

S 259345

NO.:
VANCOUVER REGISTRY

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY
DEC 12 2025
BETWEEN

IN THE SUPREME COURT OF BRITISH COLUMBIA
HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE
OF BRITISH COLUMBIA

PLAINTIFF

AND

JUUL LABS, INC., JUUL LABS CANADA, LTD., ALTRIA
GROUP, INC., ADAM BOWEN, JAMES MONSEES,
NICHOLAS PRITZKER AND RIAZ VALANI

DEFENDANTS

Brought pursuant to the *Vaping Product Damages and Health Care Costs Recovery Act*, S.B.C. 2025, c. 29 and to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

The Plaintiff

1. The plaintiff is His Majesty the King in right of the Province of British Columbia ("HMK").
2. Through the Minister of Health, the Ministry of Health of the Province of British Columbia oversees British Columbia's health system. The Ministry of Health has overall responsibility for ensuring that quality, appropriate, cost-effective, and timely health services are available in British Columbia. In the course of the Minister of Health's mandate, the Ministry of Health supports and funds the activities of all regional health authorities and the Provincial Health Services Authority in British Columbia, including all public health programs and services.
3. Through the Minister of Education and Child Care, the Ministry of Education and Child Care is responsible for ensuring the Province's K-12 students develop their individual potential and acquire the knowledge and skills necessary to contribute to a healthy society and a prosperous, sustainable economy. In partnership with

the Ministries of Children and Family Development and Health (including the former Ministry of Mental Health and Addictions), the Ministry of Education and Child Care provides Integrated Child and Youth teams in school district communities to deliver mental health and substance use service and support for children, youth, and families.

4. HMK also oversees and funds all other ministries and agencies in the Province of British Columbia.
5. The amounts spent by HMK in funding the services described above are, in large part, derived from taxpayer contributions.

Defendants

6. Defendant JUUL Labs, Inc. ("**JLI**") is an American corporation, with its principal place of business at 1000 F St NW, Washington, DC 20004, United States.
7. Ploom, Inc. ("**Ploom**"), a predecessor entity to JLI, was incorporated in Delaware in 2007. In 2015, Ploom changed its name to Pax Labs, Inc. In 2017, Pax Labs, Inc. changed its name to JUUL Labs, Inc.
8. Defendant JUUL Labs Canada Ltd. ("**JLC**") is a Canadian corporation, with a registered and records office address at Suite 2600 Three Bentall Centre, 595 Burrard Street, P.O. Box 49314 in Vancouver, BC, V7X 1L3. JLC is a subsidiary of JLI.
9. Defendant Altria Group, Inc. ("**Altria**") is an American corporation, with its principal place of business at 6601 W. Broad Street, Richmond, Virginia 23226, US.
10. Defendant James Monsees is an individual residing in California, USA. In 2007, he co-founded Ploom, the predecessor entity to JLI, with the defendant Adam Bowen. Until April 2011, Monsees was the chief operating officer ("**COO**") of Ploom. Monsees was the chief executive officer ("**CEO**") of JLI's predecessor entity between April 2011 and September 2015, and the chief product officer ("**CPO**") of JLI and its predecessor entity between September 2015 and March 2020. At all

relevant times, he has been a member of the Board of Directors of JLI until he stepped down in March 2020.

11. Defendant Adam Bowen is an individual residing in California, USA. In 2007, he co-founded Ploom with Monsees. Until April 2011, Bowen was the CEO of Ploom. Bowen was the COO of JLI's predecessor entity between April 2011 and January 2013, and chief technology officer ("CTO") of JLI and its predecessor entity between January 2013 and February 2020. Additionally, Bowen was a member of the Board of Directors of JLI at all relevant times prior to February 2020.
12. Defendant Nicholas Pritzker is an individual residing in California, USA. Pritzker made investments in JLI as early as 2011. He has been a member of JLI's Board of Directors since at least August 2013, and served as Co-Chairman on the Executive Committee of JLI's Board of Directors from at least October 2015 to August 2016.
13. Defendant Riaz Valani is an individual residing in California, USA. Valani made investments in JLI as early as 2007. Valani has been a member of JLI's Board of Directors since at least 2007, and was a member of the Executive Committee of JLI's Board of Directors from at least October 2015 to August 2016.
14. At all material times to this action, Bowen, Monsees, Pritzker and Valani were directors or officers of the defendant JLI (collectively, the "**D&O Defendants**").
15. This Notice of Civil Claim uses the term "**Company Defendants**" to refer collectively to JLI, JLC and Altria.
16. This Notice of Civil Claim uses the term "**Defendants**" to refer collectively to the Company Defendants and D&O Defendants.

The Class and Class Period

17. HMK brings this proposed class proceeding to recover past and future expenditures incurred, or to be incurred, arising from the Defendants' wrongdoing particularized herein. These expenditures necessarily include, among other things,

the costs of addressing and abating the substantial increase in vaping and associated disease, injury or illness that the Defendants' actions and omissions have caused or contributed to.

18. HMK relies on s. 14 of the *Vaping Product Damages and Health Care Costs Recovery Act*, S.B.C. 2025, c. 29 (the "**VPRA**"), which—for the purposes of s. 4 of the *Class Proceedings Act*, RSBC 1996, c. 50 (the "**CPA**")—permits it to bring an action under s. 2 of the *VPRA* on its own behalf and on behalf of the following:
 - (a) a class of all provincial and territorial governments in Canada that, during the period from August 2018 to present (the "**Class Period**"), paid or will pay healthcare, pharmaceutical, treatment and other costs related to disease, injury or illness caused or contributed to by JUUL Products, or the prevention thereof (the "**Class**" or "**Class Members**"); and
 - (b) a subclass of all provincial and territorial governments in Canada that have enacted legislation specifically directed at recovery of damages and health care costs arising from a "vaping-related wrong" as that term is defined in the relevant legislation (the "**VPRA Subclass**", which is included in the definition of "**Class**").

Factual Background

A. Defendants' Strategy

19. This action concerns the Defendants' deliberate plan to maximize their profits by creating and sustaining a new generation of nicotine addicts, through the unlawful design, development, promotion, distribution and sale of the JUUL®-branded electronic cigarette. In carrying out this plan, the Defendants were able to secure early market entry in the vaping industry.
20. As detailed further throughout this Notice of Civil Claim, each of the Defendants played a critical role—at times overlapping—in advancing this strategy.

B. JUUL Product Design

21. The JUUL e-cigarette device ("**JUUL Device**") is a battery-powered device that resembles a USB and heats a nicotine-filled liquid JUUL pod ("**JUUL Pod**"). JUUL

Pods are sold separately in appealing flavors and delivers a potent dose of nicotine, along with aerosol and other toxic chemicals into the lungs, body and brain of the user. The assembled JUUL Device and JUUL Pod ("**JUUL Products**") are small, easily concealable, odorless, and can be used practically anywhere without parents or teachers knowing.

22. JUUL Products are "vaping products" as defined in the *VPRA*.
23. JUUL Products are designed with features aimed at creating and sustaining addiction as quickly as possible, including:
 - (a) **JUULSALT.** This proprietary formulation delivers higher concentrations of nicotine per puff to the bloodstream compared to conventional e-cigarettes and combustible cigarettes, which increases its addictive potential. It also makes inhalation **smooth** and eliminates the harsh "throat hit" which otherwise deters nicotine consumption among children, teenagers, and young persons ("**Youth**") and non-smokers. This combination of ease of inhalation and high nicotine delivery makes JUUL Products both powerfully addictive and dangerous.
 - (b) **High Nicotine Concentrations.** JUUL Pods were initially launched in two nicotine concentrations: 3% and 5% nicotine *by weight*. In April 2019, 1.5% nicotine JUUL Pods were added. Note: the volume of the JUUL Pod is 0.7 mL or 0.77 g, and the actual amount of nicotine is determined by multiplying the percentage nicotine by 0.77 g.
 - (c) **Flavours.** In Canada, JUUL Pods were initially offered in flavours such as "Mango", "Mint", "Fruit Medley", "Vanilla", "Cucumber", "Virginia Tobacco", and "Golden Tobacco." Colourful packaging materials place special emphasis on these sweet and fruity flavours so that Youth would take notice and become curious about JUUL Products, try them, become addicted to them, and talk about how enjoyable they are with their friends.
 - (d) **Appealing Hardware.** The JUUL Device resembles a USB flash drive, is sleek and concealable, and includes a feature termed "Party Mode" which allows users to induce an LED light show.

