

1 David I. Gelfand (*pro hac vice*)  
2 Jeremy J. Calsyn (State Bar No. 205062)  
3 Nowell D. Bamberger (*pro hac vice*)  
4 dgelfand@cgsh.com  
5 jcalsyn@cgsh.com  
6 nbamberger@cgsh.com  
7 **Cleary Gottlieb Steen & Hamilton LLP**  
8 2112 Pennsylvania Avenue, NW  
9 Washington, DC 20037  
10 Telephone: 202-974-1500  
11 Facsimile: 202-974-1999  
12 *Attorneys for Defendant*  
13 *Juul Labs, Inc.*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: JUUL LABS INC.  
ANTITRUST LITIGATION

Case No. 3:20-cv-02345-WHO

**JLI'S ANSWER TO INDIRECT  
PURCHASER PLAINTIFFS'  
AMENDED CONSOLIDATED  
CLASS ACTION COMPLAINT**

JLI'S ANSWER TO INDIRECT  
PURCHASER PLAINTIFFS'  
AMENDED CONSOLIDATED  
CLASS ACTION COMPLAINT

1 Pursuant to the Court’s Order for Extension of Time to Respond to Complaints (ECF  
2 No. 283), Defendant Juul Labs, Inc. (“JLI”), by and through its undersigned counsel, submits  
3 this Answer to Plaintiffs Daraka Larimore, Adam Matschullat, Keith May, Kerry Walsh,  
4 Allison Harrod, Kurt Doughty, Dylan Pang, Ivan Velez, Jr. and Michael Imai (“Plaintiffs”),  
5 Amended Consolidated Class Action Complaint (the “Complaint”), (ECF No. 271).

6 **PRELIMINARY STATEMENT**

7 All allegations not expressly admitted herein are denied and any factual averment  
8 admitted is admitted only as to the specific facts and not as to any conclusions,  
9 characterizations, implications, or speculations that are contained in the averment or in the  
10 Complaint as a whole.

11 JLI does not interpret the table of contents, headings, sub-headings, photographs, or  
12 charts throughout the Complaint as well-pleaded allegations of fact to which any response is  
13 required. To the extent such a response is required, JLI denies all allegations in the table of  
14 contents, headings, sub-headings, photographs, or charts of the Complaint.

15 Use of certain terms or phrases defined in the Complaint is not an acknowledgment or  
16 admission of any characterization the Plaintiffs may ascribe to the defined terms. Unless  
17 otherwise defined, capitalized terms shall refer to the capitalized terms defined in the  
18 Complaint, but any such use is not an acknowledgment or admission of any characterization  
19 the Plaintiffs may ascribe to the capitalized terms.

20 The Complaint also contains many purported quotations from a number of sources,  
21 some identified, some not. Plaintiffs do not provide copies of the documents from which  
22 quotations were taken, which has impaired JLI’s ability to confirm or deny the accuracy of the  
23 quotations in the Complaint as compared to the original text. JLI, therefore, does not admit  
24 the authenticity of any documents from which the quotations were taken and reserves the right  
25 to challenge the accuracy of the quotations (either as quoted or in the context of material not  
26 quoted). Furthermore, with reference to all quotations, citations to documents, or any such  
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1 averments that might be offered into evidence, JLI specifically reserves the right to object to  
2 any use of such averments or the Complaint as a whole in evidence for any purpose whatsoever.

3 JLI does not concede the truthfulness of third-party articles and news sources quoted  
4 or referenced in the Complaint. To the extent that a response is required and unless  
5 otherwise indicated, JLI denies all allegations of sources quoted in or referenced in the  
6 Complaint.

7 To the extent any allegations are directed toward any party other than JLI, JLI lacks  
8 knowledge or information sufficient to form a belief regarding the truth of those allegations  
9 and, therefore, denies them on that basis. JLI answers the allegations on behalf of themselves  
10 only.

11 These comments and objections are incorporated, to the extent appropriate, into each  
12 numbered paragraph of this Answer.

13 **GENERAL DENIAL**

14 JLI denies that it has engaged in illegal conduct and that any conduct that is alleged to  
15 have engaged in has harmed Plaintiffs, competition, or consumers. JLI denies that Plaintiffs  
16 are entitled to judgment in their favor or any relief whatsoever, including the relief requested  
17 in Paragraphs (A) through (G) of Plaintiffs' prayer for relief.

18 **RESPONSES TO NUMBERED PARAGRAPHS OF COMPLAINT**

19 1. Paragraph 1 asserts legal conclusions to which no response is required. JLI  
20 admits that Plaintiffs purport to bring this case as a class action, but deny that class treatment  
21 is appropriate. JLI denies the existence of a single Closed-System E-Cigarette market. To the  
22 extent the allegations of Paragraph 1 are directed toward other Defendants, JLI lacks  
23 knowledge or information sufficient to form a belief as to the truth of those allegations and,  
24 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
25 implicit or direct, in Paragraph 1.

26 2. Paragraph 2 asserts legal conclusions to which no response is required. To the  
27 extent the allegations of Paragraph 2 are directed toward other Defendants, JLI lacks

1 knowledge or information sufficient to form a belief as to the truth of those allegations and,  
2 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
3 implicit or direct, in Paragraph 2.

4           3. Paragraph 3 purports to selectively quote, reference, and/or paraphrase certain  
5 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
6 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
7 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
8 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
9 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
10 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
11 documents, statements, and/or statistics speak for themselves. JLI admits that JLI, Altria  
12 Group, Inc., and Altria Enterprises LLC entered into the Relationship Agreement, by and  
13 among Juul Labs, Inc. Altria Group, Inc., and Altria Enterprises LLC, dated as of December  
14 20, 2018 (the "Relationship Agreement") and Amendment No. 1 to the Relationship  
15 Agreement, by and among Juul Labs, Inc. Altria Group, Inc., and Altria Enterprises LLC,  
16 dated January 28, 2020 (the "Amended Relationship Agreement"). JLI further admits that the  
17 Federal Trade Commission ("FTC") filed an administrative complaint on April 1, 2020  
18 alleging that JLI and Altria Group entered a series of agreements that eliminated competition  
19 in violation of federal antitrust laws, but denies that the FTC's complaint had merit. JLI refers  
20 to the FTC complaint for a more complete and accurate description of its contents. Except as  
21 specifically admitted, JLI denies the allegations, implicit or direct, in Paragraph 3.

22           4. JLI admits that open-tank system e-cigarettes incorporate refillable tanks that  
23 customers manually fill with e-liquid and that open-tank systems are generally sold through  
24 retail outlets known as vape shops, as well as other outlets. JLI further admits that closed-  
25 system e-cigarettes have pre-filled pods or cartridges that may be disposable and that closed-  
26 system e-cigarettes are sold through multi-outlet channels, including convenience stores and  
27 gas stations, as well as other outlets. JLI further admits that JUUL is a pod-based e-cigarette

1 product. Except as specifically admitted, JLI denies the allegations, implicit or direct, in  
2 Paragraph 4.

3 5. JLI admits that the JUUL device is composed of at least a rechargeable battery,  
4 electronic circuitry, an enclosure, a magnet, an LED, and pressure sensors. JLI further admits  
5 that the JUUL system operates by heating an e-liquid to create an inhalable aerosol and that  
6 one JUULpod contains approximately 0.7 milliliters of e-liquid, which contains nicotine. JLI  
7 further admits that it first offered its pod-based e-vapor product, JUUL, for sale in June 2015.  
8 JLI denies the existence of a single Closed-System E-Cigarette market. Except as expressly  
9 admitted, JLI denies the allegations, implicit or direct, in Paragraph 5.

10 6. To the extent the allegations in Paragraph 6 are directed to other Defendants,  
11 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
12 or information sufficient to form a belief as to the truth of the allegations in Paragraph 6  
13 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
14 admitted, JLI denies the allegations, implicit or direct, in Paragraph 6.

15 7. To the extent the allegations in Paragraph 7 are directed to other Defendants,  
16 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
17 or information sufficient to form a belief as to the truth of the allegations in Paragraph 7  
18 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
19 existence of a single Closed-System E-Cigarette market. Except as expressly admitted, JLI  
20 denies the allegations, implicit or direct, in Paragraph 7.

21 8. To the extent the allegations in Paragraph 8 are directed to other Defendants,  
22 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
23 or information sufficient to form a belief as to the truth of the allegations in Paragraph 8  
24 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
25 existence of a single Closed-System E-Cigarette market. Except as expressly admitted, JLI  
26 denies the allegations, implicit or direct, in Paragraph 8.

1           9.       To the extent the allegations in Paragraph 9 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 9  
4 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
5 admitted, JLI denies the allegations, implicit or direct, in Paragraph 9.

6           10.       To the extent the allegations in Paragraph 10 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 10  
9 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
10 admitted, JLI denies the allegations, implicit or direct, in Paragraph 10.

11           11.       JLI denies the existence of a single Closed-System E-Cigarette market and  
12 otherwise denies the allegations, implicit or direct, in the first sentence of Paragraph 11. JLI  
13 refers to the statutes, regulations, guidance, and other materials governing the FDA's  
14 premarket authorization regime for a more complete and accurate statement of the regulatory  
15 framework. To the extent that the allegations of Paragraph 11 are inconsistent with that  
16 regulatory framework, JLI denies such allegations. To the extent that the allegations in the  
17 third sentence of Paragraph 11 purport to quote or characterize particular documents or  
18 articles, those documents or articles speak for themselves. Except as expressly admitted, JLI  
19 denies the allegations, implicit or direct, in Paragraph 11.

20           12.       To the extent the allegations in Paragraph 12 are directed to other Defendants,  
21 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
22 or information sufficient to form a belief as to the truth of the allegations in Paragraph 12  
23 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
24 admitted, JLI denies the allegations, implicit or direct, in Paragraph 12.

25           13.       JLI admits that representatives of JLI had preliminary discussions with  
26 representatives of Altria regarding a potential transaction as early as 2017. To the extent the  
27 allegations of Paragraph 13 are directed to other Defendants, no response is required. To the

1 extent a response is otherwise required, JLI lacks knowledge or information sufficient to form  
2 a belief as to the truth of the allegations of Paragraph 13 concerning other Defendants and,  
3 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
4 implicit or direct, in Paragraph 13.

5 14. Paragraph 14 purports to selectively quote, reference, and/or paraphrase certain  
6 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
7 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
8 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
9 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
10 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
11 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
12 documents, statements, and/or statistics speak for themselves. To the extent the allegations in  
13 Paragraph 14 are directed to other Defendants, no response is required. To the extent a  
14 response is otherwise required, JLI lacks knowledge or information sufficient to form a belief  
15 as to the truth of the allegations in Paragraph 14 concerning other Defendants and, therefore,  
16 denies them on that basis. JLI denies the existence of a single Closed-System E-Cigarette  
17 market. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
18 Paragraph 14.

19 15. To the extent the allegations in Paragraph 15 are directed to other Defendants,  
20 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
21 or information sufficient to form a belief as to the truth of the allegations in Paragraph 15  
22 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
23 admitted, JLI denies the allegations, implicit or direct, in Paragraph 15.

24 16. Paragraph 16 purports to selectively quote, reference, and/or paraphrase certain  
25 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
26 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
27 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or

1 statistics, denies Plaintiffs’ insinuation and implication regarding the content or meaning of  
2 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
3 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
4 documents, statements, and/or statistics speak for themselves. JLI admits that on December  
5 20, 2018, Altria closed a \$12.8 billion investment in JLI’s business, representing a 35%  
6 economic interest in the company. JLI further admits that on December 20, 2018, JLI and  
7 Altria executed a series of agreements, including a Purchase Agreement, Relationship  
8 Agreement, Services Agreement, Intellectual Property License Agreement, and Voting  
9 Agreement (collectively, the “Transaction”). Except as expressly admitted, JLI denies the  
10 allegations, implicit or direct, in Paragraph 16.

11 17. To the extent the allegations in Paragraph 17 are directed to other Defendants,  
12 no response is required. To the extent a response is otherwise required, JLI lacks information  
13 and knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 17  
14 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
15 admitted, JLI denies the allegations, implicit or direct, in Paragraph 17.

16 18. Paragraph 18 purports to selectively quote, reference, and/or paraphrase certain  
17 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
18 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
19 entirety, denies Plaintiffs’ characterization of the alleged documents, statements, and/or  
20 statistics, denies Plaintiffs’ insinuation and implication regarding the content or meaning of  
21 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
22 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
23 documents, statements, and/or statistics speak for themselves. JLI denies the allegations,  
24 implicit or direct, in Paragraph 18 and notes that Plaintiffs take the quoted passage out of  
25 context and mischaracterize it. JLI refers to the referenced draft talking points for a more  
26 complete and accurate statement of their contents. The context of the quote shows that it was  
27

1 referring to Altria spending money on combustible cigarettes; it does not relate to e-cigarette  
2 products.

3 19. JLI admits that JLI and Altria Group entered into an Amended Relationship  
4 Agreement on January 28, 2020, but otherwise denies the allegations, implicit or direct, in  
5 Paragraph 19. To the extent that allegations in Paragraph 19 purport to characterize  
6 provisions of a Relationship Agreement and Amended Relationship Agreement, those  
7 documents speak for themselves. Except as expressly admitted, JLI denies the allegations,  
8 implicit or direct, in Paragraph 19.

9 20. Paragraph 20 asserts legal conclusions to which no response is required. To  
10 the extent a response is required, JLI denies the existence of a single Closed-System E-  
11 Cigarette market and otherwise denies the allegations, implicit or direct, in Paragraph 20.

12 21. Paragraph 21 asserts legal conclusions to which no response is required. To  
13 the extent a response is required, JLI admits that Plaintiffs purport to seek actual damages,  
14 exemplary damages, restitution, and equitable and other relief, including attorneys' fees, costs,  
15 and other expenses, but denies that Plaintiffs suffered any harm that comes within the scope of  
16 Sections 1, 2, or 3 of the Sherman Act, Section 7 of the Clayton Act, or state antitrust, unfair  
17 competition, or consumer protection laws. Except as expressly admitted, JLI denies the  
18 allegations, implicit or direct, in Paragraph 21.

19 22. JLI asserts that the allegations in Paragraph 22 are legal conclusions to which  
20 no response is required. To the extent a response is required, JLI lacks knowledge or  
21 information sufficient to form a belief as to the truth of the allegations in Paragraph 22 and,  
22 therefore, denies them on that basis.

23 23. JLI asserts that the allegations in Paragraph 23 are legal conclusions to which  
24 no response is required. To the extent a response is required, JLI lacks knowledge or  
25 information sufficient to form a belief as to the truth of the allegations in Paragraph 23 and,  
26 therefore, denies them on that basis.

1           24. To the extent the allegations in Paragraph 24 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 sufficient to form a belief as to the truth of the allegations in Paragraph 24 concerning other  
4 Defendants and, therefore, denies them on that basis. Furthermore, JLI asserts that the  
5 allegations in Paragraph 24 are legal conclusions to which no response is required. JLI admits  
6 that it has transacted business in the United States, including in the Northern District of  
7 California, and does not contest the Court has personal jurisdiction over it in this matter with  
8 respect to at least some claims. Except as expressly admitted, JLI denies the allegations,  
9 implicit or direct, in Paragraph 24.

10           25. JLI asserts that the allegations in Paragraph 25 are legal conclusions to which  
11 no response is required. To the extent a response is required, JLI lacks knowledge sufficient  
12 to form a belief as to the truth of the allegations in Paragraph 25, and, therefore, denies them  
13 on that basis. JLI notes that JLI moved its principal place of business and headquarters in  
14 November 2020 to Washington, DC. Except as expressly admitted, JLI denies the allegations,  
15 implicit or direct, in Paragraph 25.

16           26. JLI denies the allegations in Paragraph 26 that “Mr. Doughty was injured in his  
17 business or property in connection with his purchases during the Class Period as a result of  
18 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
19 knowledge or information sufficient to form a belief as to the truth of the allegations in  
20 Paragraph 26 and, therefore, denies them on that basis.

21           27. JLI denies the allegations in Paragraph 27 that “Ms. Harrod was injured in her  
22 business or property in connection with her purchases during the Class Period as a result of  
23 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
24 knowledge or information sufficient to form a belief as to the truth of the allegations in  
25 Paragraph 27 and, therefore, denies them on that basis.

26           28. JLI denies the allegations in Paragraph 28 that “Mr. Larimore was injured in  
27 his business or property in connection with his purchases during the Class Period as a result of

1 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
2 knowledge or information sufficient to form a belief as to the truth of the allegations in  
3 Paragraph 28 and, therefore, denies them on that basis.

