigarettes is misleading. Juul's nicotine salt formula results in 70% more nicotine being absorbed into the blood stream than the control cigarettes used in Juul's blood plasma study.

74. Juul's representation that one pod is equal to a pack of cigarettes in terms of nicotine is also false because the overall amount of nicotine in a Juul pod exceeds the average nicotine content of a pack of combustible cigarettes.

Juul's Florida Sales

75. Since its launch in 2015 Juul has sold its e-cigarette products directly to consumers in Florida through its online store at Juulvapor.com and later at juul.com.

76. Between 2015 and 2020, Juul sold millions of units of its products to individuals, retailers, and wholesalers in Florida.

77. Juul was handsomely rewarded for its efforts to flood the State with highly addictive, deceptively labeled nicotine products. The company grossed millions of dollars from Florida sales between 2015 and 2020.

COUNT I **VIOLATION OF FLORIDA DECEPTIVE** **AND UNFAIR TRADE PRACTICES ACT (FDUTPA)**

78. Plaintiff adopts, incorporates, and re-alleges the foregoing paragraphs as if fully set forth herein.

79. FDUTPA provides, *inter alia*, that “deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.” Section 501.204(1), Fla. Stat.

80. Additionally, violations of “any law, [or] statute... which proscribes... deceptive... acts or practices” constitute FDUTPA violations. Section 501.203(3), Fla. Stat.

81. When construing whether acts or practices violate FDUTPA, it is the intent of the Legislature that “due consideration and great weight shall be given to the interpretations [by] the Federal Trade Commission and the federal courts relating to the... Federal Trade Commission Act.” Section 501.204(2), Fla. Stat.

82. Additionally, all FDUTPA provisions are to be “construed liberally” to promote the protection of the “consuming public and legitimate business enterprises from those who engage in... deceptive, or unfair acts or practices in the conduct of any trade or commerce” and “to make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.” § 501.202, Fla. Stat.

83. Defendant’s acts or practices alleged herein are unfair, deceptive, and/or unconscionable in violation of FDUTPA.

84. Defendant’s sale, promotion, marketing, advertising, distribution, and manufacturing of e-cigarette products in the State of Florida involves trade or commerce within the meaning of FDUTPA.

85. Defendant sold, promoted, marketed, advertised, and distributed e-cigarette products to businesses and consumers within every judicial district in Florida.

86. Defendant's unfair or deceptive omissions, acts, and practices include, but are not limited to, willfully advertising, soliciting, providing, offering, or distributing its addictive nicotine products, including by:

- a. Pursuing product development and marketing strategies that it knew or should have known would appeal to children who cannot legally purchase such products;
- b. Failing to implement an age-verification procedure in which it prevents the sale of nicotine products to children who cannot legally purchase such products and reasonably maintains direct control of the delivery of its addictive nicotine products to children; and
- c. Making false or misleading representations and omissions regarding the level of nicotine in its products and their equivalence to combustible cigarettes.

87. Defendant's marketing and product design targeting children and lax age-verification procedures for online sales and delivery offended public policy and were immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers.

88. Defendant's marketing and product design targeting children and lax age-verification procedures for online sales and delivery encouraged and permitted millions of Florida children to illegally use nicotine products, which risked, and led

to, substantial injury to consumers by increasing nicotine use and threatening their health and safety with known, harmful physical and psychological side effects.

89. Defendant's actions also harmed Florida's education system. Florida school boards have been forced to fund mitigation and remedial programs to address nicotine addiction fostered by Defendant's marketing, product design, and lax age-verification procedures. For instance, Palm Beach County Schools have had to create new classes for students who have been suspended because of vaping, redirect staff to assist in revising the Student Code of Conduct to specifically prohibit the use of e-cigarettes, and conduct Town Hall meetings to educate parents about the dangers attendant from students' use of e-cigarettes. Similarly, Lee County schools opened a new center where students suspended for vaping offenses are sent for twenty days.

90. The harm caused by Defendant's marketing and product design targeting children and lax age-verification procedures for online sales and delivery is not outweighed by countervailing benefits to consumers or competition.

91. The injuries caused by Defendant's marketing and product design targeting children and lax age-verification procedures for online sales and delivery could not be reasonably avoided as children are particularly susceptible to marketing and many mistakenly believe e-cigarette use is harmless.

92. Accordingly, Defendant's marketing and product design targeting children and lax age-verification procedures for online sales and delivery are unfair

trade practices and constitute violations of FDUTPA. Therefore, Defendant is liable for injunctive and other equitable, legal, and statutory relief.

93. Defendant's representations and omissions regarding the nicotine content of its products are deceptive.

94. Consumers acting reasonably in the circumstances were misled by Defendant's representations and omissions regarding the nicotine content of its products.

95. Consumers were exposed to higher concentrations of nicotine in forms that rendered it more addictive and were harmed as a result by becoming addicted to nicotine or continuing into deeper addiction.

96. Defendant's unfair, deceptive, and unconscionable acts or practices, or the effects thereof, are likely to recur unless permanently restrained and enjoined.

97. Consequently, the Plaintiff seeks all available relief under FDUTPA, including but not limited to disgorgement, restitution, civil penalties, equitable relief, injunctive relief, and attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, the Attorney General requests that this Honorable Court:

A. Enter judgment in favor of Plaintiff and against Defendant for FDUTPA violations as alleged herein;

B. Temporarily and permanently enjoin Defendant from targeting children through their marketing and product design, and from deceiving consumers with respect to the nicotine concentration of their products;

C. Award civil penalties, attorney's fees, and costs against Defendant pursuant to § 501.2075, Florida Statutes, or as otherwise authorized by law; and

D. Grant such other legal or equitable relief as this Honorable Court deems just and proper.

Dated October 4, 2023.

Respectfully Submitted,

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