- (e) **No Off Switch.** The physical design of the JUUL Device and JUUL Pods determines the amount of aerosolized nicotine that the e-cigarette emits. The JUUL Device does not have a manual or automatic "off" switch. In addition, neither the JUUL Device's temperature nor puff duration settings limit the amount of nicotine a JUUL Device delivers with each "puff". As a result, JUUL Products allow for continuous nicotine consumption, only limited by the JUUL Device's battery. This physical design increases the risks of abuse and addiction.

24. JUUL Products have been described on the JLC's official Canadian website as "created to be a satisfying alternative to cigarettes".

C. JUUL Products Can Cause or Contribute to Disease, Injury or Illness

25. Use of or exposure to JUUL Products is known to cause or materially contribute to the following non-exhaustive list of "diseases, injuries or illnesses", as defined in the *VPRA*:

- (a) nicotine addiction;
- (b) pulmonary diseases, injuries or illnesses;
- (c) respiratory diseases, injuries or illnesses;
- (d) cardiovascular diseases, injuries, or illnesses;
- (e) neurological diseases, injuries, or illnesses;
- (f) mental illness, injury or changes including anxiety, depression, altered emotional regulation, and other mood changes; or
- (g) such other injuries as will be particularized at the trial of this matter.

26. The above-noted diseases, injuries or illnesses are "vaping-related disease, injury or illness" as defined in the *VPRA*.

I. Addiction

27. JUUL Products can cause or exacerbate nicotine addiction. These Products were designed to be highly addictive.
28. Nicotine targets the areas of the brain involved in emotional and cognitive processing. Exposure to nicotine causes an increase in the number of nicotine receptors in the brain, leading to physiological and mental dependency. These effects are dose-dependent.
29. Youth are particularly vulnerable to the effects of JUUL Products. The effects of nicotine exposure on the developing brain in Youth users includes not only nicotine addiction, but reduced impulse control, deficits in attention and cognition, and mood disorders.

II. Pulmonary or Respiratory Injuries

30. Use of JUUL Products can cause—and have caused—significant pulmonary and respiratory toxicity, leading to acute or chronic injuries.
31. JUUL Products release an aerosol that can be inhaled or ingested by users. JUUL Products also release ultrafine metal particles from heating the JUUL Device. These components can induce oxidative stress, inflammation, epithelial barrier dysfunction, and DNA damage both locally in lungs, respiratory system and systemically.
32. As a result of the dysfunction and injury from these inhalants, JUUL Products can cause acute pulmonary or respiratory injuries (including acute respiratory distress syndrome, alveolar hemorrhage, bronchiolitis obliterans, pneumothorax, lipid or eosinophilic pneumonia, hypersensitivity pneumonitis, chemical pneumonitis, collapsed lungs, and acute respiratory failure).
33. As a result of the dysfunction and injury from these inhalants, JUUL Products can cause chronic pulmonary or respiratory injuries (including asthma, chronic bronchitis, chronic obstructive pulmonary disease, and emphysema).

34. Acute or chronic lung injury can also increase exposure to, and susceptibility to, respiratory infections.

III. Cardiovascular or Neurological Injuries

35. JUUL Products can cause—and have caused—significant vascular damage, leading to cardiovascular or neurological injuries.
36. Seizures or convulsions are also a known potential side effect of nicotine poisoning. JUUL Products' high nicotine content and addictive nature cause users to be highly susceptible to these effects.
37. The oxidative stress caused by the inhalants released from JUUL Products can also lead to vascular changes and dysfunction, leading to symptoms such as shortness of breath, increased blood pressure and arterial stiffness.
38. As a result of the dysfunction and injury from these inhalants, JUUL Products can cause cardiovascular or neurological injuries (including hypertension, transient ischemic attacks, seizures, strokes, heart attacks, heart failure, or cardiopulmonary arrest).

D. Defendants' Knowledge of the Dangers

39. As designers, labelers, marketers, promoters, advertisers, distributors, or sellers of JUUL Products, the Defendants knew or ought to have known about the below-noted risks associated with ordinary use of JUUL Products, about which they failed to warn, adequately or at all:
 - (a) that JUUL Products used a unique formulation and design that was highly effective at creating and maintaining addiction;
 - (b) that the use of JUUL Products poses a heightened risk of disease, injury or illness, and can cause or contribute to addiction and other diseases, injuries, and illnesses, enumerated at paragraph 25;

- (c) the actual nicotine dose the user would receive (including that JUUL Products contain nicotine levels as high or higher than combustible cigarettes);
- (d) the abnormally high concentration of nicotine its products deliver to the user's bloodstream;
- (e) the increased potency and addictiveness of JUULSALTS, especially when used by Youth without prior exposure to nicotine;
- (f) that JUUL Products can serve as a gateway to consumption, or increased consumption, of other harmful nicotine products, including cigarettes;
- (g) that Youth who use JUUL Products are particularly vulnerable to addiction by virtue of being exposed to potent levels of nicotine that will affect the user's pharmaceutical, physiological, emotional, and behavioural states in the short and long-term;
- (h) that JUUL Products with higher nicotine concentration correlate to higher rates of consumption;
- (i) that users of JUUL Products is exposed to (via inhalation) other dangerous and harmful chemicals that, alone or in combination, may cause physical injury upon inhalation and/or continued inhalation;
- (j) that the user is exposed to flavouring chemicals that have not been approved for exposure via inhalation and that it may not be safe for the user to inhale aerosols containing those flavouring chemicals;
- (k) that JUUL Products are susceptible to abuse and do not have an effective abuse deterrent design;
- (l) that JUUL Products are not a safer alternative to smoking traditional cigarettes nor has it been approved as a cessation aid; and
- (m) such other omissions as may be proven at trial,

(the "Omissions").

40. In addition to the Omissions, the Defendants made other misleading or deceptive statements, express and implied, including that:
- (a) JUUL Products are “totally safe” and not associated with any harmful short- or long-term effects;
 - (b) JUUL Products are significantly safer than cigarettes, including by stating that the U.S. FDA “was about to come out and say it was 99 percent safer than cigarettes” and adopting the slogan “No tar. No smoke. No ash.” and similar representations;
 - (c) JUUL Products are a tool to help persons stop smoking, including through the “Make the Switch” campaign, despite the fact that JUUL Products have never been approved as a smoking cessation device;
 - (d) representations about the nicotine content of JUUL Products, for example, that one JUUL Pod is “approximately equivalent to one pack of cigarettes” or that JUUL Pods contain 59 mg/ml nicotine (5% strength/Taux de 5%);
 - (e) representations targeted to selling JUUL Products to Youth, including marketing of fruit flavoured JUUL Pods and use of social media campaigns representing the JUUL Products as trendy, fun, safe and an appropriate social activity for Youth; and
 - (f) such other representations statements as may be proven at trial,
(the “**Representations**”).
41. The Defendants knew, or ought to have known, JUUL Products are not a safer alternative to smoking, or a smoking cessation device and that use of JUUL Products materially increases the risk of disease, injury or illness, and the likelihood of the user advancing to use of other nicotine products like cigarettes to sustain their addiction.
42. At all material times, the Defendants knew or ought to have known that JUUL Products were highly addictive vaping products and that Youth users who became

addicted to JUUL Products would continue to procure the product through alternative channels, including illicit or grey market channels.

43. The full extent of the risks of addiction and other vaping-related disease, injuries or illness were in the Defendants' exclusive knowledge and control, or ought to have been.