4 29. JLI denies the allegations in Paragraph 29 that “Mr. Matschullat was injured in  
5 his business or property in connection with his purchases during the Class Period as a result of  
6 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
7 knowledge or information sufficient to form a belief as to the truth of the allegations in  
8 Paragraph 29 and, therefore, denies them on that basis.

9 30. JLI denies the allegations in Paragraph 30 that “Mr. May was injured in his  
10 business or property in connection with his purchases during the Class Period as a result of  
11 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
12 knowledge or information sufficient to form a belief as to the truth of the allegations in  
13 Paragraph 30 and, therefore, denies them on that basis.

14 31. JLI denies the allegations in Paragraph 31 that “Mr. Pang was injured in his  
15 business or property in connection with his purchases during the Class Period as a result of  
16 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
17 knowledge or information sufficient to form a belief as to the truth of the allegations in  
18 Paragraph 31 and, therefore, denies them on that basis.

19 32. JLI denies the allegations in Paragraph 32 that “Ms. Walsh was injured in her  
20 business or property in connection with her purchases during the Class Period as a result of  
21 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
22 knowledge or information sufficient to form a belief as to the truth of the allegations in  
23 Paragraph 32 and, therefore, denies them on that basis.

24 33. JLI denies the allegations in Paragraph 33 that “Mr. Velez was injured in his  
25 business or property in connection with his purchases during the Class Period as a result of  
26 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
27

1 knowledge or information sufficient to form a belief as to the truth of the allegations in  
2 Paragraph 33 and, therefore, denies them on that basis.

3 34. JLI denies the allegations in Paragraph 34 that “Mr. Imai was injured in his  
4 business or property in connection with his purchases during the Class Period as a result of  
5 Defendants’ anticompetitive and unlawful conduct alleged herein.” JLI otherwise lacks  
6 knowledge or information sufficient to form a belief as to the truth of the allegations in  
7 Paragraph 34 and, therefore, denies them on that basis.

8 35. JLI admits that it is a Delaware corporation. JLI’s principal place of business  
9 and headquarters was in San Francisco, however, it was relocated to Washington, DC in  
10 November 2020. JLI further admits that it generated over \$1 billion in sales in 2018, but  
11 otherwise denies the allegations, implicit or direct, in the second sentence of Paragraph 35.  
12 JLI further admits that it operated under the name of Pax Labs, Inc. (“Pax”) when it first  
13 introduced the JUUL pod-based e-cigarette product in 2015, but JLI otherwise denies the  
14 allegations, implicit or direct, in the third sentence of Paragraph 35. JLI further admits the  
15 allegations in the fourth sentence of Paragraph 35, except that JLI originally operated under  
16 the name Ploom, not Pax. JLI denies the allegations, implicit or direct, in the fifth sentence of  
17 Paragraph 35. JLI further admits that Pax split into two separate companies in 2017, and Pax  
18 was renamed Juul Labs, Inc. (“JLI”). JLI otherwise denies the allegations, implicit or direct,  
19 in the sixth sentence of Paragraph 35. JLI further admits that Tyler Goldman served as CEO  
20 of Pax and then JLI, from approximately June 2016 until December 2017. JLI further admits  
21 that Kevin Burns became CEO of JLI in December 2017. JLI otherwise lacks knowledge or  
22 information sufficient to form a belief as to the truth of the allegations in in the eighth  
23 sentence of Paragraph 35 and, therefore, denies them on that basis. JLI denies the allegations,  
24 implicit or direct, in the ninth sentence of Paragraph 35. JLI further admits the allegations in  
25 the tenth sentence of Paragraph 35. JLI further admits that it is a party to the Relationship  
26 Agreement and Amended Relationship Agreement, but otherwise denies the allegations,  
27

1 implicit or direct, in the last sentence of Paragraph 35. Except as expressly admitted, JLI  
2 denies the allegations, implicit or direct, in Paragraph 35.

3 36. To the extent the allegations in Paragraph 36 are directed to other Defendants,  
4 no response is required. To the extent a response is required, JLI states, on information and  
5 belief, that Altria Group, Inc. is a holding company incorporated in Virginia. JLI otherwise  
6 lacks knowledge or information sufficient to form a belief as to the truth of the allegations in  
7 Paragraph 36 and, therefore, denies them on that basis. Except as expressly admitted, JLI  
8 denies the allegations, implicit or direct, in Paragraph 36.

9 37. To the extent the allegations in Paragraph 37 are directed to other Defendants,  
10 no response is required. To the extent a response is required, JLI lacks knowledge or  
11 information sufficient to form a belief as to the truth of the allegations in Paragraph 37  
12 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
13 admitted, JLI denies the allegations, implicit or direct, in Paragraph 37.

14 38. To the extent the allegations in Paragraph 38 are directed to other Defendants,  
15 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
16 or information sufficient to form a belief as to the truth of the allegations in Paragraph 38  
17 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
18 admitted, JLI denies the allegations, implicit or direct, in Paragraph 38.

19 39. No response is required to Paragraph 39 because it does not contain any  
20 allegations. To the extent a response is required, JLI admits that the Complaint purports to  
21 refer to Defendants Altria Group and Altria Enterprises collectively as “Altria.”

22 40. To the extent the allegations in Paragraph 40 are directed to other Defendants,  
23 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
24 or information sufficient to form a belief as to the truth of the allegations in Paragraph 40  
25 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
26 remaining allegations, implicit or direct, in Paragraph 40.

1           41. To the extent the allegations in Paragraph 41 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 41  
4 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
5 remaining allegations, implicit or direct, in Paragraph 41.

6           42. To the extent the allegations in Paragraph 42 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 42  
9 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
10 remaining allegations, implicit or direct, in Paragraph 42.

11           43. The allegations in Paragraph 43 are not directed to JLI, and, therefore, no  
12 response is required. To the extent a response is otherwise required, JLI lacks knowledge or  
13 information sufficient to form a belief as to the truth of the allegations in Paragraph 43 and,  
14 therefore, denies them on that basis.

15           44. To the extent the allegations in Paragraph 44 are directed to other Defendants,  
16 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
17 or information sufficient to form a belief as to the truth of the allegations in Paragraph 44  
18 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
19 remaining allegations, implicit or direct, in Paragraph 42.

20           45. Paragraph 45 purports to selectively quote, reference, and/or paraphrase certain  
21 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
22 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
23 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
24 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
25 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
26 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
27 documents, statements, and/or statistics speak for themselves. JLI otherwise lacks knowledge

1 or information sufficient to form a belief as to the truth of the allegations in Paragraph 45 and,  
2 therefore, denies them on that basis.

3 46. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
4 the allegations in Paragraph 46 and, therefore, denies them on that basis.

5 47. Paragraph 47 purports to selectively quote, reference, and/or paraphrase certain  
6 alleged documents, statements, and/or statistics. JLI denies that the graphs included in  
7 Paragraph 47 consist of well-pleaded allegations of fact to which any response is required.  
8 JLI denies that the alleged documents, statements, and/or statistics are quoted, referenced,  
9 and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the  
10 alleged documents, statements, and/or statistics, denies Plaintiffs' insinuation and implication  
11 regarding the content or meaning of the alleged documents, statements, and/or statistics, and  
12 does not concede the truthfulness or accuracy of the alleged documents, statements, and/or  
13 statistics. JLI states that the alleged documents, statements, and/or statistics speak for  
14 themselves. JLI denies the existence of a single Closed-System E-Cigarette market. JLI  
15 otherwise lacks knowledge or information sufficient to form a belief as to the truth of the  
16 allegations in Paragraph 47 and, therefore, denies them on that basis.

17 48. The allegations of Paragraph 48 are not directed toward JLI, and, therefore, no  
18 response is required. To the extent a response is otherwise required, JLI denies the existence  
19 of a single Closed-System E-Cigarette market. JLI otherwise lacks knowledge or information  
20 sufficient to form a belief as to the truth of the allegations in Paragraph 48, and, therefore,  
21 denies them on that basis.

22 49. JLI asserts that Paragraph 49 contains legal conclusions to which no response  
23 is required. To the extent a response is required, JLI denies the existence of a single Closed-  
24 System E-Cigarette market and denies the remaining allegations, implicit or direct, in  
25 Paragraph 49.

26 50. Paragraph 50 purports to selectively quote, reference, and/or paraphrase certain  
27 alleged documents, statements, and/or statistics. JLI denies that the image included in

1 Paragraph 50 consist of well-pleaded allegations of fact to which any response is required.  
2 JLI denies that the alleged documents, statements, and/or statistics are quoted, referenced,  
3 and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the  
4 alleged documents, statements, and/or statistics, denies Plaintiffs' insinuation and implication  
5 regarding the content or meaning of the alleged documents, statements, and/or statistics, and  
6 does not concede the truthfulness or accuracy of the alleged documents, statements, and/or  
7 statistics. JLI states that the alleged documents, statements, and/or statistics speak for  
8 themselves. JLI otherwise lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations in Paragraph 50 and, therefore, denies them on that basis.

10 51. Paragraph 51 purports to selectively quote, reference, and/or paraphrase certain  
11 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
12 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
13 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
14 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
15 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
16 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
17 documents, statements, and/or statistics speak for themselves. JLI denies that Altria withdrew  
18 from the market in late 2018 because of a non-compete agreement with JLI. JLI otherwise  
19 lacks knowledge or information sufficient to form a belief as to the truth of the allegations in  
20 Paragraph 51 and, therefore, denies them on that basis.

21 52. Paragraph 52 appears to selectively quote, reference, and/or paraphrase certain  
22 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
23 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
24 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
25 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
26 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
27 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged

1 documents, statements, and/or statistics speak for themselves. JLI admits that it offered a  
2 four-pack of JUULpods at a suggested retail price of \$15.99. However, JLI ceased selling  
3 starter pack kits in 2019. JLI further admits that the JUUL device and JUULpods were sold  
4 by JLI online and to distributors and retailers for resale. Except as expressly admitted, JLI  
5 denies the allegations, implicit or direct, in Paragraph 52.

6 53. To the extent the allegations in Paragraph 53 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 53  
9 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
10 existence of a single Closed-System E-Cigarette and denies the remaining allegations, implicit  
11 or direct, in Paragraph 53.

12 54. To the extent the allegations in Paragraph 54 are directed to other Defendants,  
13 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
14 or information sufficient to form a belief as to the truth of the allegations in Paragraph 54  
15 concerning other Defendants, and, therefore, denies them on that basis. JLI denies the  
16 remaining allegations, implicit or direct, in Paragraph 54.

17 55. Paragraph 55 purports to selectively quote, reference, and/or paraphrase certain  
18 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
19 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
20 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
21 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
22 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
23 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
24 documents, statements, and/or statistics speak for themselves and refers to the statutes,  
25 regulations, guidance, and other materials governing the FDA's premarket authorization  
26 regime for a more complete and accurate statement of the regulatory framework. JLI admits  
27 that FDA has had the ability to regulate tobacco products since the Family Smoking

1 Prevention and Tobacco Control Act of 2009; that in 2016, FDA issued a rule deeming all  
2 tobacco products, including e-cigarette products, to be subject to these regulations; that e-  
3 cigarettes new to the U.S. market on or after August 8, 2016 must receive pre-market FDA  
4 approval; and that FDA had set a deadline of May 9, 2020 (moved to September 9, 2020 due  
5 to the COVID-19 pandemic) for approval applications for e-cigarette products that existed in  
6 the U.S. market prior to August 8, 2016. Except as expressly admitted, JLI denies the  
7 allegations, implicit or direct, of Paragraph 55.

8           56. Paragraph 56 purports to selectively quote, reference, and/or paraphrase certain  
9 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
10 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
11 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
12 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
13 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
14 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
15 documents, statements, and/or statistics speak for themselves and refers to the statutes,  
16 regulations, guidance, and other materials governing the FDA's premarket authorization  
17 regime for a more complete and accurate statement of the regulatory framework. To the  
18 extent that the allegations of Paragraph 56 are inconsistent with that regulatory framework,  
19 JLI denies such allegations. Except as expressly admitted, JLI denies the allegations, implicit  
20 or direct, of Paragraph 56

21           57. To the extent the allegations in Paragraph 57 are directed to other Defendants,  
22 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
23 or information sufficient to form a belief as to the truth of the allegations in Paragraph 57  
24 concerning other Defendants, and, therefore, denies them on that basis. To the extent the  
25 allegations in Paragraph 57 purport to quote or characterize particular documents or articles,  
26 those documents and articles speak for themselves. Except as expressly admitted, JLI denies  
27 the allegations, implicit or direct, in Paragraph 57.

1           58. Paragraph 58 purports to selectively quote, reference, and/or paraphrase certain  
2 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
3 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
4 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
5 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
6 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
7 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
8 documents, statements, and/or statistics speak for themselves. JLI otherwise lacks knowledge  
9 or information sufficient to form a belief as to the truth of the allegations Paragraph 57  
10 regarding companies other than JLI and, therefore, denies them on that basis. JLI admits that  
11 the regulatory approval process for e-cigarette products can be expensive, but avers that the  
12 FDA has processes in place to assist small companies in preparing PMTAs and has committed  
13 to a streamlined PMTA approval process for small companies. JLI understands from the  
14 FDA's public reporting that as of October 6, 2021, the FDA had received premarket tobacco  
15 applications for more than eight million electronic nicotine delivery system ("ENDS")  
16 products and had accepted for review applications for over six and a half million of those  
17 products.<sup>1</sup> Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
18 Paragraph 58.

19           59. To the extent the allegations in Paragraph 59 are directed to other Defendants,  
20 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
21 or information sufficient to form a belief as to the truth of the allegations in Paragraph 59  
22 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
23 remaining allegations, implicit or direct, in Paragraph 59.

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24  
25  
26  
27 <sup>1</sup> See U.S. FOOD & DRUG ADMINISTRATION, TOBACCO PRODUCT APPLICATIONS: METRICS & REPORTING,  
<https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-product-applications-metrics-reporting> (last visited Nov. 18, 2021).

1           60. To the extent the allegations in Paragraph 60 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 60  
4 concerning other Defendants and ,therefore, denies them on that basis. JLI denies the  
5 remaining allegations, implicit or direct, in Paragraph 60.

6           61. To the extent the allegations in Paragraph 61 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 61  
9 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
10 allegations in Paragraph 61 purport to quote or characterize particular documents or articles,  
11 those documents and articles speak for themselves. JLI denies the existence of a single  
12 Closed-System E-Cigarette market and denies the remaining allegations, implicit or direct, in  
13 Paragraph 61.

14           62. To the extent the allegations in Paragraph 62 are directed to other Defendants,  
15 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
16 or information sufficient to form a belief as to the truth of the allegations in Paragraph 62  
17 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
18 existence of a single Closed-System E-Cigarette market and denies the remaining allegations,  
19 implicit or direct, in Paragraph 62.

20           63. To the extent the allegations in Paragraph 63 are directed to other Defendants,  
21 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
22 or information sufficient to form a belief as to the truth of the allegations in Paragraph 63  
23 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
24 remaining allegations, implicit or direct, in Paragraph 63.

25           64. Paragraph 64 purports to selectively quote, reference, and/or paraphrase certain  
26 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
27 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their

1 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
2 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
3 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
4 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
5 documents, statements, and/or statistics speak for themselves. JLI lacks knowledge or  
6 information sufficient to form a belief as to the truth of the allegations in Paragraph 64 and,  
7 therefore, denies them on that basis.

8           65. To the extent the allegations in Paragraph 65 are directed to other Defendants,  
9 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in Paragraph 65  
11 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
12 remaining allegations, implicit or direct, in Paragraph 65.

13           66. To the extent the allegations in Paragraph 66 are directed to other Defendants,  
14 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
15 or information sufficient to form a belief as to the truth of the allegations in Paragraph 66  
16 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
17 allegations in Paragraph 66 purport to quote or characterize particular documents or articles,  
18 those documents or articles speak for themselves. JLI denies the remaining allegations,  
19 implicit or direct, in Paragraph 66.

20           67. To the extent the allegations in Paragraph 67 are directed to other Defendants,  
21 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
22 or information sufficient to form a belief as to the truth of the allegations in Paragraph 67  
23 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
24 allegations in Paragraph 67 purport to quote or characterize particular documents or articles,  
25 those documents or articles speak for themselves. JLI denies the remaining allegations,  
26 implicit or direct, in Paragraph 67.

1           68. To the extent the allegations in Paragraph 68 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 68  
4 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
5 allegations in Paragraph 68 purport to quote or characterize particular documents or articles,  
6 those documents and articles speak for themselves. JLI denies the remaining allegations,  
7 implicit or direct, in Paragraph 68.

8           69. To the extent the allegations in Paragraph 69 are directed to other Defendants,  
9 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in Paragraph 69  
11 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
12 existence of a single Closed-System E-Cigarette market and denies the remaining allegations,  
13 implicit or direct, in Paragraph 69.

