

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Cristian Ali, individually and on behalf of all
others similarly situated,

Plaintiff,

- against -

7-Eleven, Inc.,

Defendant

Case No. 1:22-cv-20328

Class Action Complaint

Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiff, Cristian Ali, (“Plaintiff”) by and through his undersigned counsel, pursuant to all applicable *Federal Rules of Civil Procedure*, hereby files this class action complaint on behalf of himself and all others similarly situated throughout the United States, and alleges against Defendant, 7-ELEVEN, INC., (“Defendant”) as follows:

I. INTRODUCTION

1. Founded in 1927, 7-Eleven, Inc. (“7-Eleven”) is an American company that operates an international chain of convenience stores with approximately 71,100 stores in 17 countries. In addition to snacks, gas and miscellaneous retail items, Defendant markets, advertises, distributes and sells various types of tobacco products, including but not limited to e-cigarettes. At issue here is Defendant’s marketing and sale of JUUL E-Cigarettes (the “Products”). See Exhibit 1, attached hereto and incorporated herein, a true and correct representation of the Products’ label.

2. Defendant markets the Products as a safer or at least comparable alternative to cigarettes when in fact they are not because a single JUUL e-cigarette delivers the same amount of nicotine as an entire pack of traditional cigarettes; the Products highly concentrated nicotine

delivery system causes users to easily become addicted to the harmful Products.¹ Defendant provides No Warning that the Products are far more potent and addictive than conventional cigarettes.

3. The nicotine content in JUUL pods is much higher than in cigarettes as well as most other e-cigarettes, especially among those sold in the United States. This is partially because the Products contain protonated nicotine, which allows users to absorb higher concentrations than they would from products made with free-base nicotine. Protonated nicotine is less harsh and thus easier to handle for those who were not previously smokers, further contributing to the Products' addictiveness.² The discreet appearance of the Products and lack of smoke also make them appeal to younger generations and people who previously had no interest in smoking or seek safer alternatives to cigarettes.

4. In addition to the inordinately high risk of nicotine addiction, the Products have also been associated with nicotine poisoning and toxicity. The Food and Drug Administration has received numerous reports of JUUL users, primarily teenagers and young adults, who have suffered seizures and convulsions as a result of nicotine poisoning and toxicity.³ Researchers

¹ Judith J Prochaska, Erin A Vogel, and Neal Benowitz, "Nicotine delivery and cigarette equivalents from vaping a Juul pod," *National Library of Medicine: National Center for Biotechnology Information*, <https://pubmed.ncbi.nlm.nih.gov/33762429/> (last visited August 11, 2021). See also "How Much Nicotine is in JUUL," TruthInitiative.org, <https://truthinitiative.org/research-resources/emerging-tobacco-products/how-much-nicotine-juul> ("The amount of nicotine in one standard JUUL cartridge is roughly equal to the amount of nicotine in a pack of cigarettes, or about 200 puffs, according to the JUUL website").

² "Effect of free-base and protonated nicotine on nicotine yield from electronic cigarettes with varying power and liquid vehicle," *Scientific Reports*, (October 1, 2020). <https://www.nature.com/articles/s41598-020-73385-6>. See also, "Effect of Exposure to E-Cigarettes with Salt vs. Nicotine on the Appeal and Sensory Experience of Vaping," JAMA Network. (January 12, 2021). <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2774851>.

³ <https://www.drugwatch.com/e-cigarettes/side-effects/>

have also found that users are being exposed to an assortment of potentially harmful chemicals, including nicotine and formaldehyde, as well as heavy metals, such as lead. Researchers have also found links to an incurable lung condition known as popcorn lung.⁴

5. Furthermore, it comes as no surprise to Defendant that its Products are deceptively addicting and unreasonably dangerous to consumers. Prior to the Products debut in 2014, JUUL specifically informed Defendant 7-Eleven of the Products' chemistry in order to persuade them to purchase the new Products.⁵