E. Defendants' Marketing, Promotion and Distribution of JUUL Products

44. Prior to putting JUUL Products into the stream of commerce, the Defendants developed a unique selling proposition ("**USP**") that has been promulgated through the methods described in paragraph 46 with the intention of misleading and deceiving consumers into believing that JUUL Products are:

- (a) safer alternatives to traditional smoking;
- (b) smoking cessation tools; and
- (c) are a desirable, acceptable, fun, and trendy product for use by Youth and those without experience using nicotine products.

45. The Defendants used this USP to reach, attract, and addict as many consumers as possible as quickly as possible to their JUUL Products, for the purposes of profit, using methods which follow and expand upon those used by the tobacco industry.

46. The Defendants advanced their USP using the following strategies to influence the public:

- (a) **Product design features.** As described at paragraphs 21-23.
- (b) **Marketing materials and product labels.** As described at paragraphs 39-43. This pattern of false or misleading marketing is present throughout the JUUL Product promotional materials.
- (c) **Viral online direct-to-consumer marketing.**
 - (i) **Social Media Platforms.** The Defendants have advertised JUUL Products across multiple social media platforms, including TikTok,

Facebook and Instagram, which can be viewed and followed by any person regardless of their age, location, or country of residence.

- (ii) **Hashtag Use.** The Defendants have employed a viral hashtag marketing strategy to promote JUUL Products through the exploitation of pre-existing social networks. In addition, their branded hashtags have promoted user-generated content – every time a user uses a branded hashtag in one of their posts, they increase the Defendants’ presence on social media.
 - (iii) **Influencers.** The Defendants have compensated social media “influencers” who have massive inventories of followers, to promote JUUL Products and to create and nurture online conversations about their brand. Influencers contribute what appears to be independent user generated content, which is influential, in part, due to its perceived independence from marketers’ influences.
 - (iv) **Launch Parties and Free Samples.** The Defendants have hosted launch parties appealing to Youth, where free samples were abundantly distributed, and attendees were encouraged to take photos for social media.
- (d) **Coordinated action to ensure access to JUUL Products.**
- (i) **E-commerce platform.** The Defendants set out to allow for an approachable and easy consumer journey.
 - (ii) **“Relationship programs”.** The Defendants attempted to generate brand loyalty with consumers through coupons and email subscription sign-ups.
 - (iii) **Deficient Online Age Verification.** Until May 2022, underaged persons could access and purchase from JLC’s website with ease.
 - (iv) **Distribution arrangements.** The Defendants entered into distribution programs that expanded access, including Youth access, to JUUL Products across Canada.
- (e) **Influencing research.** The Defendants’ employees and consultants conducted and/or published research in a misleading manner to enhance the USP.

47. The Defendants began employing their systematic and aggressive marketing strategy to promote their USP even prior to JUUL Products being made commercially available in Canada.
48. By the time JUUL Products became available in Canada, the Defendants had already successfully misled Canadian consumers with their USP: that JUUL Products are a safer alternative to cigarettes, can be used for smoking cessation, and are desirable, acceptable, fun, and trendy for use by Youth and non-nicotine users. The Defendants continued to advance the USP thereafter.
49. Due to the Defendants' conduct, as set out above, persons across Canada used JUUL Products, and suffered—and continue to suffer—vaping-related disease, injury, or illness requiring the provision of health care benefits by HMK and Class Members.

Regulation in the U.S. and Canada

50. In April 2018, the U.S. Food & Drug Administration (“FDA”) requested documents from JLI relating to its marketing practices, research on marketing effects of product design, and public health impact of JUUL Products in the U.S., on account of the growing popularity of JUUL Products amongst Youth in the U.S.
51. In late April 2018, JLI issued a press release announcing its \$30 million commitment over three years to “combat underage use” of JUUL Products. Despite this announcement, the Defendants moved forward with an aggressive marketing campaign in Canada to launch JUUL Products in Canada several months later.
52. In November 2018, JLI announced that it would no longer sell mango, fruit, and cucumber flavoured JUUL Pods in the U.S. However, the Defendants continued to sell these flavours in Canada.
53. On February 6, 2019, the FDA wrote to JLI and stated, in part, that “After Altria Group Inc.’s acquisition of a 35 percent ownership interest in JUUL, many of

JUUL's public statements seem inconsistent with its previous representations to the FDA. When we meet, JUUL should be prepared to explain how this acquisition by Altria affects the commitments you made to the FDA about addressing the crisis of youth use of JUUL Products.”

54. In September 2019, JLI announced a complete halt of all broadcast, print, and digital advertising in relation to JUUL Products in the U.S., but continued to aggressively advertise JUUL Products in Canada.
55. On or about September 6, 2019, Health Canada issued a public notice about the dangers of using e-cigarettes, which stated, in part, that:

This caution comes in the wake of the recent cases of acute pulmonary illnesses and several deaths reportedly linked to the use of vaping products in the United States. The United States Food and Drug Administration (US FDA) and the Centers for Disease Control and Prevention (US CDC) released a statement August 30 on their ongoing investigation into the cause of the illnesses. The same day, the US CDC issued an official health advisory. On September 6, the US CDC released publications to provide an update on the status of the investigation. The source of the illnesses remains unclear at this time; however, the US CDC reports that chemical exposure is the likely cause. Many patients have reported vaping tetrahydrocannabinol (THC) and/or nicotine-containing products. However, at this time no specific product, substance or device has been linked to all cases of vaping illness in the U.S.

56. In November 2019, JLI stopped promoting and selling mint flavoured JUUL Pods in the U.S. (because it was shown to be a favourite among American high school students). However, the Defendants continued to promote and sell mint flavoured JUUL pods in Canada.
57. In January 2020, JLC announced that it would no longer sell mango, vanilla, fruit, and cucumber JUUL Pods in Canada.
58. In July 2021, Health Canada introduced regulations limiting the nicotine concentration in e-liquids to 20 mg/ml. This meant that the Defendants were only

permitted to continue selling 1.5% strength JUUL Pods in Canada, which contain approximately 10.5 mg/ml of nicotine.

The Defendants' Unlawful Collusion

A. Direction and Oversight by the D&O Defendants

59. Defendants Bowen, Monsees and JLI first designed JUUL Products with the intention of creating and sustaining nicotine addiction.
60. In or around 2015, Bowen and Monsees realized that achieving widespread adoption of their JUUL Products would require more resources and expertise. Accordingly, the D&O Defendants implemented a shift in roles to allow Defendants Pritzker and Valani to direct and take control of JLI, and use it to advance the unlawful acts in furtherance of the Defendants' strategy.
61. For example, in October 2015, Monsees stepped down from his role as CEO of JLI to become CPO. Then, Pritzker and Valani formed an Executive Committee of the JLI Board of Directors that would take charge of JLI.
62. At all material times, Pritzker and Valani were active members of JLI's Board of Directors.
63. At least through to May 2018, Pritzker and Valani controlled a majority of seats on JLI's Board. By virtue of controlling majority voting power, Pritzker and Valani had the ability to approve and reject any matter considered by JLI's Board, including decisions on removing any officer of JLI and decisions on setting JLI's marketing strategy.
64. At least until 2018, JLI's Board of Directors held weekly meetings where directors (including the D&O Defendants) reviewed and approved specific marketing strategies, plans and materials.

65. Through to at least early 2019, the D&O Defendants regularly communicated with JLI executive personnel on strategic decisions related to JLI's marketing, regulatory, public relations and media strategy.
66. The D&O Defendants authorized, assented to, acquiesced in, participated in, or ordered the vaping-related wrongs particularized and alleged herein to have been committed by JLI.
67. The D&O Defendants knew or ought to have known that JLI was committing vaping-related wrongs and failed to exercise reasonable diligence in prevention of these vaping-related wrongs.