14           70. To the extent the allegations in Paragraph 70 are directed to other Defendants,  
15 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
16 or information sufficient to form a belief as to the truth of the allegations in Paragraph 70  
17 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
18 allegations in Paragraph 70 purport to quote or characterize particular documents or articles,  
19 those documents and articles speak for themselves. JLI denies the remaining allegations,  
20 implicit or direct, in Paragraph 70.

21           71. To the extent the allegations in Paragraph 71 are directed to other Defendants,  
22 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
23 or information sufficient to form a belief as to the truth of the allegations in Paragraph 71  
24 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
25 remaining allegations, implicit or direct, in Paragraph 71.

26           72. To the extent the allegations in Paragraph 72 are directed to other Defendants,  
27 no response is required. To the extent a response is otherwise required, JLI lacks knowledge

1 or information sufficient to form a belief as to the truth of the allegations in Paragraph 72  
2 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
3 allegations in Paragraph 72 purport to quote or characterize particular documents or articles,  
4 those documents or articles speak for themselves. JLI denies the remaining allegations,  
5 implicit or direct, in Paragraph 72.

6 73. To the extent the allegations in Paragraph 73 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 73  
9 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
10 remaining allegations, implicit or direct, in Paragraph 73.

11 74. To the extent the allegations in Paragraph 74 are directed to other Defendants,  
12 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
13 or information sufficient to form a belief as to the truth of the allegations in Paragraph 74  
14 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
15 remaining allegations, implicit or direct, in Paragraph 74.

16 75. To the extent the allegations in Paragraph 75 are directed to other Defendants,  
17 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
18 or information sufficient to form a belief as to the truth of the allegations in Paragraph 75  
19 concerning other Defendants and, therefore, denies them on that basis. JLI admits that it is a  
20 private company. JLI further admits that JLI first publically announced the transaction with  
21 Altria on December 20, 2018. JLI further admits that the Complaint alleges that its allegations  
22 are based on disclosures in the FTC Complaint and limited internal Altria documents,  
23 although JLI notes that JLI produced to Plaintiffs over 700,000 internal documents prior to  
24 Plaintiffs filing this Amended Complaint. Except as expressly admitted, JLI denies the  
25 allegations, implicit or direct, in Paragraph 75.

26 76. To the extent the allegations in Paragraph 76 are directed to other Defendants,  
27 no response is required. To the extent a response is otherwise required, JLI lacks knowledge

1 or information sufficient to form a belief as to the truth of the allegations in Paragraph 76  
2 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
3 allegations in Paragraph 76 purport to quote or characterize particular documents or articles,  
4 those documents and articles speak for themselves. JLI notes that by November 9, 2017, JLI  
5 was doing business as JLI, not Pax. Except as expressly admitted, JLI denies the allegations,  
6 implicit or direct, in Paragraph 76.

7 77. JLI admits that it engaged Goldman Sachs as a financial advisor in connection  
8 with a potential transaction with Altria, but notes that by November 21, 2017, JLI was doing  
9 business as JLI, not Pax. JLI otherwise lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations in Paragraph 77 and, therefore, denies them on that  
11 basis. Except as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph  
12 77.

13 78. JLI admits that it engaged Goldman Sachs as a financial advisor in connection  
14 with a potential transaction with Altria. JLI otherwise lacks knowledge or information  
15 sufficient to form a belief as to the truth of the allegations in Paragraph 78 and, therefore,  
16 denies them on that basis. Except as expressly admitted, JLI denies the allegations, implicit or  
17 direct, in Paragraph 78.

18 79. Paragraph 79 purports to selectively quote, reference, and/or paraphrase certain  
19 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
20 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
21 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
22 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
23 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
24 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
25 documents, statements, and/or statistics speak for themselves. JLI admits that on April 13,  
26 2018, Willard sent Burns, Pritzker, and Valani an email, but otherwise denies the allegations,  
27 implicit or direct, in Paragraph 79.

1           80. Paragraph 80 purports to selectively quote, reference, and/or paraphrase certain  
2 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
3 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
4 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
5 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
6 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
7 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
8 documents, statements, and/or statistics speak for themselves. JLI admits that Burns sent  
9 Willard a letter on April 20, 2018, but denies the remaining allegations, implicit or direct, in  
10 Paragraph 80.

11           81. JLI denies the existence of a single Closed-System E-Cigarette market and  
12 denies the remaining allegations, implicit or direct, in Paragraph 81.

13           82. Paragraph 82 purports to selectively quote, reference, and/or paraphrase certain  
14 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
15 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
16 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
17 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
18 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
19 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
20 documents, statements, and/or statistics speak for themselves. JLI admits that Pritzker sent  
21 Willard a draft term sheet on July 30, 2018, but otherwise denies the remaining allegations,  
22 implicit or direct, in Paragraph 82.

23           83. Paragraph 83 purports to selectively quote, reference, and/or paraphrase certain  
24 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
25 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
26 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
27 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of

1 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
2 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
3 documents, statements, and/or statistics speak for themselves. JLI otherwise denies the  
4 allegations, implicit or direct, in Paragraph 83.

5 84. To the extent the allegations in Paragraph 84 are directed to other Defendants,  
6 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
7 or information sufficient to form a belief as to the truth of the allegations in Paragraph 84  
8 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
9 allegations in Paragraph 84 purport to quote or characterize particular documents, those  
10 documents speak for themselves. JLI admits that Pritzker, Valani, Burns, Willard, and  
11 Gifford, met on August 1, 2018. Except as expressly admitted, JLI denies the allegations,  
12 implicit or direct, in Paragraph 84.

13 85. To the extent the allegations in Paragraph 85 are directed to other Defendants,  
14 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
15 or information sufficient to form a belief as to the truth of the allegations in Paragraph 85  
16 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
17 allegations in Paragraph 85 purport to quote or characterize particular documents, those  
18 documents speak for themselves. JLI denies the remaining allegations, implicit or direct, in  
19 Paragraph 85.

20 86. Paragraph 86 purports to selectively quote, reference, and/or paraphrase certain  
21 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
22 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
23 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
24 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
25 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
26 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
27 documents, statements, and/or statistics speak for themselves. JLI admits that on August 9,

1 2018, Gifford sent a markup of the term sheet to Pritzker, Valani, and Burns, but otherwise  
2 denies the allegations, implicit or direct, in Paragraph 86.

3 87. Paragraph 87 purports to selectively quote, reference, and/or paraphrase certain  
4 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
5 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
6 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
7 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
8 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
9 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
10 documents, statements, and/or statistics speak for themselves. JLI denies the remaining  
11 allegations, implicit or direct, in Paragraph 87.

12 88. Paragraph 88 purports to selectively quote, reference, and/or paraphrase certain  
13 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
14 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
15 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
16 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
17 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
18 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
19 documents, statements, and/or statistics speak for themselves. JLI admits that Valani and  
20 Devitre met on August 15, 2018. Except as expressly admitted, JLI denies the allegations,  
21 implicit or direct, in Paragraph 88.

22 89. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
23 the allegations in Paragraph 89 and, therefore, denies them on that basis.

24 90. Paragraph 90 purports to selectively quote, reference, and/or paraphrase certain  
25 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
26 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
27 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or

1 statistics, denies Plaintiffs’ insinuation and implication regarding the content or meaning of  
2 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
3 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
4 documents, statements, and/or statistics speak for themselves. JLI admits that on October 5,  
5 2018, Willard sent a letter to Pritzker, Valani, and Burns, but otherwise denies the remaining  
6 allegations, implicit or direct, in Paragraph 90.

7           91. Paragraph 91 purports to selectively quote, reference, and/or paraphrase certain  
8 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
9 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
10 entirety, denies Plaintiffs’ characterization of the alleged documents, statements, and/or  
11 statistics, denies Plaintiffs’ insinuation and implication regarding the content or meaning of  
12 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
13 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
14 documents, statements, and/or statistics speak for themselves. To the extent the allegations in  
15 Paragraph 91 are directed to other Defendants, no response is required. To the extent a  
16 response is otherwise required, JLI lacks knowledge or information sufficient to form a belief  
17 as to the truth of the allegations in Paragraph 84 concerning other Defendants and, therefore,  
18 denies them on that basis. JLI admits that Burns forwarded the October 5 letter with a note to  
19 JLI’s Chief Legal Officer, but otherwise denies the remaining allegations, implicit or direct, in  
20 Paragraph 91.

21           92. JLI states on information and belief that Altria announced on October 25, 2018  
22 that it would be removing certain of its e-cigarette products, including MarkTen Elite and  
23 Apex, from the market. JLI otherwise lacks knowledge or information sufficient to form a  
24 belief as to the truth of the allegations in Paragraph 92 and, therefore, denies them on that  
25 basis. Except as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph  
26 92.

1           93. To the extent the allegations in Paragraph 93 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 93  
4 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
5 remaining allegations, implicit or direct, in Paragraph 93.

6           94. To the extent the allegations in Paragraph 94 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 94  
9 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
10 remaining allegations, implicit or direct, in Paragraph 94.

11           95. Paragraph 95 purports to selectively quote, reference, and/or paraphrase certain  
12 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
13 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
14 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
15 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
16 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
17 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
18 documents, statements, and/or statistics speak for themselves. JLI denies the remaining  
19 allegations, implicit or direct, in Paragraph 95.

20           96. Paragraph 96 purports to selectively quote, reference, and/or paraphrase certain  
21 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
22 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
23 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
24 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
25 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
26 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
27 documents, statements, and/or statistics speak for themselves. JLI admits that JLI and Altria

1 engaged in due diligence in November 2018. Except as expressly admitted, JLI denies the  
2 allegations, implicit or direct, in Paragraph 96.

3 97. To the extent the allegations in Paragraph 97 are directed to other Defendants,  
4 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
5 or information sufficient to form a belief as to the truth of the allegations in Paragraph 97  
6 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
7 allegations in Paragraph 97 purport to quote or characterize particular documents, those  
8 documents speak for themselves. JLI denies the remaining allegations, implicit or direct, in  
9 Paragraph 97.

10 98. To the extent the allegations in Paragraph 98 are directed to other Defendants,  
11 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
12 or information sufficient to form a belief as to the truth of the allegations in Paragraph 98  
13 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
14 remaining allegations, implicit or direct, in Paragraph 98.

15 99. To the extent the allegations in Paragraph 99 are directed to other Defendants,  
16 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
17 or information sufficient to form a belief as to the truth of the allegations in Paragraph 99  
18 concerning other Defendants and, therefore, denies them on that basis. To the extent the  
19 allegations in Paragraph 99 purport to quote or characterize particular documents, those  
20 documents speak for themselves. JLI admits that a meeting between Altria and JLI was  
21 scheduled on December 9, 2018 in San Francisco. JLI otherwise lacks knowledge or  
22 information sufficient to form a belief as to the truth of the allegations in Paragraph 99 and,  
23 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
24 implicit or direct, in Paragraph 99.

25 100. Paragraph 100 purports to selectively quote, reference, and/or paraphrase  
26 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
27 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context

1 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
2 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
3 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
4 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
5 the alleged documents, statements, and/or statistics speak for themselves. To the extent the  
6 allegations in Paragraph 100 are directed to other Defendants, JLI lacks knowledge or  
7 information sufficient to form a belief as to the truth of those allegations and, therefore, denies  
8 them on that basis. JLI admits that on December 9, 2018, Garnick emailed Masoudi. JLI  
9 denies the existence of a single Closed-System E-Cigarette market and denies the remaining  
10 allegations, implicit and direct, of Paragraph 100.

11           101. Paragraph 101 purports to selectively quote, reference, and/or paraphrase  
12 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
13 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
14 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
15 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
16 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
17 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
18 the alleged documents, statements, and/or statistics speak for themselves. To the extent the  
19 allegations in Paragraph 101 are directed to other Defendants, no response is required. To the  
20 extent a response is otherwise required, JLI lacks knowledge or information sufficient to form  
21 a belief as to the truth of the allegations in Paragraph 101 concerning other Defendants and,  
22 therefore, denies them on that basis. JLI denies the remaining allegations, implicit or direct, in  
23 Paragraph 101.

24           102. Paragraph 102 purports to selectively quote, reference, and/or paraphrase certain  
25 alleged documents, statements, and/or statistics. JLI denies that the alleged documents,  
26 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
27 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or

1 statistics, denies Plaintiffs’ insinuation and implication regarding the content or meaning of the  
2 alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
3 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
4 documents, statements, and/or statistics speak for themselves. JLI admits that it executed and  
5 announced the Class C-1 Common Stock Purchase Agreement by and among Juul Labs, Inc.,  
6 Altria Group, Inc., and Altria Enterprises, LLC (the “Purchase Agreement”) and other related  
7 Agreements on December 20, 2018 and refers to those agreements for a more complete and  
8 accurate statement of their contents. Except as expressly admitted, JLI denies the allegations,  
9 implicit or direct, in Paragraph 102.

10 103. Paragraph 103 purports to selectively quote, reference, and/or paraphrase  
11 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
12 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
13 or in their entirety, denies Plaintiffs’ characterization of the alleged documents, statements,  
14 and/or statistics, denies Plaintiffs’ insinuation and implication regarding the content or  
15 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
16 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
17 the alleged documents, statements, and/or statistics speak for themselves. JLI denies the  
18 remaining allegations, implicit or direct, in Paragraph 103.

19 104. Paragraph 104 purports to selectively quote, reference, and/or paraphrase  
20 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
21 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
22 or in their entirety, denies Plaintiffs’ characterization of the alleged documents, statements,  
23 and/or statistics, denies Plaintiffs’ insinuation and implication regarding the content or  
24 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
25 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
26 the alleged documents, statements, and/or statistics speak for themselves. JLI otherwise  
27 denies the allegations, implicit or direct, in Paragraph 104 and notes that Plaintiffs take the

1 quoted passage out of context and mischaracterize it, and JLI refers to the referenced draft  
2 talking points for a more complete and accurate statement of their contents. The context of  
3 the quote shows that it was referring to Altria spending money on combustible cigarettes; it  
4 does not relate to e-cigarette products.

5         105. Paragraph 105 purports to selectively quote, reference, and/or paraphrase  
6 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
7 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
8 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
9 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
10 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
11 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
12 the alleged documents, statements, and/or statistics speak for themselves. JLI refers to the  
13 Relationship Agreement for a more complete and accurate statement of its contents. To the  
14 extent that the allegations in Paragraph 105 are inconsistent with the Relationship Agreement,  
15 JLI denies such allegations. Except as expressly admitted, JLI denies the allegations, implicit  
16 or direct, in Paragraph 105.

17         106. Paragraph 106 purports to selectively quote, reference, and/or paraphrase  
18 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
19 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
20 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
21 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
22 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
23 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
24 the alleged documents, statements, and/or statistics speak for themselves. JLI refers to the  
25 Relationship Agreement for a more complete and accurate statement of its contents. To the  
26 extent that the allegations in Paragraph 106 are inconsistent with the Relationship Agreement,  
27

1 JLI denies such allegations. Except as expressly admitted, JLI denies the allegations, implicit  
2 or direct, in Paragraph 106.

3 107. JLI admits that the Relationship Agreement was amended on January 28, 2020.

4 108. JLI denies the existence of a single Closed-System E-Cigarette market and  
5 otherwise denies the allegations, implicit and direct, in Paragraph 108.

6 109. Paragraph 109 purports to selectively quote, reference, and/or paraphrase  
7 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
8 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
9 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
10 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
11 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
12 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
13 the alleged documents, statements, and/or statistics speak for themselves. JLI otherwise  
14 denies the allegations, implicit or direct, in Paragraph 109.

15 110. Paragraph 110 purports to selectively quote, reference, and/or paraphrase  
16 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
17 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
18 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
19 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
20 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
21 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
22 the alleged documents, statements, and/or statistics speak for themselves. JLI admits that  
23 Altria acquired a 35% minority non-voting interest in JLI for \$12.8 billion. Except as  
24 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 110.

25 111. JLI admits that JLI and Altria are separate companies and that no joint venture  
26 was created between them. JLI otherwise denies the remaining allegations, implicit or direct,  
27 in Paragraph 111.

1                   112. Paragraph 112 purports to selectively quote, reference, and/or  
2 paraphrase certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
3 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
4 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
5 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
6 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
7 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
8 the alleged documents, statements, and/or statistics speak for themselves. JLI admits that it  
9 received a letter from the FDA on April 24, 2018 requesting documents. Responding further,  
10 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
11 relating to FDA actions or statements in Paragraph 112 and denies them on that basis. Except  
12 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 112.

13                   113. JLI admits that in November 2018, it announced the Juul Labs Action Plan,  
14 which included, among other things, ceasing the distribution of JUULpods in Mango, Fruit,  
15 Crème, and Cucumber flavors to distributors for retail resale. Except as expressly admitted,  
16 JLI denies the allegations, implicit or direct, in Paragraph 113.