6. Since then, as a result of aggressive advertising the Products using young adult models to glamorize vaping, JUUL has been accused by government agencies and in various lawsuits of targeting young and underage people in its advertising in order to get a new generation addicted to nicotine. The lawsuits also claim that JUUL intentionally created a small, sleek device that contained a high concentration of nicotine that delivered the nicotine in an expedited manner, and that the devices were then deceptively marketed to a young generation as safer than cigarettes.⁶

7. Despite Defendant's actual knowledge of the extremely high nicotine content and

⁴ *Id.*

⁵ Julie Creswell and Sheila Kaplan, "How JUUL Hooked a Generation on Nicotine," New York Times (November 23, 2019). Available at <https://www.nytimes.com/2019/11/23/health/juul-vaping-crisis.html> ("The high level of nicotine also appealed to skeptical retailers. In the summer of 2014, the year before Juul's debut, the sales teams had run into resistance from stores who were stuck with other e-cigarette inventory that simply was not selling. But by focusing on the chemistry behind Juul, and its delivery of nicotine levels that were close to combustible cigarettes, two former sales executives said, they persuaded convenience store chains like 7-Eleven and Circle K to order the new product").

⁶ <https://www.drugwatch.com/e-cigarettes/lawsuits/>

wealth of information elucidating the inordinate hazards of the Products, Defendant failed to warn that the Products it markets and sells are far more potent and addictive than tobacco cigarettes. In fact, prior to 2018, Defendant failed to warn that the Products contained any nicotine at all.⁷

8. As a result, Plaintiff has purchased Products that are unreasonably harmful and addictive and not as represented by Defendant. Defendant's marketing and advertising of the Products is false and deceptive. Through a variety of advertising methods, including but not limited to product placement and postings in and around 7-Eleven stores and online advertising of the Products, Defendant has made false representations regarding the true nature of the Products by, inter alia, omitting information known to Defendant that would be material to the purchasing decision of reasonable consumers like Plaintiff and the members of the putative class.

9. Plaintiff and consumers expected to purchase a safer or at least comparable alternative to cigarettes only to learn that they were in fact purchasing a product with a much higher nicotine delivery system than conventional cigarettes; as a result, plaintiff and consumers were denied the benefit of their bargain.

10. Defendant's false and misleading representations and omissions violate state and federal law, including Florida's Deceptive and Unfair Trade Practices Act, as detailed more fully below.

⁷ Julie Creswell and Sheila Kaplan, "How JUUL Hooked a Generation on Nicotine," New YorkTimes (November 23, 2019). *Available at* <https://www.nytimes.com/2019/11/23/health/juul-vaping-crisis.html>.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over the subject matter presented by this Complaint because it is a class action arising under 18 U.S.C. § 1332(d), which, under the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 (2005), explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the Plaintiff class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of \$5,000,000, exclusive of interest and costs.

12. On information and belief, Plaintiff alleges that the total claims of individual class members in this action are in excess of \$5,000,000 in the aggregate, exclusive of interest and costs, as required by 28 U.S.C. § 1332(d)(2), (5). Plaintiff is a citizen of the State of Florida, as set forth below, and Defendant can be considered a citizen of Texas. Therefore, diversity of citizenship exists under CAFA as required by 28 U.S.C. § 1332(d)(2)(A).

13. Venue in this district is proper pursuant to 28 U.S.C. §1391(b) because Defendant conducts business within, may be found in, and is subject to personal jurisdiction in this judicial district, and Plaintiff resides in and purchased the Products that are the subject of this action in this judicial district.

III. PARTIES

14. Plaintiff Cristian Ali is an individual consumer over the age of 18. He resides in Miami-Dade county and is a citizen of Florida. Plaintiff purchased the Products from a 7-Eleven located in Miami Beach, Florida, 33139.

15. Plaintiff seeks injunctive relief and damages on behalf of himself and the Class, and respectfully requests a jury trial on damage claims.

16. Defendant 7-Eleven, Inc. is a Texas corporation and lists its corporate

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