B. Conspiracy and Common Design

68. JLI first released JUUL Products into the U.S. market in 2015. By 2017, JLI had rapidly expanded the size of the vaping market and had become the dominant e-cigarette manufacturer in the United States.
69. Altria is the parent company of Philip Morris USA (producer of, *inter alia*, "Marlboro" brand cigarettes) and, *inter alia*, other tobacco companies. Altria is one of the largest tobacco companies in the world.
70. In early 2017, Altria engaged in confidential meetings with JLI and the D&O Defendants, having recognized that an investment in JLI would strengthen its competitive position in the worldwide nicotine market. Over the course of almost two years of confidential negotiations, Altria exerted immense influence on JLI and its wrongful conduct.
71. During the two-year negotiating period, JLI and the D&O Defendants regularly communicated with Altria. Through their control of JLI, the D&O Defendants directed and coordinated these communications to establish the JLI-Altria partnership.
72. Prior to and after Altria's acquisition of a 35% stake in JLI, Altria conspired with JLI and other companies related to and/or controlled by Altria to expand the success

of, and the market for, JUUL Products. While the particulars of the conspiracy are not entirely known to HMK at present, Altria worked with JLI and its leadership, including the D&O Defendants, to establish high-level strategy as well as to promote, distribute, obtain regulatory approval of and sale of JUUL Products, and shield them from regulatory or public scrutiny, while misleading consumers, including Canadians, about the risks.

73. Altria's efforts as outlined above contributed to the increased popularity of JUUL Products, including their success in the Canadian market.
74. From at least 2017 forward, JLI, through its leadership which included the D&O Defendants, and Altria worked together as a joint enterprise and the effects of their partnership were felt by consumers on both sides of the USA-Canada border.
75. In December 2018, Altria formalized its relationship with JLI by acquiring a 35% stake in its business for \$12.8 billion USD. Pursuant to the purchase agreement, Altria was to provide marketing and retail distribution support to JLI, in addition to regulatory guidance.
76. The D&O Defendants were instrumental to Altria's acquisition of JLI and continued to communicate with Altria on behalf of JLI after the Altria-JLI relationship was formalized. In 2019, to further exercise its influence and control of JLI, Altria worked with the D&O Defendants to install two key Altria executives into leadership positions at JLI.
77. In August 2018, JLC, with the assistance the other Defendants, launched JUUL Products in Canada, capitalizing on the pent-up demand that JLI and Altria had created through their wrongful acts in the United States. The product was launched in Canada with the full suite of appealing flavours including vanilla, mango, fruit, mint, and cucumber.
78. By July 2019, "JUUL" had become the dominant e-cigarette brand in Canada.
79. Together, the Defendants:

- (a) marketed and sold JUUL Products throughout the United States and Canada, including within the province of British Columbia;
 - (b) distributed JUUL Products to various retail outlets across Canada, which ultimately sold them to unsuspecting consumers in British Columbia and across Canada; and
 - (c) coordinated their research, regulatory submissions, and public relations campaigns throughout the United States and Canada, with the object of promoting and protecting JUUL Product sales and defending JUUL Products from attacks based on health- or vaping-related risks.
80. The Defendants form an inextricably interwoven corporate structure designed to advance their common e-cigarette business by their wrongful and deceptive introduction, regulatory approval, design, labelling, advertising, marketing, promotion, distribution, and sale of JUUL in Canada. Namely, at all material times each Defendant:
- (a) was an agent of the others, acting within the scope of that agency relationship and ratifying the others' acts; and
 - (b) conspired, acted in concert, or substantially assisted each other in performing acts and omissions which furthered a common design, to misrepresent the known risks and alleged benefits of JUUL and to deceptively promote JUUL, which has led to, and continues to lead to, harm to HMK and Class Members, in the form of cost of health care benefits.
81. The conspiracy or common design was entered into or continued through meetings and communications organized and convened by the Defendants, or any of them, and attended by the D&O Defendants and senior personnel of JLI and Altria.

Damages Sustained by HMK and the Class

82. The Defendants have engaged in deceptive and misleading design, research, manufacture, representation, labelling, advertising, marketing, promotion, distribution, and sale of JUUL Products in British Columbia and across Canada, and as such, have committed "vaping-related wrongs" that have led to a rapid

increase in JUUL Product use in British Columbia and across Canada, and corresponding increase in vaping-related disease, injury, or illness, including but not limited to nicotine addiction and physical injuries, such as pulmonary, respiratory or cardiovascular injuries.

83. The Defendants' wrongful conduct, as described above, has caused or contributed to:

- (a) "vaping-related disease, injury or illness" as defined in the *VPRA*, in persons who have used JUUL Products; and
- (b) corresponding expenditures by the government and Class Members for provision of "health care benefits" as defined in the *VPRA*, to these persons ("**Benefit Recipients**") and for programs, services, benefits or similar matters associated with vaping-related disease, injury or illness or the prevention of vaping-related disease, injury or illness.

84. The damage suffered by HMK and Class Members consists of additional public health care costs, including expenditures to prevent, mitigate and treat the effects of the Defendants' wrongful conduct or vaping-related wrongs. These damages include all expenditures for health care benefits, including:

- (a) benefits as defined in *Hospital Insurance Act*, *Laboratory Services Act*, *Medicare Protection Act*, *Pharmaceutical Services Act*, and the *Continuing Care Act*;
- (b) expenditures by the government, made directly or through one or more agents or intermediate bodies, for emergency health services provided under the *Emergency Health Services Act*; and
- (c) other expenditures by the government, made directly or through one or more agents or intermediate bodies, or education authorities, for programs, services, benefits, or similar matters associated with vaping-related disease, injury, or illness, or the prevention thereof.

85. For example, in particular, HMK spends billions of dollars each year to fund healthcare, education, addiction and complementary services for Benefit

Recipients in British Columbia, including a provincial medical insurance plan, pharmaceutical care, drug benefit plans and other services, including but not limited to medically necessary physician services, hospitalization, and other expenditures related to prevention of and education relating to harmful products and associated disease, injury, and illness, all of which are recoverable health care benefits for the purposes of *VPRA*. Such expenditures by HMK include, but are not limited to:

- (a) medical treatment for side effects of JUUL Product use;
 - (b) medical treatment for vaping-related disease, injury, illness, including addiction treatment and the costs of counselling;
 - (c) medications to treat addiction;
 - (d) secondary effect medications from side effects of JUUL Product use;
 - (e) emergency medical treatment for vaping-related disease, injury, illness, including ambulance services, emergency department visits and hospitalizations;
 - (f) coroner's costs associated with deaths arising from vaping-related disease, injury, illness;
 - (g) in-office visits to obtain refills and/or other related treatment; and
 - (h) cost of harm reduction, prevention or cessation services and program.
86. Additionally, for example, HMK has also suffered damages in the amounts spent funding other expenditures made through its education authorities for programs, services, benefits or similar matters associated with vaping-related disease, injury, or illness, or the prevention thereof. HMK and its education authorities have suffered at least three types of harm as a result of the Defendants' vaping-related wrongs that have corresponding expenditures.

87. *First*, the surge of JUUL Product use disrupted the learning environment as educators had to deal with the prevention and detection of student vaping and modify school property and operations in response to the problem. With respect to students who are caught vaping, administrators expended time and resources to deal with the problem and provide supports (e.g., positive behavioural intervention). In addition, bathrooms and standard smoke detectors could not be utilized as designed due to the high incidence of vaping. As such, education authorities need to adapt their infrastructure to fully monitor and prevent in-school vaping. Additionally, education authorities have had to develop and carry out protocols associated with the collection and disposal of JUUL Products.
88. *Second*, the surge of JUUL Product use hurt individual student learning. Vaping has led to a rise in student absences due to sickness or absenteeism, and an increase in dysregulated behavior and difficulties with student focus. JUUL Products were designed to manipulate Youth brain circuitry, creating compulsive, problematic, addictive and unsafe use of the Products. Because the normal neurodevelopment of students is interrupted, JUUL Products can contribute or cause maladaptive tendencies and mental illness, injury or disease. Education authorities need to divert more staff and other resources to dealing with these vaping-related issues among students.
89. *Third*, the surge of JUUL Product use hurts all students by diverting funding away learning toward educational campaigns, prevention, and treatment. For example, to fund programs for the prevention and cessation of vaping, funding would be diverted away from implementing specialized programs, lower class size, improved technology, enhanced extracurricular materials, and academic reading and math instructional intervention programs for students who are struggling academically.
90. In sum, education authorities have and will incur extensive costs arising from the Defendants' vaping related wrongs, including costs to enforce restrictions regarding JUUL Product use in school, correct dysregulated student behaviour arising from JUUL Product use, and orchestrate outreach regarding the risks of