17                   114. Paragraph 114 purports to selectively quote, reference, and/or paraphrase  
18 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
19 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
20 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
21 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
22 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
23 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
24 the alleged documents, statements, and/or statistics speak for themselves. JLI admits that it  
25 received a letter from the FDA on September 9, 2019. JLI further admits that it ceased selling  
26 mint-flavored JUULpods online and to distributors and retailers for resale in November 2019.  
27 Except as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 114.

1           115. Paragraph 115 purports to selectively quote, reference, and/or paraphrase  
2 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
3 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
4 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
5 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
6 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
7 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
8 the alleged documents, statements, and/or statistics speak for themselves. To the extent that  
9 the allegations in Paragraph 115 are directed to other Defendants, no response is required. To  
10 the extent a response is otherwise required, JLI lacks knowledge or information sufficient to  
11 form a belief as to the truth of the allegations in Paragraph 115 concerning other Defendants  
12 and, therefore, denies them on that basis. JLI admits that representatives from JLI and Altria  
13 met with Commissioner Gottlieb in March 2019. Except as expressly admitted, JLI denies the  
14 allegations, implicit or direct, in Paragraph 115.

15           116. JLI states, on information and belief, that some states and municipalities have  
16 imposed bans on certain vaping products.

17           117. JLI admits that in September 2019, Kevin Burns resigned his position as JLI's  
18 Chief Executive Officer and that Kevin Crosthwaite replaced Mr. Burns in that position. JLI  
19 further admits that Mr. Crosthwaite previously served as Altria's Chief Growth Officer and  
20 became a non-voting JLI Board observer in January 2019. To the extent that the allegations in  
21 Paragraph 117 are directed to other Defendants, no response is required. To the extent a  
22 response is otherwise required, JLI lacks knowledge or information sufficient to form a belief  
23 as to the truth of the allegations in Paragraph 117 concerning other Defendants and, therefore,  
24 denies them on that basis. Except as expressly admitted, JLI denies the allegations, implicit or  
25 direct, in Paragraph 117.

26           118. JLI admits that Mr. Murillo joined JLI as its Chief Regulatory Officer in  
27 October 2019. JLI further admits that Mr. Murillo previously worked for Altria before

1 becoming JLI's Chief Regulatory Officer. To the extent that the allegations in Paragraph 118  
2 are directed to other Defendants, no response is required. To the extent a response is  
3 otherwise required, JLI lacks knowledge or information sufficient to form a belief as to the  
4 truth of the allegations in Paragraph 118 concerning other Defendants and, therefore, denies  
5 them on that basis. Except as expressly admitted, JLI denies the allegations, implicit or direct,  
6 in Paragraph 118.

7           119. Paragraph 119 purports to selectively quote, reference, and/or paraphrase  
8 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
9 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
10 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
11 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
12 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
13 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
14 the alleged documents, statements, and/or statistics speak for themselves. JLI admits that the  
15 Services Agreement, Voting Agreement, and Relationship Agreement were amended on  
16 January 28, 2020. JLI refers to the Amended Voting Agreement, Amended Relationship  
17 Agreement, and Amended Services Agreement for a more complete and accurate statement of  
18 their contents. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
19 Paragraph 119.

20           120. Paragraph 120 purports to selectively quote, reference, and/or paraphrase  
21 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
22 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
23 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
24 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
25 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
26 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
27 the alleged documents, statements, and/or statistics speak for themselves. JLI states, on

1 information and belief, that Altria announced amendments to several of the Transaction  
2 agreements on January 30, 2020, including the Amended Relationship Agreement. Except as  
3 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 120.

4 121. Paragraph 121 purports to selectively quote, reference, and/or paraphrase  
5 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
6 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
7 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
8 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
9 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
10 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
11 the alleged documents, statements, and/or statistics speak for themselves. JLI denies the  
12 remaining allegations, implicit or direct, in Paragraph 121.

13 122. JLI admits that it continues to sell Virginia Tobacco and Menthol JUULpods.  
14 JLI further admits that it ceased selling JUULpods in Mango, Fruit, Creme, and Cucumber  
15 flavors to traditional retail outlets and commercial distributors through its wholesale and retail  
16 distribution system in November 2018 and to direct consumers online in October 2019. JLI  
17 further admits that it ceased selling Mint JUULpods online and to distributors and retailers for  
18 resale in November 2019. JLI refers to the statutes, regulations, guidance, and other materials  
19 governing the FDA's premarket authorization regime for a more complete and accurate  
20 statement of the regulatory framework. Except as expressly admitted, JLI denies the  
21 allegations, implicit or direct, in Paragraph 122.

22 123. JLI refers to the statutes, regulations, guidance, and other materials governing  
23 the FDA's premarket authorization regime for a more complete and accurate statement of the  
24 regulatory framework. Except as expressly admitted, JLI denies the allegations, implicit or  
25 direct, in Paragraph 123 and avers that the PMTA filing date was adjourned to September 9,  
26 2020.

1           124. JLI refers to the statutes, regulations, guidance, and other materials governing  
2 the FDA’s premarket authorization regime for a more complete and accurate statement of the  
3 regulatory framework. Except as expressly admitted, JLI denies the allegations, implicit or  
4 direct, in Paragraph 124.

5           125. Paragraph 125 appears to selectively quote, reference, and/or paraphrase  
6 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
7 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
8 or in their entirety, denies Plaintiffs’ characterization of the alleged documents, statements,  
9 and/or statistics, denies Plaintiffs’ insinuation and implication regarding the content or  
10 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
11 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
12 the alleged documents, statements, and/or statistics speak for themselves. JLI admits that it  
13 filed premarket tobacco applications with the FDA in July 2020. JLI refers to the  
14 Relationship Agreement and Amended Relationship Agreement for a more complete and  
15 accurate statement of their contents. To the extent that the allegations in Paragraph 125 are  
16 directed to other Defendants, no response is required. To the extent a response is otherwise  
17 required, JLI lacks knowledge or information sufficient to form a belief as to the truth of the  
18 allegations in Paragraph 125 concerning other Defendants and, therefore, denies them on that  
19 basis. Except as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph  
20 125.

21           126. JLI asserts that the allegation in Paragraph 126 is a legal conclusion to which  
22 no response is required. To the extent a response is required, JLI lacks knowledge or  
23 information sufficient to form a belief as to the truth of the allegations in Paragraph 126 and,  
24 therefore, denies them on that basis.

25           127. With respect to the first sentence of Paragraph 127, and as a general matter, e-  
26 liquid is aerosolized as part of the operation of an e-cigarette system. With respect to the  
27 second sentence of Paragraph 127, JLI admits that there are two broadly defined, although not

1 exclusive, types of e-cigarette products: closed-system devices and open-system devices, but  
2 denies that they are their own “categories.” JLI admits the allegations of the third sentence of  
3 Paragraph 127. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
4 Paragraph 127.

5 128. JLI admits that cig-a-likes, such as MarkTen, can be closed systems and  
6 resemble combustible cigarettes in size and shape. JLI further admits that pod-based systems,  
7 such as JUUL, MarkTen Elite, and Apex, can be closed systems. JLI otherwise lacks  
8 knowledge or information sufficient to form a belief as to the truth of the allegations, implicit  
9 or direct, in the first sentence of Paragraph 128 and, therefore, denies them on that basis. As  
10 to the remaining allegations of Paragraph 128, JLI refers to the referenced FDA statement of  
11 enforcement policy for a more complete and accurate statements of its contents. To the extent  
12 the remaining allegations of Paragraph 128 are inconsistent with that statement of  
13 enforcement policy, JLI denies such allegations. Except as expressly admitted, JLI denies the  
14 allegations, implicit or direct, in Paragraph 128.

15 129. JLI admits that open-tank e-cigarette products generally incorporate refillable  
16 tanks that customers manually fill with e-liquid and that they may permit alternations to the  
17 product, such as manual replacement of batteries and other components. Except as expressly  
18 admitted, JLI denies the allegations, implicit or direct, in Paragraph 129.

19 130. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
20 the allegations, implicit or direct, of Paragraph 130 and, therefore, denies them on that basis.

21 131. JLI admits that closed-system e-cigarette products are sold through multi-outlet  
22 channels, as well as other outlets. JLI otherwise lacks knowledge or information sufficient to  
23 form a belief as to the truth of the allegations, implicit or direct, of Paragraph 131 and,  
24 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
25 implicit or direct, in Paragraph 131.

26 132. JLI admits that open-tank e-cigarette products are generally sold through retail  
27 outlets known as vape shops, as well as other outlets. JLI otherwise lacks knowledge or

1 information sufficient to form a belief as to the truth of the allegations, implicit or direct, of  
2 Paragraph 132 and, therefore, denies them on that basis. Except as expressly admitted, JLI  
3 denies the allegations, implicit or direct, in Paragraph 132.

4 133. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
5 the allegations, implicit or direct, of Paragraph 133 and, therefore, denies them on that basis. .

6 134. To the extent the allegations in Paragraph 134 purport to quote or characterize  
7 particular documents or reports, those documents or reports speak for themselves. JLI  
8 otherwise lacks knowledge or information sufficient to form a belief as to the truth of the  
9 allegations in Paragraph 134 and, therefore, denies them on that basis.

10 135. The allegations in Paragraph 135 are directed other Defendants, and, therefore,  
11 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
12 or information sufficient to form a belief as to the truth of the allegations in Paragraph 135  
13 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
14 remaining allegations, implicit or direct, in Paragraph 135.

15 136. The allegations in Paragraph 136 are directed other Defendants, and, therefore,  
16 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
17 or information sufficient to form a belief as to the truth of the allegations in Paragraph 136  
18 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
19 remaining allegations, implicit or direct, in Paragraph 135.

20 137. To the extent the allegations in Paragraph 136 are directed other Defendants,  
21 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
22 or information sufficient to form a belief as to the truth of the allegations in Paragraph 136  
23 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
24 remaining allegations, implicit or direct, in Paragraph 137.

25 138. JLI denies the allegations, implicit or direct, in Paragraph 138.

26 139. Paragraph 139 purports to selectively quote, reference, and/or paraphrase  
27 certain alleged documents, statements, and/or statistics. JLI denies that the alleged

1 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
2 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
3 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
4 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
5 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
6 the alleged documents, statements, and/or statistics speak for themselves. JLI otherwise lacks  
7 knowledge or information sufficient to form a belief as to the truth of the allegations in  
8 Paragraph 139 and, therefore, denies them on that basis.

9 140. JLI asserts that Paragraph 140 contains legal conclusions to which no response  
10 is required. To the extent a response is required, JLI lacks knowledge or information  
11 sufficient to form a belief as to the truth of the allegations in Paragraph 140 and, therefore,  
12 denies them on that basis.

13 141. JLI refers to the statutes, regulations, guidance, and other materials governing  
14 the FDA's premarket authorization regime for a more complete and accurate statement of the  
15 regulatory framework. To the extent that the allegations of Paragraph 141 are inconsistent  
16 with that regulatory framework, JLI denies such allegations.

17 142. JLI refers to the statutes, regulations, guidance, and other materials governing  
18 the FDA's premarket authorization regime for a more complete and accurate statement of the  
19 regulatory framework. To the extent that the allegations of Paragraph 142 are inconsistent  
20 with that regulatory framework, JLI denies such allegations.

21 143. JLI admits that preparing a PMTA requires a significant amount of resources—  
22 time, personnel, and money—and notes that the FDA has processes in place to assist small  
23 companies in preparing PMTAs and has committed to a streamlined PMTA approval process  
24 for small companies. Except as expressly admitted, JLI denies the allegations, implicit or  
25 direct, in Paragraph 143.

26 144. JLI admits that the regulatory approval process for e-cigarette products can be  
27 time-consuming, but notes that the FDA has processes in place to assist small companies in

1 preparing PMTAs and has committed to a streamlined PMTA approval process for small  
2 companies. Additionally, to the extent that the allegations Paragraph 144 appear to selectively  
3 quote, reference, and/or paraphrase certain alleged documents, statements, and/or statistics,  
4 JLI denies that the alleged documents, statements, and/or statistics are quoted, referenced,  
5 and/or paraphrased in context or in their entirety, denies Plaintiffs' characterization of the  
6 alleged documents, statements, and/or statistics, denies Plaintiffs' insinuation and implication  
7 regarding the content or meaning of the alleged documents, statements, and/or statistics, and  
8 does not concede the truthfulness or accuracy of the alleged documents, statements, and/or  
9 statistics. JLI states that the alleged documents, statements, and/or statistics speak for  
10 themselves. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
11 Paragraph 144.

12 145. To the extent the allegations in Paragraph 145 are directed other Defendants,  
13 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
14 or information sufficient to form a belief as to the truth of the allegations in Paragraph 145  
15 concerning other Defendants and, therefore, denies them on that basis. JLI admits that the  
16 regulatory approval process for e-cigarette products can be time-consuming, but notes that the  
17 FDA has processes in place to assist small companies in preparing PMTAs and has committed  
18 to a streamlined PMTA approval process for small companies. Additionally, to the extent that  
19 the allegations Paragraph 145 appear to selectively quote, reference, and/or paraphrase certain  
20 alleged documents, statements, and/or statistics, JLI denies that the alleged documents,  
21 statements, and/or statistics are quoted, referenced, and/or paraphrased in context or in their  
22 entirety, denies Plaintiffs' characterization of the alleged documents, statements, and/or  
23 statistics, denies Plaintiffs' insinuation and implication regarding the content or meaning of  
24 the alleged documents, statements, and/or statistics, and does not concede the truthfulness or  
25 accuracy of the alleged documents, statements, and/or statistics. JLI states that the alleged  
26 documents, statements, and/or statistics speak for themselves. Except as expressly admitted,  
27 JLI denies the allegations, implicit or direct, in Paragraph 145.

1           146. Paragraph 146 appears to selectively quote, reference, and/or paraphrase  
2 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
3 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
4 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
5 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
6 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
7 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states  
8 that the alleged documents, statements, and/or statistics speak for themselves. JLI denies the  
9 remaining allegations, implicit or direct, in Paragraph 146.

10           147. JLI refers to the FDA's January 2, 2020 announcement for a more complete  
11 and accurate statement of its contents. To the extent that the allegations of Paragraph 147 are  
12 inconsistent with that announcement, JLI denies such allegations.

13           148. To the extent the allegations in Paragraph 148 are directed other Defendants,  
14 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
15 or information sufficient to form a belief as to the truth of the allegations in Paragraph 148  
16 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
17 remaining allegations, implicit or direct, in Paragraph 148.

18           149. JLI denies the allegations, implicit or direct, in Paragraph 149.

19           150. Paragraph 150 provides a misleading and incomplete description of the Merger  
20 Guidelines. Among other things, the Merger Guidelines do not presume market power is  
21 necessarily enhanced when the merger increases HHI by more than 200 points in a highly  
22 concentrated market. Because the Merger Guidelines speak for themselves and Paragraph  
23 150's description of the Guidelines is incomplete and misleading, JLI denies the allegations,  
24 implicit or direct, in Paragraph 150.

25           151. JLI denies the existence of a single Closed-System E-Cigarette market and  
26 denies the remaining allegations, implicit or direct, in Paragraph 151.

27           152. JLI denies the allegations, implicit or direct, in Paragraph 152.

1           153. Paragraph 153 appears to selectively quote, reference, and/or paraphrase  
2 certain alleged documents, statements, and/or statistics. JLI denies that the alleged  
3 documents, statements, and/or statistics are quoted, referenced, and/or paraphrased in context  
4 or in their entirety, denies Plaintiffs' characterization of the alleged documents, statements,  
5 and/or statistics, denies Plaintiffs' insinuation and implication regarding the content or  
6 meaning of the alleged documents, statements, and/or statistics, and does not concede the  
7 truthfulness or accuracy of the alleged documents, statements, and/or statistics. JLI states that  
8 the alleged documents, statements, and/or statistics speak for themselves. JLI otherwise lacks  
9 knowledge or information sufficient to form a belief as to the truth of the allegations, implicit  
10 or direct, in Paragraph 153 regarding Altria, market share, or a Wells Fargo report, and,  
11 therefore, denies them on that basis. Except as expressly admitted, JLI denies the allegations,  
12 implicit or direct, in Paragraph 153.

13           154. To the extent the allegations in Paragraph 154 are directed to other Defendants,  
14 no response is required. To the extent a response is required, JLI lacks knowledge or  
15 information sufficient to form a belief as to the truth of the allegations, implicit or direct, in  
16 Paragraph 154 concerning other Defendants or market share and, therefore, denies them on  
17 that basis. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
18 Paragraph 154.

