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May 12, 2022

# Multidistrict e-cigarettes for teens trial to start in June

**This San Francisco federal trial, which will be the first that Juul faces under these general allegations, will serve as either the crescendo or the swan song for the Bay Area company.**

E-cigarette giant Juul Labs Inc. and its executives will stand trial in June on various personal injury and tort claims related to the alleged misleading marketing, advertising, and sale of e-cigarettes to adolescents throughout the country.

This trial, which will be the first that Juul faces under these general allegations, will serve as either the

crescendo or the swan song for the Bay Area company.

Of the many issues that will be litigated at trial before Judge William H. Orrick, chief will be whether Juul intentionally marketed harmful products to adolescents and whether the company misrepresented the danger of e-cigarettes.

Judge Sarah S. Vance, chair of the judicial panel on multidistrict litigation and an jurist in the Eastern District of Louisiana, wrote in the transfer order, “The actions in this litigation involve allegations that JLI has marketed its JUUL nicotine delivery products in a manner designed to attract minors, that JLI’s marketing misrepresents or omits that JUUL products are more potent and addictive than cigarettes, that JUUL products are defective and unreasonably dangerous due to their attractiveness to minors, and that JLI promotes nicotine addiction. The actions include both putative class actions and individual personal injury cases.”

The multidistrict litigation is the consolidated result of 10 lawsuits from the Northern District of California, the Middle District of Alabama, the Middle and Southern Districts of Florida, and the Southern District of New York. *In re Juul Labs Inc. Marketing, Sales Practices & Products Liability Litigation*, 19-md-02913, (N.D. Cal. Filed Oct 2, 2019).

Juul has been drowning in lawsuits from individuals, plaintiff classes, and state governments for the past half-decade but has continuously avoided arguing its defenses before a jury by obtaining dismissals or settling out of court.

Most recently, on April 13, Juul agreed to pay the state of Washington \$22.5 million for intentional, targeted marketing aimed at getting teens hooked on their products.

Washington Attorney General Bob Ferguson said in a news release, “JUUL put profits before people. The company fueled a staggering rise in vaping among teens. JUUL’s conduct reversed decades of progress fighting nicotine addiction, and [this settlement] order compels JUUL to surrender tens of millions of dollars in profit and clean up its act by implementing a slate of corporate reforms that will keep JUUL products out of the hands of underage Washingtonians.”

Nine other states previously filed suit against Juul. Two of them, North Carolina and Arizona, settled with the company last year for \$40 million and \$17.5 million respectively.

Despite the altruism and regret Juul’s settlements seem to portray, it has maintained no admission of fault in any of the deals, a common theme in the company’s defense strategy over the last five years.

Former Communications Director Ted Kwong told Vice News in 2019, “We believe our four non-tobacco and non-menthol-based flavored JUUL products are responsibly marketed and play a critical role in switching adult smokers from cigarettes since certain flavors can help smokers disassociate from the taste of tobacco and the odor of cigarettes — we see the results in our own behavioral

research.” Attorneys from Juul and the plaintiffs either did not respond to requests or did not provide comment on Wednesday, including Sarah London of Lief Cabraser Heimann & Bernstein LLP, Ellen Relkin of Weitz & Luxenberg PC, Dean Kawamoto of Keller Rohrback LLP, David Bernick of Kirkland & Ellis LLP, and John Massaro of Arnold & Porter Kaye Scholer LLP.

#367333

## Wisdom Howell

Daily Journal Staff Writer  
[wisdom\\_howell@dailyjournal.com](mailto:wisdom_howell@dailyjournal.com)

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