JUUL Product use. Such expenditures by HMK through education authorities include, but are not limited to:

- (a) costs to address and discipline altered student populations, barriers to focused learning and dysregulated student behavior, including costs associated with:
 - (i) additional hires;
 - (ii) disciplinary action and suspensions related to incidents of JUUL Product use in schools or that impact on school climate; and
 - (iii) monitoring school premises and facilities for JUUL Product use,
 - (b) costs of infrastructure to monitor and prevent JUUL Product use.
 - (c) costs to educate about the dangers of vaping product use, for example through the Vancouver School Board program "*Supporting and Connecting Youth (SACY) Substance Use Prevention Initiative*";
 - (d) costs related to additional mental health and well-being services, counselling and resources;
 - (e) costs associated with disposal and collection of JUUL Products; and
 - (f) loss of personnel hours for education authority and school board staff who had to direct time and activity towards discipline, education, mitigating safety risks caused by use of JUUL Products.
91. HMK expressly reserves the right to plead particulars of the damages as they become known.
92. HMK pleads that the Defendants' conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, wilful, and in disregard of HMK's rights and the rights of each Class Member and, as such, renders the Defendants jointly and severally liable to pay punitive damages.

PART 2: RELIEF SOUGHT

93. HMK claims on its own behalf and on behalf of the Class Members:

- (a) an order certifying this action as a class proceeding and appointing HMK as the representative HMK under the *CPA*;
- (b) a declaration that, during the Class Period, the Defendants breached duties owed to users of JUUL Products;
- (c) a declaration that, during the Class Period, the Defendants breached duties owed to HMK and Class Members;
- (d) a declaration that the Defendants were negligent in the design, research, manufacturing, labelling, marketing, advertising, promotion, distribution, and sale of JUUL Products;
- (e) a declaration that the Defendants made negligent or fraudulent misrepresentations in connection with the JUUL Products;
- (f) a declaration that the Defendants engaged in conduct contrary to Part VI of the *Competition Act*, R.S.C., 1985, c. C-34 (the "**Competition Act**"), and any applicable relief;
- (g) a declaration that the Defendants engaged in conduct contrary to *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2 ("**BPCPA**") and analogous legislation in the other provinces and territories (collectively with the *BPCPA*, "**Provincial Consumer Protection Legislation**", as defined at paragraph 152 below);
- (h) a declaration that the Defendants engaged in conduct contrary to the *Tobacco and Vaping Products Act*, S.C. 1997 c.13 ("**TVPA**").
- (i) a declaration that in the course of designing, researching, manufacturing, labelling, marketing, promoting, advertising, distributing, and selling JUUL, the Defendants committed "*vaping-related wrongs*", as defined in and for the purposes of the *VPRA* (and parallel provincial legislation), and further, that such vaping-related wrongs caused or contributed to the "*cost of health*

care benefits", as defined in and for the purposes of the *VPRA* (and parallel provincial legislation);

- (j) a declaration that the Defendants were unjustly enriched in committing the vaping-related wrongs, and that Class Members suffered a corresponding deprivation,
- (k) an accounting, and disgorgement of the Defendants' ill-gained profits or restitution;
- (l) general damages, including nominal damages, calculated on an aggregate basis or otherwise, in an amount sufficient to compensate the Plaintiff and the Class Members for the harm done to them as a result of the Defendants' unlawful conduct, including as a result of conduct contrary to Part VI of the *Competition Act*;
- (m) on behalf of the *VPRA* Subclass:
 - (i) damages—on an aggregate basis or otherwise—pursuant to the *VPRA* and parallel provincial legislation;
 - (ii) damages in the amount of the cost of health care benefits incurred by Class Members in their respective jurisdictions and caused or contributed to by a vaping-related wrong as defined in the *VPRA* and parallel provincial legislation; and
 - (iii) damages in the amount of the present value of the cost of health care benefits that could reasonably be expected to be provided by Class Members in their respective jurisdictions and caused or contributed to by a vaping-related wrong as defined in the *VPRA* and parallel provincial legislation,
- (n) special damages;
- (o) punitive damages;
- (p) costs;
- (q) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and

(r) such further and other relief this Honourable Court may deem just.

PART 3: LEGAL BASIS

94. HMK realleges and reaffirms herein all factual pleadings set forth in paragraphs 1 through 92.
95. HMK pleads and relies on the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 (the "**CJPTA**"), the *CPA*; the *Court Order Interest Act*, RSBC 1996, c 79; the *Competition Act*; the *BPCPA*; the *Supreme Court Civil Rules*, BC Reg 168/2009; the *Negligence Act*, RSBC 1996, c. 333, the *TVPA* and the *VPRA*, and equivalent provincial and territorial legislation as may be enacted, and such further and other statutes as counsel may advise.
96. HMK advances two types of claims for damages on its own behalf and on behalf of the Class:

Standalone causes of action:

- (a) under section 36 of the *Competition Act*, based on a breach of s. 52 of the *Competition Act*; and
- (b) unjust enrichment.

Statutorily enabled causes of action for "vaping-related wrongs" under the VPRA, based on the Defendants' breaches of the following common law and statutory duties:

- (a) negligence, including failure to warn and negligent design;
- (b) negligent and fraudulent misrepresentation;
- (c) conspiracy;
- (d) breach of s. 52 of the *Competition Act*;
- (e) breach of the Provincial Consumer Protection Legislation; and

- (f) breach of ss. 15.1, 19, 20, 23.3, 30.1, 30.2, 30.3, 30.41, 30.46, 30.5, 30.6, 30.7 and 30.71 of the *TVPA*.

Standalone Causes of Action

A. Unjust Enrichment

97. The Defendants were unjustly enriched and benefited as a result of the wrongful conduct described herein—namely, their negligent or deceptive design, research, manufacture, representation, labelling, advertising, marketing, promotion, distribution, and sale of JUUL Products.
98. The Defendants financially profited from their wrongful conduct, including directly through revenue from the sale of JUUL Products and indirectly through obtaining the competitive benefit of being an early market entrant and thereby establishing a dominant position in the vaping products market early on.
99. As a result of the Defendants' wrongful conduct, HMK and Class Members suffered a corresponding deprivation in the amounts outlined at paragraphs 82-84.
100. There is no juristic reason for either the Defendants' enrichment or the Class Members' deprivation, including at equity, under contract or pursuant to any statutory obligations.
101. Since the revenue from the sale of JUUL Products received by the Defendants resulted from the Defendants' wrongful and unlawful acts, there is and can be no juridical reason justifying the Defendants retaining any part of it. In particular, there is no contract, disposition of law, donative intent, or other valid legal obligation that justifies the enrichment.
102. By engaging in their wrongful conduct, the Defendants secured early market entry in the vaping industry—a decisive factor in their success. The commercial benefits flowing from this head start will persist, even after any disgorgement of profits or award of damages. Without sufficient deterrence, the Defendants and other industry participants will be further incentivized to engage in conduct in the future.

B. Breach of the Competition Act

103. The *Competition Act* applies to business transacted in Canada.
104. JUUL Products are “products” within the meaning of ss. 2 and 52 of the *Competition Act*.
105. The wrongful conduct of the Defendants includes both express and implicit misrepresentations to JUUL Product users and Class Members (the “**Representations**”) regarding the JUUL Products, as well as misrepresentations by omission (the “**Omissions**”), such as failure to warn of risks to human health. These Representations and Omissions are described in detail at paragraphs 39-40 above.
106. The Defendants knew, or ought to have known, that their Representations and Omissions were false and misleading in a material respect.
107. As a result of the Representations and Omissions, the Defendants breached section 52 of the *Competition Act* and committed an unlawful act because their Representations and Omissions:
 - (a) were made for the purpose of promoting, directly or indirectly, the use of JUUL Products;
 - (b) were made for the purpose of promoting, indirectly or directly, any business interests of the Defendants;
 - (c) were made to the public;
 - (d) were made knowingly and recklessly; and
 - (e) were false and misleading in a material respect.
108. As a result of the Defendants’ breaches of s. 52 of the *Competition Act*, consumers in British Columbia and Canada chose to use JUUL Products, when they otherwise would not have.