19           155. To the extent the allegations in Paragraph 155 are directed to other Defendants,  
20 no response is required. To the extent a response is required, JLI lacks knowledge or  
21 information sufficient to form a belief as to the truth of the allegations in Paragraph 155  
22 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
23 admitted, JLI denies the allegations, implicit or direct, in Paragraph 155.

24           156. JLI denies the allegations, implicit or direct, in Paragraph 156.

25           157. JLI denies the allegations, implicit or direct, in Paragraph 157.

26           158. JLI denies the existence of a single Closed-System E-Cigarette market and  
27 denies the remaining allegations, implicit or direct, in Paragraph 158.

1           159. JLI denies the allegations, implicit or direct, in the first sentence of Paragraph  
2 159. To the extent the allegations in the second sentence of Paragraph 159 are directed to  
3 other Defendants, no response is required. To the extent a response is otherwise required, JLI  
4 lacks knowledge or information sufficient to form a belief as to the truth of the allegations in  
5 the second sentence of Paragraph 159 concerning other Defendants and, therefore, denies  
6 them on that basis. Except as expressly admitted, JLI denies the allegations, implicit or direct,  
7 in Paragraph 159.

8           160. To the extent the allegations in Paragraph 160 are directed to other Defendants,  
9 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in Paragraph 160  
11 concerning other Defendants and, therefore, denies them on that basis. JLI admits that it  
12 monitors the prices of other e-cigarette products, but denies the allegations in Paragraph 160  
13 to the extent they suggest the price of Altria's e-cigarette products impacted JLI's e-cigarette  
14 product pricing strategy. Except as expressly admitted, JLI denies the allegations, implicit or  
15 direct, in Paragraph 160.

16           161. To the extent the allegations in Paragraph 161 are directed to other Defendants,  
17 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
18 or information sufficient to form a belief as to the truth of the allegations in Paragraph 161  
19 concerning other Defendants and, therefore, denies them on that basis. JLI admits that it  
20 sought to attract existing smokers of combustible cigarettes through product innovation, but  
21 denies that there was meaningful competition between it and Altria's e-cigarette products over  
22 innovative features. Except as expressly admitted, JLI denies the allegations, implicit or  
23 direct, in Paragraph 161.

24           162. To the extent the allegations in Paragraph 162 are directed to other Defendants,  
25 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
26 or information sufficient to form a belief as to the truth of the allegations in Paragraph 162  
27

1 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
2 remaining allegations, implicit or direct, in Paragraph 162.

3 163. To the extent the allegations in Paragraph 163 are directed to other Defendants,  
4 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
5 or information sufficient to form a belief as to the truth of the allegations in Paragraph 163  
6 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
7 remaining allegations, implicit or direct, in Paragraph 163.

8 164. To the extent the allegations in Paragraph 164 are directed to other Defendants,  
9 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in Paragraph 164  
11 concerning other Defendants and, therefore, denies them on that basis. To the extent that  
12 Paragraph 164 purports to quote or characterize isolated portions of recorded public  
13 statements and investigational hearing testimony, those statements and testimony speak for  
14 themselves. JLI refers to those statements and testimony for a more complete and accurate  
15 statement of their contents. Except as expressly admitted, JLI denies the allegations, implicit  
16 or direct, in Paragraph 164.

17 165. To the extent the allegations in Paragraph 165 are directed to other Defendants,  
18 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
19 or information sufficient to form a belief as to the truth of the allegations in Paragraph 165  
20 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
21 admitted, JLI denies the allegations, implicit or direct, in Paragraph 165.

22 166. To the extent the allegations in Paragraph 166 are directed to other Defendants,  
23 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
24 or information sufficient to form a belief as to the truth of the allegations in Paragraph 166  
25 concerning other Defendants and, therefore, denies them on that basis. JLI further denies any  
26 alleged lessening of competition. Except as expressly admitted, JLI denies the allegations,  
27 implicit or direct, in Paragraph 166.

1           167. To the extent the allegations in Paragraph 167 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 167  
4 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
5 admitted, JLI denies the allegations, implicit or direct, in Paragraph 167.

6           168. To the extent the allegations in Paragraph 168 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 168  
9 concerning other Defendants and, therefore, denies them on that basis. Except as expressly  
10 admitted, JLI denies the allegations, implicit or direct, in Paragraph 168.

11           169. JLI denies the allegations, implicit or direct, in Paragraph 169.

12           170. JLI denies the allegations, implicit or direct, in Paragraph 170.

13           171. To the extent the allegations in Paragraph 171 concern Plaintiffs, JLI lacks  
14 knowledge or information sufficient to form a belief as to the truth of the allegations and,  
15 therefore, denies them on that basis. JLI denies any alleged harm to competition resulting  
16 from the transaction. Except as expressly admitted, JLI denies the allegations, implicit or  
17 direct, in Paragraph 171.

18           172. JLI asserts that the allegations in Paragraph 172 contain legal conclusions to  
19 which no response is required. To the extent a response is required, JLI admits that Plaintiffs  
20 purport to bring this suit as a class action on behalf of themselves and others, but denies that  
21 Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. JLI  
22 denies that this lawsuit is appropriate for class action treatment or is manageable as a class  
23 action.

24           173. JLI asserts that the allegations in Paragraph 173 contain legal conclusions to  
25 which no response is required. To the extent a response is required, JLI admits that Plaintiffs  
26 purport to bring this suit as a class action on behalf of themselves and others, but denies that  
27 Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. JLI

1 denies that this lawsuit is appropriate for class action treatment or is manageable as a class  
2 action.

3 174. JLI asserts that the allegations in Paragraph 174 contain legal conclusions to  
4 which no response is required. To the extent a response is required, JLI admits that Plaintiffs  
5 purport to bring this suit as a class action on behalf of themselves and others, but denies that  
6 Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. JLI  
7 denies that this lawsuit is appropriate for class action treatment or is manageable as a class  
8 action.

9 175. JLI asserts that the allegations in Paragraph 175 contain legal conclusions to  
10 which no response is required. To the extent a response is required, JLI admits that Plaintiffs  
11 purport to bring this suit as a class action on behalf of themselves and others, but denies that  
12 Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever. JLI  
13 denies that this lawsuit is appropriate for class action treatment or is manageable as a class  
14 action.

15 176. JLI asserts that the allegations in Paragraph 176 contain legal conclusions to  
16 which no response is required. To the extent a response is required, JLI denies that this  
17 lawsuit is appropriate for class action treatment or is manageable as a class action and  
18 otherwise denies the allegations, implicit or direct, in Paragraph 176.

19 177. JLI asserts that the allegations in Paragraph 177 contain legal conclusions to  
20 which no response is required. To the extent a response is required, JLI denies that this  
21 lawsuit is appropriate for class action treatment or is manageable as a class action and  
22 otherwise denies the allegations, implicit or direct, in Paragraph 177.

23 178. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
24 the allegations in Paragraph 178, implicit or direct, and, therefore, denies them on that basis.

25 179. JLI asserts that the allegations in Paragraph 179 contain legal conclusions to  
26 which no response is required. To the extent a response is required, JLI denies that this  
27

1 lawsuit is appropriate for class action treatment or is manageable as a class action and  
2 otherwise denies the allegations, implicit or direct, in Paragraph 179.

3 180. JLI asserts that the allegations in Paragraph 180 contain legal conclusions to  
4 which no response is required. To the extent a response is required, JLI denies the existence  
5 of a single Closed-System E-Cigarette market and otherwise denies the allegations, implicit or  
6 direct, in Paragraph 180.

7 181. JLI asserts that the allegations in Paragraph 181 contain legal conclusions to  
8 which no response is required. To the extent a response is required, JLI denies that this  
9 lawsuit is appropriate for class action treatment or is manageable as a class action and  
10 otherwise denies the allegations, implicit or direct, in Paragraph 181.

11 182. JLI asserts that the allegations in Paragraph 182 contain legal conclusions to  
12 which no response is required. To the extent a response is required, JLI denies that this  
13 lawsuit is appropriate for class action treatment or is manageable as a class action and  
14 otherwise denies the allegations, implicit or direct, in Paragraph 182.

15 183. JLI incorporates by reference its above responses to all preceding Paragraphs  
16 of the Complaint.

17 184. JLI denies the allegations, implicit or direct, in Paragraph 184.

18 185. JLI denies the existence of a single Closed-System E-Cigarette market and  
19 otherwise denies the allegations, implicit or direct, in Paragraph 185.

20 186. JLI denies the allegations, implicit or direct, in Paragraph 186.

21 187. JLI denies the allegations, implicit or direct, in Paragraph 187.

22 188. JLI denies the existence of a single Closed-System E-Cigarette market and  
23 otherwise denies the allegations, implicit or direct, in Paragraph 188.

24 189. JLI denies the allegations, implicit or direct, in Paragraph 189.

25 190. JLI denies the allegations, implicit or direct, in Paragraph 190.

26 191. JLI incorporates by reference its above responses to all preceding Paragraphs  
27 of the Complaint.

1            192. JLI denies the existence of a single Closed-System E-Cigarette market and  
2 otherwise denies the allegations, implicit or direct, in Paragraph 192.

3            193. JLI denies the existence of a single Closed-System E-Cigarette market and  
4 otherwise denies the allegations, implicit or direct, in Paragraph 193.

5            194. JLI denies the allegations, implicit or direct, in Paragraph 194.

6            195. To the extent the allegations of Paragraph 195 are directed toward other  
7 Defendants, no response is required. To the extent a response is otherwise required, JLI lacks  
8 knowledge or information sufficient to form a belief as to the truth of the allegations in  
9 Paragraph 195 concerning other Defendant and, therefore, denies them on that basis. JLI  
10 otherwise denies the allegations, implicit or direct, in Paragraph 195.

11           196. JLI denies the allegations, implicit or direct, in Paragraph 196.

12           197. JLI incorporates by reference its above responses to all preceding Paragraphs  
13 of the Complaint.

14           198. JLI denies the existence of a single Closed-System E-Cigarette market and  
15 otherwise denies the allegations, implicit or direct, in Paragraph 198.

16           199. JLI denies the existence of a single Closed-System E-Cigarette market and  
17 otherwise denies the allegations, implicit or direct, in Paragraph 199.

18           200. JLI denies the existence of a single Closed-System E-Cigarette market and  
19 otherwise denies the allegations, implicit or direct, in Paragraph 200.

20           201. JLI denies the allegations, implicit or direct, in Paragraph 201.

21           202. JLI denies the allegations, implicit or direct, in Paragraph 202.

22           203. JLI incorporates by reference its above responses to all preceding Paragraphs  
23 of the Complaint.

24           204. JLI denies the existence of a single Closed-System E-Cigarette market and  
25 otherwise denies the allegations, implicit or direct, in Paragraph 204.

26           205. JLI denies the allegations, implicit or direct, in Paragraph 205.

1           206. To the extent the allegations of Paragraph 206 are directed to other Defendants,  
2 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
3 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
4 the allegations, implicit or direct, in Paragraph 206.

5           207. To the extent the allegations of Paragraph 207 are directed to other Defendants,  
6 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
7 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
8 allegations, implicit or direct, in Paragraph 207.

9           208. To the extent the allegations of Paragraph 208 are directed to other Defendants,  
10 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
11 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
12 allegations, implicit or direct, in Paragraph 208.

13           209. JLI incorporates by reference its above responses to all preceding Paragraphs  
14 of the Complaint.

15           210. JLI denies the existence of a single Closed-System E-Cigarette market and  
16 otherwise denies the allegations, implicit or direct, in Paragraph 210.

17           211. To the extent the allegations of Paragraph 211 are directed to other Defendants,  
18 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
19 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
20 the allegations, implicit or direct, in Paragraph 211.

21           212. JLI incorporates by reference its above responses to all preceding Paragraphs  
22 of the Complaint.

23           213. JLI asserts that the allegations in Paragraph 213 contain legal conclusions to  
24 which no response is required. To the extent that Paragraph 213 purports to quote or  
25 characterize particular Codes, those Codes speak for themselves. To the extent the allegations  
26 in Paragraph 213 are inconsistent with the Codes, JLI denies such allegations. Except as  
27 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 213.

1           214. JLI asserts that the allegations in Paragraph 214 contain legal conclusions to  
2 which no response is required. To the extent that Paragraph 214 purports to quote or  
3 characterize a particular Code or policy, that Code or policy speaks for itself. To the extent  
4 the allegations in Paragraph 214 are inconsistent with the Code or policy, JLI denies such  
5 allegations. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
6 Paragraph 214.

7           215. JLI asserts that the allegations in Paragraph 215 contain legal conclusions to  
8 which no response is required. To the extent a response is required, JLI denies the allegations,  
9 implicit or direct, in Paragraph 215.

10           216. JLI asserts that the allegations in Paragraph 216 contain legal conclusions to  
11 which no response is required. To the extent that Paragraph 216 purports to quote or  
12 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
13 Paragraph 216 are inconsistent with the Code, JLI denies such allegations. Except as  
14 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 216.

15           217. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
16 the allegations in the first sentence of Paragraph 217 and, therefore, denies them on that basis.  
17 JLI denies the allegations, implicit or direct, in the second sentence of Paragraph 217.

18           218. To the extent the allegations of Paragraph 218 are directed to other Defendants,  
19 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
20 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
21 the allegations, implicit or direct, in Paragraph 218.

22           219. To the extent the allegations of Paragraph 219 are directed to other Defendants,  
23 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
24 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
25 the allegations, implicit or direct, in Paragraph 219.

26           220. JLI denies the allegations, implicit or direct, in Paragraph 220.

1           221. JLI asserts that the allegations in Paragraph 221 contain legal conclusions to  
2 which no response is required. To the extent a response is required, JLI denies the allegations,  
3 implicit or direct, in Paragraph 221.

4           222. JLI admits that its principal place of business was in San Francisco, California,  
5 but notes that JLI moved its principal place of business and headquarters in November 2020 to  
6 Washington, DC.

7           223. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
8 the allegations in Paragraph 223, implicit or direct, and, therefore, denies them on that basis.

9           224. JLI admits that it has held events in California, including promotional events in  
10 connection with its product launch and other marketing events. JLI otherwise lacks  
11 knowledge or information sufficient to form a belief as to the truth of the allegations in  
12 Paragraph 224 and, therefore, denies them on that basis. Except as expressly admitted, JLI  
13 denies the allegations, implicit or direct, in Paragraph 224.

14           225. JLI denies the allegations, implicit or direct, in Paragraph 225.

15           226. JLI admits that JLI and Altria conducted due diligence meetings prior to the  
16 Transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to  
17 the truth of the allegations in Paragraph 226 and, therefore, denies them on that basis. Except  
18 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 226.

19           227. JLI admits that JLI and Altria conducted due diligence meetings prior to the  
20 Transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to  
21 the truth of the allegations in Paragraph 227 and, therefore, denies them on that basis. Except  
22 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 227.

23           228. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
24 the allegations in Paragraph 228 and, therefore, denies them on that basis.

25           229. JLI denies the allegations, implicit or direct, in Paragraph 229.

26           230. JLI asserts that the allegations in Paragraph 230 contain legal conclusions to  
27 which no response is required. To the extent a response is required, JLI lacks knowledge or

1 information sufficient to form a belief as to the truth of the allegations in Paragraph 230,  
2 implicit or direct, and, therefore, denies them on that basis.

3 231. JLI incorporates by reference its above responses to all preceding Paragraphs  
4 of the Complaint.

5 232. JLI asserts that the allegations in Paragraph 232 contain legal conclusions to  
6 which no response is required. To the extent that Paragraph 232 purports to quote or  
7 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
8 Paragraph 232 are inconsistent with the Code, JLI denies such allegations. Except as  
9 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 232.

10 233. JLI asserts that the allegations in Paragraph 233 contain legal conclusions to  
11 which no response is required. To the extent that Paragraph 233 purports to quote or  
12 characterize a particular Code or policy, that Code or policy speaks for itself. To the extent  
13 the allegations in Paragraph 233 are inconsistent with the Code or policy, JLI denies such  
14 allegations. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
15 Paragraph 233.

16 234. JLI asserts that the allegations in Paragraph 234 contain legal conclusions to  
17 which no response is required. To the extent a response is required, JLI denies the allegations,  
18 implicit or direct, in Paragraph 234.

19 235. JLI asserts that the allegations in Paragraph 235 contain legal conclusions to  
20 which no response is required. To the extent that Paragraph 235 purports to quote or  
21 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
22 Paragraph 235 are inconsistent with the Code, JLI denies such allegations. Except as  
23 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 235.

24 236. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
25 the allegations in the first sentence of Paragraph 236 and, therefore, denies them on that basis.  
26 JLI denies the allegations, implicit or direct, in the second sentence of Paragraph 236. Except  
27 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 236.

1           237. To the extent the allegations of Paragraph 237 are directed to other Defendants,  
2 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
3 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
4 the allegations, implicit or direct, in Paragraph 237.

5           238. To the extent the allegations of Paragraph 238 are directed to other Defendants,  
6 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
7 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
8 the allegations, implicit or direct, in Paragraph 238.

9           239. JLI denies the allegations, implicit or direct, in Paragraph 239.

10           240. JLI asserts that the allegations in Paragraph 240 contain legal conclusions to  
11 which no response is required. To the extent a response is required, JLI denies the allegations,  
12 implicit or direct, in Paragraph 240.

13           241. JLI admits that its principal place of business was in San Francisco, California,  
14 but JLI moved its principal place of business and headquarters in November 2020 to  
15 Washington, DC.

16           242. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
17 the allegations in Paragraph 242, implicit or direct, and, therefore, denies them on that basis.

18           243. JLI admits that it has held events in California, including promotional events in  
19 connection with its product launch and other marketing events. JLI otherwise lacks  
20 knowledge or information sufficient to form a belief as to the truth of the allegations in  
21 Paragraph 243 and, therefore, denies them on that basis. Except as expressly admitted, JLI  
22 denies the allegations, implicit or direct, in Paragraph 243.

23           244. JLI denies the allegations, implicit or direct, in Paragraph 244.

24           245. JLI admits that JLI and Altria conducted due diligence meetings prior to the  
25 transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to the  
26 truth of the allegations in Paragraph 245 and, therefore, denies them on that basis. Except as  
27 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 245.

1           246. JLI admits that JLI and Altria conducted due diligence meetings prior to the  
2 transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations in Paragraph 246 and, therefore, denies them on that basis. Except as  
4 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 246.

5           247. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
6 the allegations in Paragraph 247 and, therefore, denies them on that basis.

7           248. JLI denies the allegations, implicit or direct, in Paragraph 248.

8           249. JLI asserts that the allegations in Paragraph 249 contain legal conclusions to  
9 which no response is required. To the extent a response is required, JLI denies the allegations,  
10 implicit or direct, in Paragraph 249.

11           250. JLI incorporates by reference its above responses to all preceding Paragraphs  
12 of the Complaint.

13           251. JLI asserts that the allegations in Paragraph 251 contain legal conclusions to  
14 which no response is required. To the extent that Paragraph 251 purports to quote or  
15 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
16 Paragraph 251 are inconsistent with the Code, JLI denies such allegations. Except as  
17 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 251.

18           252. JLI asserts that the allegations in Paragraph 252 contain legal conclusions to  
19 which no response is required. To the extent that Paragraph 252 purports to quote or  
20 characterize a particular Code or policy, that Code or policy speaks for itself. To the extent  
21 the allegations in Paragraph 252 are inconsistent with the Code or policy, JLI denies such  
22 allegations. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
23 Paragraph 252.

24           253. JLI asserts that the allegations in Paragraph 253 contain legal conclusions to  
25 which no response is required. To the extent that Paragraph 253 purports to quote or  
26 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
27

1 Paragraph 253 are inconsistent with the Code, JLI denies such allegations. Except as  
2 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 253.

3 254. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
4 the allegations in the first sentence of Paragraph 254 and, therefore, denies them on that basis.  
5 JLI denies the allegations, implicit or direct, in the second sentence of Paragraph 254. Except  
6 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 254.

7 255. To the extent the allegations of Paragraph 255 are directed to other Defendants,  
8 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
9 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
10 the allegations, implicit or direct, in Paragraph 255.

11 256. To the extent the allegations of Paragraph 255 are directed to other Defendants,  
12 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
13 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
14 the allegations, implicit or direct, in Paragraph 256.

15 257. JLI denies the allegations, implicit or direct, in Paragraph 257.

16 258. JLI incorporates by reference its above responses to all preceding Paragraphs  
17 of the Complaint.

18 259. To the extent the allegations of Paragraph 259 are directed to other Defendants,  
19 JLI lacks knowledge or information sufficient to form a belief as to the truth of allegations  
20 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
21 the allegations, implicit or direct, in Paragraph 259.

22 260. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
23 the allegations in Paragraph 260 and, therefore, denies them on that basis..

24 261. JLI admits that Plaintiffs assert this claim is brought pursuant to sections 17203  
25 and 17204 of the California and Professions Code to obtain restitution from Defendants for  
26 acts that Plaintiffs allege violated the UCL. Except as expressly admitted, JLI denies the  
27 allegations, implicit or direct, in Paragraph 261.

1           262. To the extent the allegations of Paragraph 262 are directed to other Defendants,  
2 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
3 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
4 the allegations, implicit or direct, in Paragraph 262.

5           263. To the extent the allegations of Paragraph 263 are directed to other Defendants,  
6 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
7 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
8 the allegations, implicit or direct, in Paragraph 263.

9           264. JLI denies the allegations, implicit or direct, in Paragraph 264.

10          265. JLI denies the allegations, implicit or direct, in Paragraph 265.

11          266. JLI asserts that the allegations in Paragraph 266 contain legal conclusions to  
12 which no response is required. To the extent a response is required, JLI denies the allegations,  
13 implicit or direct, in Paragraph 266.

14          267. JLI asserts that the allegations in Paragraph 267 contain legal conclusions to  
15 which no response is required. To the extent a response is required, JLI denies the allegations,  
16 implicit or direct, in Paragraph 267.

17          268. JLI admits that its principal place of business was in San Francisco, California,  
18 but JLI moved its principal place of business and headquarters in November 2020 to  
19 Washington, DC.

20          269. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
21 the allegations in Paragraph 269, implicit or direct, and, therefore, denies them on that basis.

22          270. JLI admits that it has held events in California, including promotional events in  
23 connection with its product launch and other marketing events. JLI otherwise lacks  
24 knowledge or information sufficient to form a belief as to the truth of the allegations in  
25 Paragraph 270 and, therefore, denies them on that basis. Except as expressly admitted, JLI  
26 denies the allegations, implicit or direct, in Paragraph 270.

27          271. JLI denies the allegations, implicit or direct, in Paragraph 271.

1           272. JLI admits that JLI and Altria JLI conducted due diligence meetings prior to  
2 the transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to  
3 the truth of the allegations in Paragraph 272, and, therefore, denies them on that basis. Except  
4 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 272.

5           273. JLI admits that JLI and Altria JLI conducted due diligence meetings prior to  
6 the transaction. JLI otherwise lacks knowledge or information sufficient to form a belief as to  
7 the truth of the allegations in Paragraph 273 and, therefore, denies them on that basis. Except  
8 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 273.

9           274. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
10 the allegations in Paragraph 274 and, therefore, denies them on that basis.

11           275. JLI denies the allegations, implicit or direct, in Paragraph 275.

12           276. JLI asserts that the allegations in Paragraph 249 contain legal conclusions to  
13 which no response is required. To the extent a response is required, JLI lacks knowledge or  
14 information sufficient to form a belief as to the truth of the allegations in Paragraph 276 and,  
15 therefore, denies them on that basis.

16           277. JLI incorporates by reference its above responses to all preceding Paragraphs  
17 of the Complaint.

18           278. To the extent the allegations of Paragraph 278 are directed to other Defendants,  
19 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
20 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
21 remaining allegations, implicit or direct, in Paragraph 278.

22           279. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
23 the allegations in Paragraph 279 and, therefore, denies them on that basis..

24           280. JLI admits that Plaintiffs assert this claim is brought pursuant to sections 17203  
25 and 17204 of the California and Professions Code to obtain restitution from Defendants for  
26 acts that Plaintiffs allege violated the UCL. Except as expressly admitted, JLI denies the  
27 allegations, implicit or direct, in Paragraph 280.

1           281. To the extent the allegations of Paragraph 281 are directed to other Defendants,  
2 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
3 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
4 remaining allegations, implicit or direct, in Paragraph 281.

5           282. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
6 the allegations in the first sentence of Paragraph 282, implicit or direct, and, therefore, denies  
7 them on that basis. JLI denies the allegations, implicit or direct, of the second sentence of  
8 Paragraph 282. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
9 Paragraph 282.

10           283. JLI denies the allegations, implicit or direct, in Paragraph 283.

11           284. To the extent the allegations of Paragraph 284 are directed to other Defendants,  
12 JLI lacks knowledge or information sufficient to form a belief as to the truth of the allegations  
13 concerning other Defendants and, therefore, denies them on that basis. JLI denies the  
14 remaining allegations, implicit or direct, in Paragraph 284.

15           285. JLI denies the allegations, implicit or direct, in Paragraph 285.

16           286. JLI denies the allegations, implicit or direct, in Paragraph 286.

17           287. JLI asserts that the allegations in Paragraph 287 contain legal conclusions to  
18 which no response is required. To the extent a response is required, JLI denies the allegations,  
19 implicit or direct, in Paragraph 287.

20           288. JLI incorporates by reference its above responses to all preceding Paragraphs  
21 of the Complaint.

22           289. JLI asserts that the allegations in Paragraph 289 contain legal conclusions to  
23 which no response is required. To the extent that Paragraph 289 purports to quote or  
24 characterize particular Codes, those Codes speak for themselves. To the extent the allegations  
25 in Paragraph 289 are inconsistent with the Codes, JLI denies such allegations. Except as  
26 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 289.

1           290. JLI asserts that the allegations in Paragraph 290 contain legal conclusions to  
2 which no response is required. To the extent that Paragraph 290 purports to quote or  
3 characterize a particular Code or policy, that Code or policy speaks for itself. To the extent  
4 the allegations in Paragraph 290 are inconsistent with the Code or policy, JLI denies such  
5 allegations. Except as expressly admitted, JLI denies the allegations, implicit or direct, in  
6 Paragraph 290.

7           291. JLI asserts that the allegations in Paragraph 291 contain legal conclusions to  
8 which no response is required. To the extent that Paragraph 291 purports to quote or  
9 characterize a particular Code, that Code speaks for itself. To the extent the allegations in  
10 Paragraph 291 are inconsistent with that Code, JLI denies such allegations. Except as  
11 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 291.

12           292. JLI asserts that the allegations in Paragraph 292 contain legal conclusions to  
13 which no response is required. To the extent a response is required, JLI denies the allegations,  
14 implicit or direct, in Paragraph 292.

15           293. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
16 the allegations in the first sentence of Paragraph 293 and, therefore, denies them on that basis.  
17 JLI denies the allegations, implicit or direct, of the second sentence of Paragraph 293. Except  
18 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 293.

19           294. JLI denies the existence of a single Closed-System E-Cigarette market and otherwise  
20 denies the allegations, implicit or direct, in Paragraph 294.

21           295. JLI denies the existence of a single Closed-System E-Cigarette market and  
22 otherwise denies the allegations, implicit or direct, in Paragraph 295.

23           296. JLI denies the allegations, implicit or direct, in Paragraph 296.

24           297. JLI denies the allegations, implicit or direct, in Paragraph 297.

25           298. JLI denies the allegations, implicit or direct, in Paragraph 298.

26           299. JLI denies the allegations, implicit or direct, in Paragraph 299.

1           300. JLI incorporates by reference its above responses to all preceding Paragraphs  
2 of the Complaint.

3           301. JLI asserts that the allegations in Paragraph 301 contain legal conclusions to  
4 which no response is required. To the extent that Paragraph 301 purports to quote or  
5 characterize particular Codes, those Codes speak for themselves. To the extent the allegations  
6 in Paragraph 301 are inconsistent with the Codes, JLI denies such allegations. Except as  
7 expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 301.

8           302. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
9 the allegations in the first sentence of Paragraph 302 and, therefore, denies them on that basis.  
10 JLI denies the allegation, implicit or direct, of the second sentence of Paragraph 302. Except  
11 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 302.

12           303. JLI denies the allegations, implicit or direct, in Paragraph 303.

13           304. JLI denies the allegations, implicit or direct, in Paragraph 304.

14           305. JLI asserts that the allegations in Paragraph 305 contain legal conclusions to  
15 which no response is required. To the extent that a response is required, JLI denies the  
16 allegations, implicit or direct, in Paragraph 305.

17           306. To the extent the allegations of Paragraph 306 are directed to other Defendants,  
18 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
19 or information sufficient to form a belief as to the truth of the allegations in Paragraph 306  
20 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
21 the allegations, implicit or direct, in Paragraph 306.

22           307. JLI denies the allegations, implicit or direct, in Paragraph 307.

23           308. JLI incorporates by reference its above responses to all preceding Paragraphs  
24 of the Complaint.

25           309. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
26 the allegations in Paragraph 309 and, therefore, denies them on that basis.

1           310. To the extent the allegations of Paragraph 310 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 310  
4 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
5 the allegations, implicit or direct, in Paragraph 310.

6           311. To the extent the allegations of Paragraph 311 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 311  
9 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
10 the allegations, implicit or direct, in Paragraph 311.

11           312. To the extent the allegations of Paragraph 312 are directed to other Defendants,  
12 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
13 or information sufficient to form a belief as to the truth of the allegations in Paragraph 312  
14 concerning other Defendants and, therefore, denies them on that basis. JLI otherwise denies  
15 the allegations, implicit or direct, in Paragraph 312.

16           313. To the extent the allegations of Paragraph 313 are directed to other Defendants,  
17 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
18 or information sufficient to form a belief as to the truth of the allegations in Paragraph 313  
19 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
20 direct, in Paragraph 313.

21           314. To the extent the allegations of Paragraph 314 are directed to other Defendants,  
22 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
23 or information sufficient to form a belief as to the truth of the allegations in Paragraph 314  
24 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
25 direct, in Paragraph 314.

26           315. To the extent the allegations of Paragraph 315 are directed to other Defendants,  
27 no response is required. To the extent a response is otherwise required, JLI lacks knowledge

1 or information sufficient to form a belief as to the truth of the allegations in Paragraph 315  
2 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
3 direct, in Paragraph 315.

4 316. To the extent the allegations of Paragraph 316 are directed to other Defendants,  
5 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
6 or information sufficient to form a belief as to the truth of the allegations in Paragraph 316  
7 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
8 direct, in Paragraph 316.

9 317. JLI denies the allegations, implicit or direct, in Paragraph 317.

10 318. JLI incorporates by reference its above responses to all preceding Paragraphs  
11 of the Complaint.

12 319. To the extent the allegations of Paragraph 319 are directed to other Defendants,  
13 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
14 or information sufficient to form a belief as to the truth of the allegations in Paragraph 319  
15 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
16 direct, in Paragraph 319.

17 320. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
18 the allegations in the first sentence of Paragraph 320 and, therefore, denies them on that basis.  
19 JLI denies the allegation, implicit or direct, of the second sentence of Paragraph 320. Except  
20 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 320.

21 321. JLI denies the allegations, implicit or direct, in Paragraph 321.

22 322. To the extent the allegations of Paragraph 322 are directed to other Defendants,  
23 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
24 or information sufficient to form a belief as to the truth of the allegations in Paragraph 322  
25 and, therefore, denies them on that basis. JLI otherwise denies the existence of a single  
26 Closed-System E-Cigarette market and otherwise denies the allegations, implicit or direct, in  
27 Paragraph 322.

1           323. To the extent the allegations of Paragraph 323 are directed to other Defendants,  
2 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
3 or information sufficient to form a belief as to the truth of the allegations in Paragraph 323  
4 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
5 direct, in Paragraph 323.

6           324. To the extent the allegations of Paragraph 324 are directed to other Defendants,  
7 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
8 or information sufficient to form a belief as to the truth of the allegations in Paragraph 324  
9 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
10 direct, in Paragraph 324.

11           325. To the extent the allegations of Paragraph 325 are directed to other Defendants,  
12 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
13 or information sufficient to form a belief as to the truth of the allegations in Paragraph 325  
14 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
15 direct, in Paragraph 325.

16           326. JLI denies the allegations, implicit or direct, in Paragraph 326.

17           327. JLI incorporates by reference its above responses to all preceding Paragraphs  
18 of the Complaint.

19           328. JLI asserts that the allegations in Paragraph 328 contain legal conclusions to  
20 which no response is required. To the extent a response is required and to the extent that  
21 Paragraph 328 purports to quote or characterize particular laws, those laws speak for  
22 themselves. To the extent the allegations in Paragraph 328 are inconsistent with those laws,  
23 JLI denies such allegations. Except as expressly admitted, JLI denies the allegations, implicit  
24 or direct, in Paragraph 328.

25           329. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
26 the allegations in the first sentence of Paragraph 329 and, therefore, denies them on that basis.  
27

1 JLI denies the allegation, implicit or direct, in the second sentence of Paragraph 329. Except  
2 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 329.

3 330. JLI denies the existence of a single Closed-System E-Cigarette market and  
4 otherwise denies the allegations, implicit or direct, in Paragraph 330.