109. HMK and the Class Members suffered damages as a result of the Defendants' unlawful breach of s. 52 of the *Competition Act*.
110. HMK and Class Members also seek their costs of investigation, pursuant to s. 36 of the *Competition Act*.

Statutory Liability under the VPRA

A. Vaping-related Wrongs Pursuant to the VPRA

111. JUUL Products are "vaping products" as defined in the *VPRA*. Throughout the Class Period, the JUUL Products were offered for use in British Columbia and throughout Canada.
112. Using the JUUL Products can cause or contribute to "vaping-related disease, injury or illness" as defined in the *VPRA*, and as described at paragraph 25.
113. By way of the wrongful conduct alleged herein, the Defendants committed "vaping-related wrongs", as defined in the *VPRA*, that is:
 - (a) torts that are committed in British Columbia and that cause or contribute to a vaping-related disease, injury or illness; or
 - (b) breaches of common law, equitable or statutory duties or obligations owed to persons in British Columbia who have used or been exposed to or might use or be exposed to a vaping product.
114. The vaping-related wrongs of the Defendants have resulted in:
 - (a) vaping-related disease, illness or injury in Benefit Recipients; and
 - (b) corresponding expenditures by the government for provision of "health care benefits", as defined in the *VPRA*, to these persons.
115. Pursuant to the provisions of the *VPRA* and parallel provincial legislation, HMK and Class Members are entitled to recover, on an aggregate basis for a population of

Benefit Recipients, the cost of health care benefits caused by a vaping-related wrong.

B. Negligence

I. Background

116. As designers, researchers, manufacturers, labelers, marketers, promoters, advertisers, distributors, or sellers of JUUL Products, the Defendants were in such a close and proximate relationship to end users of JUUL Products, as to owe them a duty of care.
117. The Defendants, and each of them, owed a duty to end users of JUUL Products—who were reasonably foreseeable Benefit Recipients—to exercise reasonable care when designing, researching, manufacturing, labelling, advertising, marketing, promoting, distributing, or selling JUUL Products in Canada.
118. The Defendants owed a duty to end users of JUUL Products to warn of the risk of addiction, dependency, adverse side effects, and disease, injury and illness upon JUUL Product use.
119. Further, the Defendants were under a continuing duty to keep abreast of scientific developments pertaining to vaping products through research, adverse reaction reports, scientific literature and other available methods. The Defendants' duty to warn required them to make all reasonable efforts to communicate adverse or potentially dangerous side effects to the end users of JUUL Products and the public.
120. The scope of the Defendants' duty of care to end users of JUUL Products, and to the public, is further informed by statutory requirements including those imposed by the *TVPA* and outlined in paragraph 169.
121. At all material times, the Defendants knew or ought to have known that use of or exposure to JUUL Products could cause or contribute to adverse human health effects—including the vaping-related injuries outlined above at paragraph 25—and

therefore create a dangerous and unreasonable risk of harm to their end users, including the Benefit Recipients.

122. Rather than address the dangers outlined above, the Defendants engaged in conduct to increase the rate of vaping product usage and addiction by, among other means, making the Representations and Omissions and by designing, researching, manufacturing, labelling, advertising, marketing, promoting, distributing, or selling the JUUL Products as described herein.
123. The Defendants, and each of them, breached the standard of care by, *inter alia*:
 - (a) negligently designing the JUUL Products such that they posed an unreasonable risk of harm, or failing to adopt a reasonable alternative design which could have reduced the risk of harm to end users of or persons exposed to JUUL Products; and
 - (b) failing to warn, or adequately warn, about the harms associated with ordinary use of the JUUL Products; and
 - (c) aggressively marketing and distributing the JUUL Products while making the Representations and Omissions, which the Defendants knew were false, or were reckless as to whether they were true or false.
124. The Defendants' breaches of the standard of care owed to Benefit Recipients caused harm, including the increase of cost of health care benefits due to vaping-related disease, injury, or illness as a consequence of the Defendants' vaping-related wrongs. This harm was foreseeable.
125. As a result of the Defendants' breaches of duties, the HMK and the Class Members have suffered damages, including the total amount paid for health care benefits, as defined in the *VPRA* and parallel legislation.

II. Negligent Design and Development of JUUL Products

126. The JUUL Products were defectively or negligently designed by the Defendants, as described in paragraphs above. For example, by selecting JUULSALT as the

proprietary formulation for the JUUL Products, the Defendants created vaping products that were not reasonably safe for use. The risks of harm arising from addiction and dependence, and the risk of other vaping-related diseases, injuries or illnesses, were increased by the design features of JUUL Products.

127. The Defendants breached the standard of care expected in the circumstances, and were therefore negligent in the research, development, testing, design, and manufacture of JUUL Products. In particular, the Defendants, or any of them:

- (a) designing JUUL Products with features or ingredients (such as flavouring chemicals) that they knew, or ought to have known, had an unreasonably high risk of causing addiction and other vaping-related disease, injury or illness;
- (b) designing JUUL Products using features or ingredients (such as flavouring chemicals) that were untested for their intended use, despite being potentially dangerous for humans to consume;
- (c) designing JUUL Product packaging with bright colours and using a variety of appealing flavours, such that the Defendants knew or ought to have known that the products would be used by Youth who are more vulnerable to the effects of nicotine;
- (d) placing JUUL Products into the Canadian market when they knew or ought to have known that the risks of using JUUL Products outweighed any potential benefits;
- (e) failing to make reasonable efforts to reduce any or all risks of harm that the Defendants knew or ought to have known was inherent in the design of JUUL Products;
- (f) failed to test, adequately or at all, the JUUL Products to fully reveal the magnitude of the risks associated with their use and exposure, and released JUUL Products into the stream of commerce in Canada without thorough and adequate pre- and post-market testing;

- (g) failing to implement a timely recall of JUUL Products once it was known, or ought to have been known, that JUUL Products were not being used for their intended purpose;
 - (h) applying callous and reckless disregard for the health and safety of Benefit Recipients who were users of JUUL Products;
 - (i) such further and other particulars of negligence as will be alleged at trial.
128. It was possible to design and develop JUUL Products without the increased risk of harm arising from addiction and dependence, and the risk of other vaping-related diseases, which the Defendants knew or ought to have known.

III. *Negligent Failure to Warn*

129. The Defendants failed to warn, or failed to adequately warn, in the manner described in paragraphs above.
130. By making and aggressively promoting the Representations and Omissions, and failing to make all reasonable efforts to communicate the risks and dangers of using the JUUL Products to end users and the public, the Defendants breached their duty to warn.
131. In addition, the Defendants failed to properly monitor the safety of the JUUL Products and to take appropriate and timely corrective action to adequately inform end users and the public of such safety risks.
132. In the alternative, to the extent that the Defendants have purported to provide warnings, these warnings:
- (a) were designed to be as innocuous and ineffective as possible;
 - (b) were insufficient to give users an adequate indication of each of the specific risks of JUUL Product use;
 - (c) failed to make clear, credible, complete and current disclosure to users of the risks inherent in the ordinary use of JUUL Products in such a way as to

allow users to make free and informed decisions concerning the Products;
and

- (d) were neutralized or negated in their effectiveness by the Defendants' collateral marketing, promotional and public relation activities.