5 331. To the extent the allegations of Paragraph 331 are directed to other Defendants,  
6 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
7 or information sufficient to form a belief as to the truth of the allegations in Paragraph 331  
8 and, therefore, denies them on that basis. JLI denies the existence of a single Closed-System  
9 E-Cigarette market and otherwise denies the allegations, implicit or direct, in Paragraph 331.

10 332. To the extent the allegations of Paragraph 332 are directed to other Defendants,  
11 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
12 or information sufficient to form a belief as to the truth of the allegations in Paragraph 332  
13 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
14 direct, in Paragraph 332.

15 333. To the extent the allegations of Paragraph 333 are directed to other Defendants,  
16 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
17 or information sufficient to form a belief as to the truth of the allegations in Paragraph 333  
18 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
19 direct, in Paragraph 333.

20 334. JLI denies the allegations, implicit or direct, in Paragraph 334.

21 335. JLI denies the allegations, implicit or direct, in Paragraph 335.

22 336. JLI incorporates by reference its above responses to all preceding Paragraphs  
23 of the Complaint.

24 337. JLI denies the allegations, implicit or direct, in Paragraph 337.

25 338. To the extent the allegations of Paragraph 338 are directed to other Defendants,  
26 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
27 or information sufficient to form a belief as to the truth of the allegations in Paragraph 338

1 and, therefore, denies them on that basis. JLI otherwise denies the existence of a single  
2 Closed-System E-Cigarette market and otherwise denies the allegations, implicit or direct, in  
3 Paragraph 338.

4 339. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
5 the allegations in the first sentence of Paragraph 339 and, therefore, denies them on that basis.  
6 JLI denies the allegation, implicit or direct, of the second sentence of Paragraph 339. Except  
7 as expressly admitted, JLI denies the allegations, implicit or direct, in Paragraph 339.

8 340. To the extent the allegations of Paragraph 340 are directed to other Defendants,  
9 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
10 or information sufficient to form a belief as to the truth of the allegations in Paragraph 340  
11 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
12 direct, in Paragraph 340.

13 341. JLI denies the allegations, implicit or direct, in Paragraph 341 and denies that  
14 Plaintiffs are entitled to the relief requested in this Complaint or any relief whatsoever.

15 342. JLI incorporates by reference its above responses to all preceding Paragraphs  
16 of the Complaint.

17 343. To the extent the allegations of Paragraph 343 are directed to other Defendants,  
18 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
19 or information sufficient to form a belief as to the truth of the allegations in Paragraph 343  
20 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
21 direct, in Paragraph 343.

22 344. JLI lacks knowledge or information sufficient to form a belief as to the truth of  
23 the allegations in Paragraph 344 and, therefore, denies them on that basis.

24 345. JLI denies the allegations, implicit or direct, in Paragraph 345.

25 346. To the extent the allegations of Paragraph 346 are directed to other Defendants,  
26 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
27 or information sufficient to form a belief as to the truth of the allegations in Paragraph 346

1 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
2 direct, in Paragraph 346.

3 347. JLI denies the allegations, implicit or direct, in Paragraph 347.

4 348. To the extent the allegations of Paragraph 348 are directed to other Defendants,  
5 no response is required. To the extent a response is otherwise required, JLI lacks knowledge  
6 or information sufficient to form a belief as to the truth of the allegations in Paragraph 348  
7 and, therefore, denies them on that basis. JLI otherwise denies the allegations, implicit or  
8 direct, in Paragraph 348.

9 349. To the extent the allegations of Paragraph 349 are directed toward other  
10 Defendants, no response is required. To the extent a response is otherwise required, JLI lacks  
11 knowledge or information sufficient to form a belief as to the truth of the allegations in  
12 Paragraph 349 and, therefore, denies them on that basis. JLI otherwise denies the allegations,  
13 implicit or direct, in Paragraph 349.

14 350. To the extent the allegations of Paragraph 350 are directed toward other  
15 Defendants, no response is required. To the extent a response is otherwise required, JLI lacks  
16 knowledge or information sufficient to form a belief as to the truth of the allegations in  
17 Paragraph 350 and, therefore, denies them on that basis. JLI otherwise denies the allegations,  
18 implicit or direct, in Paragraph 350 and denies that Plaintiffs are entitled to the relief requested  
19 in this Complaint or any relief whatsoever.

20 351. JLI asserts that the allegations in Paragraph 351 contain legal conclusions to  
21 which no response is required. To the extent a response is required, JLI denies the allegations,  
22 implicit or direct, in Paragraph 351.

23 352. JLI asserts that the allegations in Paragraph 352 contain legal conclusions to  
24 which no response is required. To the extent a response is required, JLI denies the allegations,  
25 implicit or direct, in Paragraph 352.

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**AFFIRMATIVE AND OTHER DEFENSES**

JLI asserts the following defenses with respect to the causes of action alleged in the Complaint, without assuming the burden of proof or persuasion where such burden rests on the Plaintiffs. Each defense herein is asserted against all named Plaintiffs and the members of the putative class. JLI asserts these solely to the extent necessary to preserve their rights and state that the factual applicability of some or all of these will depend on how Plaintiffs' case develops and how the other facts develop. JLI has not yet obtained adequate discovery from Plaintiffs or third parties in connection with this action, and JLI therefore reserves the right to rely on any affirmative or other defense or claim that may subsequently come to light, and expressly reserves the right to amend or supplement this pleading to assert such additional defenses or claims.

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**FIRST DEFENSE**

The Complaint and the damages relief sought therein are barred, in whole or in part, to the extent that Plaintiffs were not injured by the alleged conduct. Plaintiffs cannot demonstrate an injury of the sort that the antitrust laws were designed to prevent—namely, injury to competition. “The injury should reflect the anticompetitive effect either of the violation or of anticompetitive acts made possible by the violation. . . . It is inimical to the purposes of [the federal antitrust] laws to award damages” when competition has not been reduced. *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 488-89 (1977). Because Plaintiffs cannot show that JLI’s conduct reduced competition, Plaintiffs have not suffered an injury cognizable under the federal antitrust laws or the state antitrust laws that punish similar conduct.

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**SECOND DEFENSE**

Plaintiffs lack standing to assert some or all of Plaintiffs’ claims. “[T]o establish standing, a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief.” *TransUnion LLC v.*

1 *Ramirez*, 141 S. Ct. 2190, 2203, 2208 (2021) (“Every class member must have Article III  
 2 standing in order to recover individual damages.”). Plaintiffs must establish an “actual or  
 3 imminent invasion of a concrete and legally protected interest” that is traceable to defendants  
 4 conduct and able to be redressed. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559-61  
 5 (1992). Plaintiffs lack standing because they did not suffer any damages, injury or harm,  
 6 individually or on a class-wide basis, let alone any damages, injury or harm caused by JLI.

### 7 **THIRD DEFENSE**

8 The Complaint and the injunctive relief sought therein are barred, in whole in part,  
 9 because JLI’s alleged conduct did not harm competition. Obtaining injunctive relief under  
 10 “Section 7 of the Clayton Act requires [c]onsumers to ‘first establish a prima facie case that a  
 11 merger is anticompetitive.’” *DeHoog v. Anheuser-Busch InBev SA/NV*, 899 F.3d 758, 763  
 12 (9th Cir. 2018) (quoting *Saint Alphonsus Med. Ctr.-Nampa Inc. v. St. Luke’s Health Sys.,*  
 13 *Ltd.*, 778 F.3d 775, 783 (9th Cir. 2015)). Plaintiffs cannot show that Altria’s acquisition of a  
 14 minority interest in JLI had anticompetitive effects, and thus are not entitled to injunctive  
 15 relief.

### 16 **FOURTH DEFENSE**

17 The Complaint and the injunctive relief sought therein are barred, because Plaintiffs  
 18 cannot satisfy the equitable balancing test for injunctive relief. “[W]ell-established principles  
 19 of equity” require a plaintiff seeking injunctive relief to “demonstrate: (1) that it has suffered  
 20 an irreparable injury; (2) that remedies available at law, such as monetary damages, are  
 21 inadequate to compensate for that injury; (3) that, considering the balance of hardships  
 22 between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public  
 23 interest would not be disserved by a permanent injunction .” *eBay Inc. v. MercExchange,*  
 24 *L.L.C.*, 547 U.S. 388, 391 (2006). None of these considerations tips in favor of Plaintiffs:  
 25 First, Plaintiffs cannot show any injury, let alone an injury that is “irreparable .” Second,  
 26 assuming that Plaintiffs were able to prove one or more of their alleged claims for relief,  
 27 Plaintiffs have an adequate remedy at law. “[S]everal courts in this district have barred

1 claims for equitable relief . . . where plaintiffs have alleged other claims presenting an  
 2 adequate remedy at law .” *Munning v. Gap, Inc.*, 238 F. Supp. 3d 1195, 1203 (N.D. Cal.  
 3 2017). Plaintiffs have stated claims for compensatory damages for the alleged injuries they  
 4 sustained in this matter, and, therefore, Plaintiffs cannot additionally seek equitable relief.  
 5 Finally, neither the balance of hardships nor the public interest favors unwinding a  
 6 transaction that has already occurred, and that facilitates Altria’s provision of critical  
 7 regulatory services that support JLI’s regulatory filings and thus enhance JLI’s ability to  
 8 remain on the market.

#### **FIFTH DEFENSE**

10 The alleged conduct was not per se unlawful and must be assessed by the rule of  
 11 reason under *Texaco Inc. v. Dagher*, 547 U.S. 1, 5 (2006). The non-compete agreement is  
 12 facially valid under the rule of reason because it was ancillary to the main business purpose  
 13 of a lawful contract, and it was necessary to protect JLI’s legitimate property interests. See  
 14 *Lektro-Vend Corp. v. Vendo Co.*, 660 F.2d 255, 265 (7th Cir. 1981).

#### **SIXTH DEFENSE**

16 The Complaint and the relief sought therein are barred because Plaintiffs do not  
 17 properly define an appropriate relevant market. To succeed under the rule of reason,  
 18 Plaintiffs must show “that the challenged restraint has a substantial anticompetitive effect  
 19 that harms consumers in the relevant market .” *Ohio v. Am. Express Co.*, 138 S. Ct. 2274,  
 20 2284 (2018). Doing so necessarily requires establishing the relevant market. The Complaint  
 21 alleges effects in “the Closed-System E-Vapor market,” which is not one single, relevant  
 22 market with a customer base that is interchangeable for cig-a-likes and pod-based products.

#### **SEVENTH DEFENSE**

24 The whole of the alleged conduct survives the rule of reason because it had and  
 25 continues to have substantial pro-competitive justifications. Plaintiffs bear the burden of  
 26 demonstrating that Altria’s alleged conduct “ha[d] a substantial anticompetitive effect .” *Am.*  
 27 *Express Co.*, 138 S. Ct. at 2284. But the alleged conduct benefited and continues to benefit

1 consumers and the public interest. These pro-competitive justifications outweigh any alleged  
2 anticompetitive effects of the alleged conduct.

### 3 EIGHTH DEFENSE

4 To the extent that Plaintiffs' Section 1 and Section 3 claims rely on Altria's  
5 discontinuation of any e-vapor product, this is not a cognizable effect of any later agreement  
6 reached by Altria and JLI. As such, Plaintiffs' Section 1 and Section 3 claims and the relief  
7 sought for their alleged violation are barred, because "Section 1 of the Sherman Act . . .  
8 does not reach conduct that is 'wholly unilateral.'" *Copperweld Corp. v. Indep. Tube Corp.*,  
9 467 U.S. 752, 768 (1984).

### 10 NINTH DEFENSE

11 Plaintiffs' Section 2 conspiracy to monopolize claim against JLI is barred, because  
12 there can be no conspiracy to monopolize in the absence of a § 1 violation. *Zenith Radio*  
13 *Corp. v. Matsushita Elec. Indus. Co.*, 513 F. Supp. 1100, 1320 (E.D. Pa. 1981) (citing  
14 Phillip E. Areeda & Herbert Hovencamp, *Antitrust Law: An Analysis of Antitrust Principles*  
15 *and Their Application* ¶ 809 (4th & 5th eds. 2013-2010) (hereinafter "Areeda")); see also  
16 *NYNEX Corp. v. Discon, Inc.*, 525 U.S. 128, 139 (1998) ("We do not see, on the basis of the  
17 facts alleged, how [plaintiff] could succeed on [its conspiracy-to-monopolize] claim without  
18 prevailing on its § 1 claim ." (citing Areeda ¶ 651e)); *H.L. Hayden Co. of N.Y. v. Siemens*  
19 *Med. Sys., Inc.*, 672 F. Supp. 724, 741 n.21 (S.D.N.Y. 1987) ("Any section 2 conspiracy to  
20 monopolize must be covered under the broader umbrella of a section 1 conspiracy in restraint  
21 of trade."); Areeda ¶ 809 ("Any arrangement that could be considered a 'conspiracy' to  
22 monopolize must necessarily also be an unreasonable 'contract,' combination,' or  
23 'conspiracy' in restraint of trade offending § 1.").

### 24 TENTH DEFENSE

25 Plaintiffs' Section 2 monopolization claim against JLI is barred, because JLI did not  
26 and does not possess monopoly power in a relevant market. "The offense of  
27 [monopolization] under § 2 of the Sherman Act [requires] (1) the possession of monopoly

1 power in the relevant market and (2) the willful acquisition or maintenance of that power as  
2 distinguished from growth or development as a consequence of a superior product, business  
3 acumen, or historic accident.” *United States v. Grinnell Corp.*, 384 U.S. 563, 570-71 (1966).

4 **ELEVENTH DEFENSE**

5 Plaintiffs’ Section 2 attempted monopolization claim against JLI is barred, because  
6 there is no dangerous probability that that JLI will achieve monopoly power in a relevant  
7 market as a result of the challenged conduct. Attempted monopolization under Section 2 of  
8 the Sherman Act requires proof “(1) that the defendant has engaged in predatory or  
9 anticompetitive conduct with (2) a specific intent to monopolize and (3) a dangerous  
10 probability of achieving monopoly power.” *Spectrum Sports v. McQuillan*, 506 U.S. 447,  
11 456 (1993).

12 **TWELTH DEFENSE**

13 Plaintiffs’ Section 2 conspiracy to monopolize claim against JLI is barred, because  
14 Altria’s decision to withdraw any of their operating companies’ products was not part of an  
15 agreement with JLI. “To prove a conspiracy to monopolize in violation of § 2, [Plaintiffs]  
16 must show four elements: (1) the existence of a combination or conspiracy to monopolize;  
17 (2) an overt act in furtherance of the conspiracy; (3) the specific intent to monopolize; and (4)  
18 causal antitrust injury .” *Paladin Assocs., Inc. v. Montana Power Co.*, 328 F.3d 1145, 1158  
19 (9th Cir. 2003) (citing *United States v. Yellow Cab Co.*, 332 U.S. 218, 224-25 (1947),  
20 overruled in unrelated part, *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752 (1984)).  
21 JLI did not engage in a combination or conspiracy to monopolize; did not engage in any  
22 overt act in furtherance of the conspiracy; did not possess the specific intent to monopolize;  
23 and, as elaborated in JLI’s First and Third Defenses, did not engage in conduct that caused  
24 antitrust injuries.

25 **THIRTEENTH DEFENSE**

26 Plaintiffs’ Section 7 claim and the relief sought for its alleged violation are barred,  
27 because Altria was neither an actual nor perceived potential competitor to JLI at the time of

1 the Transaction. A transaction is actionable under § 7 only if the firms are involved are  
 2 competitors or “potential” competitors. Phillip E. Areeda & Herbert Hovencamp, *Antitrust*  
 3 *Law: An Analysis of Antitrust Principles and Their Application* ¶ 1100a (4th & 5th eds.  
 4 2013–2020) (hereinafter “Areeda”). Federal courts have discussed two variations of the  
 5 potential competition doctrine—the actual potential competition theory and the perceived  
 6 potential competition theory—neither of which is availing for Plaintiffs. *Id.* The actual  
 7 potential competition theory is not a viable theory; it has not been adopted by the U.S.  
 8 Supreme Court and “[o]nly one circuit” has expressly endorsed it over four decades ago.  
 9 *Fraser v. Major League Soccer, L.L.C.*, 284 F.3d 47, 70-71 (1st Cir. 2002) (citing *Yamaha*  
 10 *Motor Co. v. Fed. Trade Comm’n*, 657 F.2d 971, 978-80 (8th Cir. 1981)). Even if this Court  
 11 were to recognize the actual potential competition theory of § 7 liability, Plaintiffs must show  
 12 that Altria “would, but for the acquisition, have entered the market as a competitor in the near  
 13 future.” *United States v. Siemens Corp.*, 621 F.2d 499, 505 (2d Cir. 1980). Plaintiffs can  
 14 make no such showing. Alternatively, to fulfill a § 7 claim under the perceived potential  
 15 competitor theory, Plaintiffs must show that the mere threat of “new entry by the acquiring  
 16 firm induced competitors in the acquired firm’s market to perform more competitively,” even  
 17 if the acquiring firm would not actually have entered the market. *Ginsburg v. InBen NV/SA*,  
 18 623 F.3d 1229, 1234 (8th Cir. 2010) (citing Areeda ¶ 1121a). Plaintiffs cannot make this  
 19 showing either.