IV. Negligent Marketing and Distribution

- 133. The Defendants wrongfully marketed, promoted, and advertised JUUL Products in a manner that would lead persons to believe that the Products were safer to use than they in fact were, and would likely appeal to Youth and non-nicotine users.
- 134. The Defendants breached the standard of care expected in the circumstances, and were therefore negligent in the marketing, promoting, advertising, distribution and sale of JUUL Products. In particular, the Defendants:
 - (a) developed and implemented marketing schemes to mislead end users and the public into believing that JUUL Products contained less nicotine than they actually do and were safer than they actually were;
 - (b) developed and implemented the "Make the Switch" marketing scheme to mislead end users and the public into believing that JUUL Products were a smoking cessation device;
 - (c) targeting Youth end users through:
 - (i) developing and implementing marketing campaigns directed at Youth end users that exploited Youth's psychological vulnerabilities;
and
 - (ii) pushing marketing campaigns into Youth-targeted channels and retail locations.
 - (d) coordinated with each other, and other third-parties in the e-cigarette industry, to mislead end users and the public about the harms and benefits of JUUL Products and vaping products;

- (e) exploited a regulatory framework that they knew, or ought to have known, would permit them to sell JUUL Products to persons of any age, including Youth, and allowed them display JUUL Products for sale in favourable storefront locations or otherwise market JUUL Products in a manner that would appeal to Youth and non-nicotine users; and
 - (f) such further and other particulars of negligence as will be alleged at trial.
135. Further, the Defendants negligently distributed and sold JUUL Products in a manner described at paragraphs above. In particular, the Defendants failed to:
- (a) develop and implement measures to identify and prevent diversion of JUUL Products to illicit or grey markets;
 - (b) failed to provide effective controls and procedures to guard against loss, theft or diversion of JUUL Products;
 - (c) failing to exercise proper judgment in reporting suspicious orders or refusing to fill them;
 - (d) failing to review orders for red flags, including orders from customers which deviated from previous order patterns or methods.

C. Fraudulent or Negligent Misrepresentation

136. The Representations and Omissions constitute fraudulent misrepresentations.
137. The Defendants, or any of them, made Representations and Omissions despite knowing that they were false. Alternatively, the Defendants were reckless as to whether the Representations and Omissions were true or false.
138. The Representations and Omissions constitute fraudulent misrepresentation and deceit.
139. The Defendants made the Representations and Omissions, to the public at large, as the core of a uniform and consistent sales, promotional advertising and marketing campaign. The Misrepresentations were made by the Defendants with the intention of inducing consumers, such as Benefit Recipients, to purchase or

use the JUUL Products when they otherwise would not have done so. Further, or in the alternative, the Representations and Omissions and the conduct of the Defendants in making the Representations and Omissions had a natural tendency to induce consumers to purchase and/or use the JUUL Products when they would otherwise not do so.

140. In the alternative to fraudulent misrepresentation, the Defendants acted negligently in making the Representations and Omissions. The Representations and Omissions were untrue, inaccurate, and/or misleading, and the Defendants knew or ought to have known this.
141. The Defendants were in a proximate and special relationship with the end users of JUUL Products by virtue of, among other things:
 - (a) their design, manufacture, and testing of the JUUL Products;
 - (b) their skill, experience, and expertise in the design, manufacture and testing of JUUL Products, generally and specifically;
 - (c) their supply or sale of the JUUL Products to the end users;
 - (d) their complete control of the promotion and marketing of their JUUL Products;
 - (e) their undertaking or responsibility to clearly, fully and accurately disclose information relating to the health risks associated with the use of the JUUL Products; and
 - (f) the fact that end users and the public had no option but to rely on the representations of the Defendants in respect of the JUUL Products and their design, attributes and safety (including the absence of information regarding their dangers).
142. It was intended by the Defendants, and reasonably foreseeable, that end users of JUUL Products would rely upon the Representations and Omissions when they were purchasing and/or using JUUL Products.

143. The Representations and Omissions were material to each end users' decision to use the JUUL Products because it is inextricably linked to the Defendants' true intentions in marketing their JUUL Products and their non-disclosure of the inherent dangers of the latter and the availability of safer alternatives.
144. The end users of JUUL Products reasonably relied on the Representations and Omissions in making decisions about beginning to use, and continuing to use, the JUUL Products. Their reliance can be inferred from the voluntary ingestion of the JUUL Products. If the Representations and Omissions had not been made, explicitly or implicitly, the end users who were benefit recipients would not have used the JUUL Products.
145. The Representations and Omissions caused the Plaintiff and Class Members to suffer a loss, including the total amount paid for health care benefits, as defined in the *VPRA* and parallel legislation enacted by other *VPRA* Subclass Members. HMK and Class Members have thereby incurred, and are reasonably expected to incur in the future, the cost of health care benefits.

D. Breach of Consumer Protection Legislation

146. In this matter, the following elements are established pursuant to section 1 of the *BPCPA*:
 - (a) JUUL is a "good";
 - (b) The Defendants' solicitations, offers, advertisements, promotion, and supply of JUUL to residents of B.C. for primarily personal, family or household use, as an alternative to smoking, were "consumer transactions";
 - (c) the Benefit Recipients are "consumers"; and
 - (d) the Defendants are "suppliers".

147. The Defendants' conduct in their solicitations, offers, advertisements, promotions, sales, and supply of JUUL constituted deceptive acts and practices contrary to s. 4 of the *BPCPA*. The Defendants' deceptive acts or practices included *inter alia*:
- (a) making the Representations and Omissions;
 - (b) through their wrongful USP, conveying the general impression that JUUL is a safe and appropriate product for Youth, non-nicotine users, and is less harmful than smoking, when it is none of those things;
 - (c) advertising, promoting, and selling JUUL Products without any warning, or any reasonable warning, to alert consumers to the fact that JUUL contains nicotine, a highly addictive substance;
 - (d) advertising, promoting, and selling JUUL as a smoking cessation tool when they knew or ought to have known that JUUL has never been authorized to be marketed as a smoking cessation tool and would cause users to become addicted, or more addicted, to nicotine; and
 - (e) designing and advertising the product to appeal to Youth.
148. The Defendants' conduct in their solicitations, offers, advertisements, promotions, sales, and supply of JUUL, including the Representations and Omissions, also had the capability, tendency, or effect of deceiving or misleading consumers regarding the safety, risks, and efficacy associated with use of JUUL, contrary to s. 4 of the *BPCPA*.
149. The Defendants' conduct in their solicitations, offers, advertisements, promotions, sales, and supply of JUUL were also "unconscionable acts or practices" contrary to s. 8 of the *BPCPA*. The Defendants' unconscionable acts or practices included *inter alia*:
- (a) making the Representation and Omissions;
 - (b) advertising, promoting, and selling JUUL in a manner which took advantage of users' inability or incapacity to reasonably protect their own interests due

to the users' ignorance, age, inexperience, and inability to understand the nature of the consumer transaction; and

- (c) advertising, promoting, and selling JUUL as a youthful, hip, stylish, and fun health product rather than warning that it is a highly addictive substance with long-term consequences, including personal injury and addiction.

150. At all material times, the Defendants knew, or ought to have known, that users:

- (a) were unable to protect their own interests because of ignorance;
- (b) would not and could not reasonably protect their interests by conducting adequate testing of JUUL Products prior to purchase;
- (c) would be unable to receive the benefit misrepresented to them from the Defendants; and
- (d) would rely on the Defendants' Representations and Omissions to their detriment.

151. The Defendants' deceptive acts and practices and unconscionable acts and practices were made for the purpose of promoting, directly or indirectly, the sale of JUUL, or for the purpose of promoting, directly or indirectly, the business interests of the Defendants. The Defendants accepted the benefits of their wrongful conduct in the form of profits from the sale of JUUL.