#### FOURTEENTH DEFENSE

21 Plaintiffs’ Section 7 claim against JLI and the relief sought for its alleged violation  
 22 are barred, because JLI did not “acquire” any stock. In relevant part, Section 7 provides that  
 23 “[n]o person shall *acquire* . . . the stock . . . of one or more persons engaged in commerce . .  
 24 . where . . . the effect of such acquisition . . . may be substantially to lessen competition, or  
 25 tend to create a monopoly.” 15 U.S.C. § 18 (emphasis added). JLI, as the party whose stock  
 26 was acquired by another, cannot be liable under Section 7 because it did not “acquire” stock  
 27 in another company. *See, e.g., United States v. Coca-Cola Bottling Co. of Los Angeles*, 575

1 F.2d 222, 227 (9th Cir. 1978) (“By its express terms § 7 proscribes only the act of acquiring,  
2 not selling, when the forbidden effects may occur.”).

### 3 FIFTEENTH DEFENSE

4 Plaintiffs’ state antitrust law claims are barred because they are derivative of the  
5 unavailing federal antitrust claims. The state courts have made clear that the analysis under  
6 their antitrust laws is identical to that under federal law. *See Name.Space, Inc. v. Internet*  
7 *Corp. for Assigned Names & Numbers*, 795 F.3d 1124, 1131 n.5 (9th Cir.2015) (California)  
8 (“[T]he analysis under the Cartwright Act . . . is identical to that under the Sherman Act.”);  
9 *Robert’s Hawaii School Bus, Inc. v. Laupahoehoe Transp. Co., Inc.*, 982 P.2d 853, 876  
10 (Haw. 1999) (“[W]hen the state legislature undertook the task of fashioning Hawaii’s  
11 antitrust law, it logically followed the federal paradigm .” (quotation omitted)); *Biocad JSC*  
12 *v. F. Hoffmann-La Roche*, 942 F.3d 88, 101 (2d Cir. 2019) (New York) (the “Donnelly Act .  
13 . . is modeled after the Sherman Act and ‘should generally be construed in light of Federal  
14 precedent.’” (internal citations omitted)); *Steward Health Care Sys., LLC v. Blue Cross &*  
15 *Blue Shield of Rhode Island*, 997 F. Supp. 2d 142, 1552 (D.R.I. 2014) (Rhode Island)  
16 (“Court[s] appl[y] the same substantive law to the state and federal antitrust claims as the  
17 Rhode Island Antitrust Act mirrors the Sherman Act.”).

### 18 SIXTEENTH DEFENSE

19 Plaintiffs’ consumer-protection claims are barred for the same reason Plaintiffs’  
20 antitrust claims fail because both claims challenge the same underlying conduct. *See*  
21 *LiveUniverse, Inc. v. MySpace, Inc.*, 304 F. App’x 554, 557-58 (9th Cir. 2008) (“Where . . .  
22 the same conduct is alleged to support both a plaintiff’s federal antitrust claims and state-law  
23 unfair competition claim, a finding that the conduct is not an antitrust violation precludes a  
24 finding of unfair competition.”).

### 25 SEVENTEENTH DEFENSE

26 Insofar as any applicable “consumer fraud laws” and “consumer protection laws”  
27 require exhaustion of administrative or other remedies, the claims asserted in the Complaint

1 under the applicable “consumer protection laws” should be stayed or dismissed because, on  
2 information and belief, Plaintiffs have not exhausted those administrative or other remedies.  
3 The Supreme Court has “recognized in more than a few decisions” “that orderly procedure and  
4 good administration require that objections to the proceedings of an administrative agency be  
5 made while it has opportunity for correction in order to raise issues reviewable by the courts.”  
6 *United States v. L. A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 36-37 (1952). As a consequence,  
7 “[s]imple fairness to those who are engaged in the tasks of administration, and to litigants,  
8 requires as a general rule that courts should not topple over administrative decisions unless the  
9 administrative body not only has erred but has erred against objection made at the time  
10 appropriate under its practice.” *Id.* “Particularly, judicial review may be hindered by the  
11 failure of the litigant to allow the agency to make a factual record, or to exercise its discretion  
12 or apply its expertise.” *McKart v. United States*, 395 U.S. 185, 194-95 (1969). “A complaining  
13 party may be successful in vindicating his rights in the administrative process. If he is required  
14 to pursue his administrative remedies, the courts may never have to intervene.” *Id.* “And  
15 notions of administrative autonomy require that the agency be given a chance to discover and  
16 correct its own errors.” *Id.* Plaintiff’s claims are barred, in whole or in part, by the doctrine  
17 of exhaustion in so far as various state laws have vested state agencies with jurisdiction to  
18 regulate the advertising and marketing of e-cigarettes and other products. Plaintiff has failed  
19 to exhaust all administrative options available to it through these processes.

### 20 EIGHTEENTH DEFENSE

21 Plaintiffs’ claims are barred, in whole or in part, to the extent that Plaintiffs seek to  
22 recover damages as members of multiple purported classes in this action. Courts have  
23 described the “one satisfaction rule” as being an “equitable doctrine [which] operates to . . .  
24 prevent the plaintiff from recovering twice from the same assessment of liability .” *Contreras*  
25 *v. Kohl’s Dep’t Stores, Inc.*, 2017 WL 6372646, at \*3 (C.D. Cal. Dec. 12, 2017) (quoting  
26 *Sloane v. Equifax Info. Servs., LLC*, 510 F.3d 495, 501 (4th Cir. 2007)). The doctrine bars  
27 recovery here to the extent Plaintiffs seek relief as members of more than one purported class.

**NINETEENTH DEFENSE**

Plaintiff’s state-law claims and the associated relief are barred by the presumption against extraterritoriality. In the absence of clear statutory text that indicates otherwise, a state’s statutes are presumed to be limited in application to the confines of the state’s borders. *See, e.g., Global Reinsurance Corp.-U.S. Branch v. Equitas Ltd.*, 969 N.E.2d 187, 195 (N.Y. 2012) (noting, in applying a state antitrust statute, that “[t]he established presumption is, of course, against the extraterritorial operation of New York law”); *J.P. Morgan & Co. v. Superior Court*, 113 Cal. App. 4th 195, 221 (2003) (“[A] court should not ordinarily construe a statute as regulating occurrences outside the state unless a contrary intention is clearly expressed or reasonably can be inferred from the language or purpose of the statute.”). Should JLI be held liable under any of Plaintiffs’ state-law claims, Plaintiffs may not obtain damages or other relief on a given cause of action for conduct that occurred outside the state giving rise to that claim.

**TWENTIETH DEFENSE**

Plaintiffs’ California-law claims against JLI are constitutionally barred to the extent that Plaintiffs seek relief for a nationwide class under the laws of a single state. The Due Process Clause requires that “[f]or a nationwide class to invoke the law of a particular state, the chosen state’s law must both (1) not conflict with the law of another jurisdiction that has an interest in the case, and (2) have a significant contact or significant aggregation of contacts to claims asserted by each member of the plaintiff class to insure that the choice of the forum state’s law is not arbitrary or unfair.” *In re Graphics Processing Units Antitrust Litig.*, 527 F. Supp. 2d 1011, 1027 (N.D. Cal. 2007) (citing *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 821-22 (1985)). Because there is no significant contact or even “aggregation of contacts” between California and out-of-state Plaintiffs’ claims against JLI, applying California law to claims brought by out-of-state class members would be “arbitrary [and] unfair,” *id.*; it cannot “be applied without offending [JLI’s] due process rights.” *AT&T Mobility LLC v. AU Optronics Corp.*, 707 F.3d 1106, 1113 (9th Cir. 2013).

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**TWENTY-FIRST DEFENSE**

JLI is entitled to setoff, should any damages be awarded against them, in the amount of damages or settlement amounts recovered by Plaintiffs and with respect to the same alleged injuries. JLI is also entitled to have any damages that may be awarded to Plaintiffs reduced by the value of any benefit or payment to Plaintiffs from any collateral source. A plaintiff's award is offset from other avenues of recovery such as a settlement or a separate judgment. *See Harrison v. Adams*, 20 Cal.2d 646, 648 (1942) (“[I]t is well settled that a court of equity will compel a set-off when mutual demands are held under such circumstances that one of them should be applied against the other and only the balance recovered.”); *see also Citizens Bank v. Strumpf*, 516 U.S. 16, 18 (1995) (“The right of setoff (also called ‘offset’) allows entities that owe each other money to apply their mutual debts against each other, thereby avoiding ‘the absurdity of making A pay B when B owes A.’”). Plaintiffs’ recovery, should JLI be found liable, is barred by the right of setoff to the extent Plaintiffs have already recovered for an alleged overpayment related to their purchases of JUUL in other antitrust litigation or any other litigation asserting an overpayment claim.

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**TWENTY-SECOND DEFENSE**

Any claim by Plaintiffs for pre-judgment interest should be dismissed because the amount of damages (if any) was not readily ascertainable at the time Plaintiffs’ lawsuit was commenced and JLI is not responsible for any delay in the presentation or prosecution of this action.

“Prejudgment interest is only allowed where the damage award is known or ascertainable at a time prior to entry of judgment .” *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 567 F. App’x 527, 528 (9th Cir. 2014) (alterations omitted); *see also, e.g., Web Analytics Demystified, Inc. v. Keystone Solutions, LLC*, 2015 WL 13858604, at \*1 (D. Or. Oct. 13, 2015) (“[A] trial court may award prejudgment interest on damages only when both the amount of damages and the time from which interest should run are ascertained or easily ascertainable.”); *Zargarian v. BMW of N. Am., LLC*, 442 F. Supp. 3d 1216, 1225 (C.D.

1 Cal. 2020) (similar). Plaintiffs cannot show a known or ascertainable damages figure prior to  
2 entry of judgment in this action.

3 **TWENTY-THIRD DEFENSE**

4 Plaintiffs’ claims are barred, in whole or in part, because their proposed class is not  
5 capable of being certified under the Federal Rules of Civil Procedure. To obtain certification,  
6 Plaintiffs must satisfy the requirements of Federal Rule of Civil Procedure 23(a): numerosity,  
7 commonality, typicality, and adequacy. Fed. R. Civ. P. 23(a). In addition, because Plaintiffs  
8 seek to certify a class seeking monetary damages, they must satisfy Rule 23(b)(3)’s  
9 predominance and superiority requirements. Fed. R. Civ. P. 23(b)(3). Plaintiffs cannot satisfy  
10 these prerequisites.

11 **TWENTY-FOURTH DEFENSE**

12 The proposed class action is barred by Plaintiffs’ failure to identify an ascertainable  
13 class. Plaintiffs’ proposed class requires that claimants prove they purchased JUUL devices  
14 and pods from brick and mortar or online retailers that purchased those JUUL devices and pods  
15 from JLI to establish that they are class members. There are no objective records that  
16 sufficiently establish class membership for the class as a whole. In addition, class members  
17 are unlikely to have retained objective proof of their purchases such as receipts. As a result,  
18 individual inquiries would be needed to determine whether each claimant purchased JUUL  
19 from such retailers.

20 **TWENTY-FIFTH DEFENSE**

21 The proposed class action does not meet the predominance requirement of Fed. R. Civ.  
22 P. 23(b)(3). Predominance requires that “that the questions of law or fact common to class  
23 members predominate over any questions affecting only individual members .” Fed. R. Civ.  
24 P. 23(b)(3).

25 Each class member must demonstrate that he or she purchased JUUL at retail, and  
26 account for the number of JUUL products purchased at retail and the price he or she paid each  
27 time. These requirements raise numerous individual issues, including, among other things,

1 when a class member began purchasing JUUL, how a class member obtained JUUL, and  
2 whether a class member continues to purchase JUUL indirectly from JLI at retail. Given the  
3 variability among class members with respect to these and other issues, individual issues would  
4 predominate over any possible common issues.

5  
6 **TWENTY-SIXTH DEFENSE**

7 The proposed class action fails because trying Plaintiffs’ claims on a class-wide basis  
8 would violate the Rules Enabling Act, 28 U.S.C. § 2072. “The Rules Enabling Act forbids  
9 interpreting Rule 23 to ‘abridge, enlarge or modify any substantive right.’” *Wal-Mart Stores,*  
10 *Inc. v. Dukes*, 564 U.S. 338, 367 (2011) (quoting 28 U.S.C. § 2072).

11 Each class member must demonstrate that he or she purchased JUUL at retail, and  
12 account for the number of JUUL products purchased at retail and the price he or she paid each  
13 time. These requirements raise numerous individual issues, including, among other things,  
14 when a class member began purchasing JUUL, how a class member obtained JUUL, and  
15 whether a class member continues to purchase JUUL indirectly from JLI at retail. Given the  
16 variability among class members with respect to these and other issues, there is no way to  
17 resolve these claims on a class-wide basis without altering or eliminating JLI’s substantive  
18 rights. Doing so would violate the Rules Enabling Act.

19 **TWENTY-SEVENTH DEFENSE**

20 The proposed class action fails because trying Plaintiffs’ claims on a class-wide basis  
21 would violate due process. JLI has a due process right to demonstrate that each plaintiff could  
22 not satisfy all of the elements of his or her claims or that the claims would otherwise be barred  
23 by defenses. *See, e.g., Lindsey v. Normet*, 405 U.S. 56, 66 (1972) (“Due process requires that  
24 there be an opportunity to present every available defense.”) (citation omitted); *Sandwich Chef*  
25 *of Texas, Inc. v. Reliance Nat’l Indem. Ins. Co.*, 319 F.3d 205, 220 (5th Cir. 2003) (reversing  
26 certification where procedures denied defendants opportunity to dispute individual issues).  
27 “[A] class action cannot be certified in a way that eviscerates this right or masks individual  
28 issues .” *Carrera v. Bayer Corp.*, 727 F.3d 300, 307 (3d Cir. 2013); *see also Sacred Heart*

1 *Health Sys. v. Humana Military Healthcare Servs.*, 601 F.3d 1159, 1176 (11th Cir. 2010)  
2 (similar).

3 Each class member must demonstrate that he or she purchased JUUL at retail, and  
4 account for the number of JUUL products purchased at retail and the price he or she paid each  
5 time. These requirements raise numerous individual issues, including, among other things,  
6 when a class member began purchasing JUUL, how a class member obtained JUUL, and  
7 whether a class member continues to purchase JUUL directly at retail. Given the variability  
8 among class members with respect to these and other issues, there is no way to resolve these  
9 claims on a class-wide basis without violating JLI's due process rights.

10 **TWENTY-EIGHTH DEFENSE**

11 JLI adopts by reference any applicable defense pled by any other Defendant not  
12 expressly set forth herein to the extent they do not conflict with JLI's affirmative and other  
13 defenses.

14 **TWENTY-NINTH DEFENSE**

15 JLI hereby gives notice that it intends to rely upon any other defense that may become  
16 available or appear during the discovery proceedings in this case and hereby reserves its right  
17 to amend its Answers to assert any such defenses.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, JLI denies that Plaintiffs are entitled to the relief enumerated in  
20 Plaintiffs' "Prayer For Relief," or to any other relief from JLI and, therefore, requests that the  
21 Court:

- 22 1. Dismiss the action with prejudice;
- 23 2. Enter judgment in favor of the Defendants against Plaintiffs with respect to all  
24 causes of action in the Complaint;
- 25 3. Award JLI their attorneys' fees and all other costs reasonably incurred in defense  
26 of this action; and
- 27 4. Award JLI any other relief as the Court may deem just and proper.

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**DEMAND FOR JURY TRIAL**

JLI demands a jury trial on all issues so triable.

DATED: November 19, 2021

**CLEARY GOTTLIEB STEEN &  
HAMILTON LLP**

By: /s/ David I. Gelfand  
David I. Gelfand

David I. Gelfand (admitted *pro hac vice*)  
Jeremy Calsyn (SBN #25062)  
Nowell D. Bamberger (admitted *pro hac vice*)  
2112 Pennsylvania Avenue, NW  
Washington, D.C. 20037  
Telephone: (202) 974-1500  
Email: dgelfand@cgsh.com  
jcalcsyn@cgsh.com  
nbamberger@cgsh.com

*Counsel for Defendants Juul Labs, Inc.*