152. Further, the Defendants' deceptive acts and practices, unconscionable acts and practices, and Representations and Omissions were false and/or misleading in a material respect and contrary to the following consumer protection legislation:

- (a) Sections 6 and 7.3 of the *Alberta Consumer Protection Act*, RSA 2000, c. C-26.3 ("**Alberta CPA**");
- (b) Sections 6 to 8 and/or 19(d)-(e) of the *Saskatchewan Consumer Protection and Business Practices Act*, SS 2014, c. C-30.2 ("**Saskatchewan CPBPA**");

- (c) Sections 2 to 3 and/or 5 of the *Manitoba Business Practices Act*, CCAM, c. B120 ("**Manitoba BPA**");
- (d) Sections 9(2), 14, 15 and/or 17 of the *Ontario Consumer Protection Act*, 2002, SO 2002, c. 30, Sch. A ("**Ontario CPA**");
- (e) Articles 37, 41, 53, 219 to 221 and/or 228 of the *Québec Consumer Protection Act*, CQLR c. P-40.1 ("**Québec CPA**");
- (f) Sections 7 to 9 of the *Newfoundland and Labrador Consumer Protection and Business Practices Act*, SNL 2009, c. C-31.1 ("**Newfoundland and Labrador CPBPA**");
- (g) Section 27 of the *New Brunswick Consumer Product Warranty and Liability Act*, SBC 1978, c. C-18.1 ("**New Brunswick CPWLA**"); and
- (h) Sections 2 to 3 of the *P.E.I. Business Practices Act*, RSPEI 1988, c. B-7 ("**PEI BPA**"),

(together with the *BPCPA*, the "**Provincial Consumer Protection Legislation**")

- 153. The Defendants' breach of Provincial Consumer Protection Legislation constitutes a vaping-related wrong.
- 154. Had the Benefit Recipients been informed of the risks associated use of JUUL Products, they would not have used JUUL or suffered any vaping-related disease, injury, or illness.
- 155. As a result of the vaping-related wrong, HMK and Class Members have incurred, and will continue to incur, the cost of health care benefits to prevent, mitigate and treat vaping-related disease, injury, or illness in Benefit Recipients in their respective jurisdictions.

E. Conspiracy

- 156. The Defendants and their co-conspirators are liable for the tort of civil conspiracy—both under unlawful means conspiracy and predominant purpose conspiracy.

157. The Defendants and their co-conspirators entered into agreements with each other to use unlawful means which resulted in the loss, injury and damage, including special damages, of the Plaintiff and Class Members.
158. The unlawful means used include, but are not limited to, the activities and arrangements pled at paragraphs 59 to 81 above.
159. In furtherance of the conspiracy, the defendants, along with their agents, servants, and unnamed co-conspirators, carried out the unlawful acts.
160. The Defendants also conspired with other entities, including other tobacco companies such as Philip Morris USA, Inc., to orchestrate their efforts to addict a new generation of persons to nicotine.
161. The unlawful acts particularized herein were directed towards the Benefit Recipients, Plaintiff and Class Members.
162. The Defendants and their co-conspirators knew, or ought to have known, that their unlawful acts would likely cause disease, injury or illness to the Benefit Recipients, and damages for the Plaintiff and Class Members.
163. Further, or in the alternative, the conduct of the Defendants and their co-conspirators was unlawful, by virtue of being either contrary to Provincial Consumer Protection Legislation and/or the *TVPA*. In the circumstances, the Defendants and their co-conspirators should have known that vaping-related disease, injury or illness to Benefit Recipients and similarly situated persons would be likely to result.
164. The Defendants and their co-conspirators were motivated to conspire. Their predominant purpose was to harm the Benefit Recipients, in the form of creating an increase in vaping and nicotine addiction, and other damages, by maximizing profits from the sale of JUUL Products in Canada when they knew or ought to have known of the risks posed by the intended use of their Products.

165. The Defendants and their co-conspirators intended to cause loss, injury and damage to the Benefit Recipients. In the alternative, the Defendants and their co-conspirators knew in the circumstances that their unlawful acts would likely cause injury.
166. As a result of the Defendants' wrongful conduct, the Plaintiff and the Class have suffered damages and losses.
167. The Defendants' conspiracy constitutes a vaping-related wrong.
168. As a result of the vaping-related wrong, HMK and Class Members have incurred, and will continue to incur, the cost of health care benefits to prevent, mitigate and treat vaping-related disease, injury, or illness in Benefit Recipients in their respective jurisdictions.

F. Breach of TVPA

169. The Defendants' wrongful conduct constituted breach of ss. 15.1, 19, 20, 23.3, 30.1, 30.2, 30.3, 30.41, 30.46, 30.5, 30.6, 30.7 and 30.71 of the *TVPA*.

G. Breach of the Competition Act

170. The Plaintiff realleges and reaffirms herein all pleadings set forth in paragraphs 103 through 110.

H. Damages and Remedies

171. The Defendants' negligence, fraudulent or negligent misrepresentations, breach of the Provincial Consumer Protection Legislation, breach of the *Competition Act*, breach of the *TVPA*, and conspiracy constitute vaping-related wrongs.
172. As a result of the Defendants' vaping-related wrongs, JUUL Product users who are Benefit Recipients have suffered vaping-related disease, injury, or illness as a direct and foreseeable consequence. HMK and Class Members have thereby incurred, and are reasonably expected to incur in the future, the cost of health care benefits.

173. The foreseeable harm from the Defendants' conduct includes, but is not limited to, the sale, diversion, use, and abuse of JUUL Products. This includes the attendant injuries of addiction, and vaping-related diseases, injuries or illnesses in the Class Members' communities as a consequence.
174. As a result of the Defendants' conduct, the Plaintiff and the Class Members have suffered further damage and loss as manifested by an increase in vaping and nicotine addiction, consisting of the cost of additional health care benefits, including expenditures to prevent, mitigate and treat the effects of the Defendants' wrongful conduct or vaping-related wrongs.
175. The plaintiff pleads that the Defendants' conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, wilful, and in disregard of the plaintiff's rights and the rights of each Class Member and, as such, renders the Defendants jointly and severally liable to pay punitive damages.
176. Further, and in the alternative, the Plaintiff pleads that it and the Class Members are entitled to the remedies of accounting and disgorgement of profits or revenues, based on equitable and restitutionary principles.
177. As a result of the Defendants' conduct described herein, the Plaintiff and the Class have a legitimate interest in preventing the Defendants' profit-making activity and to have monetary relief assessed in an amount equal to the gross revenues earned by the Defendants, or the net income received by the Defendants or a percentage of the proceeds from the sale of JUUL Products in Canada. As an expected and intended result of their wrongful conduct, the Defendants' have profited and benefitted from the sales of JUUL Products that would not have been made but for the unlawful conduct.

Joint and Several Liability

178. The Defendants are jointly and severally liable for the actions and damages attributable to any of them.

179. At all material times, the D&O Defendants were directors and/or officers of JLI within the meaning of s. 12 of the *VPRA*. By virtue of the conduct of the D&O Defendants and their relationship with JLI, the D&O Defendants are responsible not only for their acts and omissions, which are independently tortious, but also for the cost of health care benefits caused or contributed to by the vaping-related wrongs committed by JLI.

Jurisdiction

180. Without limiting the foregoing, the Plaintiff relies on ss. 7, 10 and 13 of the *CJPTA* and pleads that there is a real and substantial connection between the facts on which this proceeding is based and the Province of British Columbia because this proceeding concerns:

- (a) restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (b) a tort committed in British Columbia;
- (c) a business carried on in British Columbia;
- (d) a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia; and
- (e) is for the recovery of indebtedness and is brought by the Government of British Columbia or by a local authority in British Columbia.

Form 11 (Rule 4-5(2))

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff has at all material times been a resident of British Columbia and has suffered loss in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiff pleads the *Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

Plaintiff's address for service:	RICE HARBUT ELLIOTT LLP 820 - 980 Howe Street Vancouver, BC V6Z 0C8 SISKINDS LLP 1 - 275 Dundas Street London, ON N6B 3L1
Fax number address for service (if any):	Nil
E-mail address for service (if any):	service@rhelaw.com
Place of trial:	Vancouver
The address of the registry is:	800 Smith Street, Vancouver

Date: December 12, 2025



Signature of plaintiff
 lawyer for plaintiff
Anthony Leoni

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A claim on behalf of Provincial, Federal and Territorial governments to recover cost of health care benefits incurred as a result of the Defendants' vaping-related wrongs committed in connection with the JUUL e-cigarette device, with loss and damages to HMK and a class of similarly situated persons resident in Canada.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

1. *Vaping Product Damages and Health Care Costs Recovery Act*, S.B.C. 2025, c. 29
2. *Tobacco and Vaping Products Act*, S.C. 1997 c.13
3. *Competition Act*, R.S.C., 1985, c. C-34
4. *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2
5. *Class Proceedings Act*, R.S.B.C. 1996, c. 50