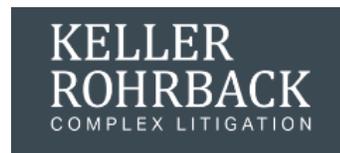


EXHIBIT 1



February 12, 2021

VIA E-MAIL (WHOCRD@cand.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from the date of interim leadership appointments, November 14, 2019 through April 30, 2020 ("current reporting period"). Co-Lead Counsel have compiled time submissions preceding the interim leadership appointments and anticipate evaluating those submissions at a later date, in context of the overall litigation.

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed reasonable the tasks, time and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 1, detailing her review, findings and recommendations is enclosed herewith.

February 12, 2021

Page 2

To this point, Co-Lead Counsel's review process has been focused on determining a baseline of objective compliance, which is necessary, but not sufficient to an ultimate endorsement or recommendation by the Co-Leads of an award of compensation on submitted time. For example, while Co-Leads have reviewed and approved the reasonableness of the time incurred by Participating Counsel, they have not approved the billing rates submitted.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 7,647.9 hours (\$4,265,964.00). During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 13,160.6 hours (\$7,784,306.05), Liaison Counsel firms submitted a total of 2,674.5 hours (\$1,639,832.50), and Authorized Counsel firms submitted 1,830.6 hours (\$992,401.50). The total number of hours submitted by all firms submitting common benefit time is 25,313.6 hours (\$14,682,504.05). The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and will be assessing if there is some methodology to determine appropriateness of the rate and parity between counsel based upon objective factors.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$705,881.28; PSC firms submitted \$897,185.11; Liaison Counsel firms submitted \$48,657.07; and Authorized Counsel firms submitted \$139,199.82. The total amount of costs submitted by all reporting firms for this period was \$1,790,923.28. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports.

In terms of relative allocation and performance of common benefit work, the Co-Lead Counsel firms have performed approximately 29%; the PSC firms have performed approximately 53%; Liaison Counsel firms have performed approximately 11%; and Authorized Counsel have performed approximately 7%. Co-Lead Counsel are working on responding to the Court's request for data regarding diversity in PSC assignments and seek further guidance to ensure we are on the right track. In the meantime, Co-Lead Counsel are continuing to work with their vendor and Judge Andler to assess ways to track metrics regarding diversity and will be prepared to update the court in more detail on our progress. As set out in Plaintiffs' Steering Committee's Application for Reappointment (Doc. 1204), the PSC reflects diverse experiences, backgrounds and perspectives. The Co-Leads have sought to harness and leverage this diversity in committee appointments and substantive assignments, and look forward to tracking this data to assess our efforts.

With respect to out-of-pocket costs, the Co-Lead firms have incurred approximately 39%, the PSC firms have incurred approximately 50%. These costs include a total of \$600,000.00 advanced by the Co-Leads in common benefit assessments, a total of \$1,100,000.00 advanced by the PSC firms in common benefit assessments, \$300,000.00 advanced by Liaison Counsel in common benefit assessments, and a total of \$300,000.00 advance by other Authorized Counsel firms in common benefit assessments.

February 12, 2021

Page 3

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we will submit these forthwith.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London", written in a cursive style.

Sarah R. London

Enclosures

2129715.1

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 1 OF SPECIAL MASTER
TO THE MDL CO-LEADS AND JCCP CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The undersigned was appointed on June 19, 2020 as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. [MDL Dkt. 680]. The undersigned was also appointed on September 9, 2020 in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020 Case Management Order (“CMO”) No. 5 and May 27, 2020 CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. [MDL Dkt. 352, & 586]. Similarly, the JCCP appointment relates to the July 9, 2020 CMO No. 8 which established a Private Plaintiffs Common Benefit Fee and Expense Fund parallel to the common benefit order established in the MDL. [7-9-20 JCCP Order]. The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” [MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5]. The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. [MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3]. The PSC in the MDL and JCCP agreed that “parallel common benefit orders will facilitate

cooperation and coordination between the federal and state cases.” [7-9-20 JCCP Order at 2:19-20].

The MDL Order of appointment as well as the JCCP Order of appointment in substantially similarly language specifies the scope of the undersigned duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information

contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants' Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee ("PSC"), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” [MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13].

II. SPECIAL MASTER CONFERENCES WITH MDL AND JCCP LEADERSHIP

The undersigned met with counsel on July 8, 2020 telephonically, July 15, 2020 via Zoom, August 21 2020 telephonically, August 28, 2020 via Zoom, September 29, 2020 via Zoom, and October 22, 2020 via Zoom wherein discussions were had about various procedural issues, including the process for the selection of the vendor to provide an electronic platform for the reporting of common benefit time and costs. Following the selection of Verus as the vendor, training sessions were held, and on January 20, 2021, billing summaries generated by Verus were presented by the MDL for each month from November, 2019 through and including April, 2020 in order for the undersigned to provide the present Quarterly Report No. 1 to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs. [*see*, Ex. A, Monthly Billing Summaries November, 2019 - April 2020; Ex. B, Expense Summary November, 2019 – April 2020].

At the January 20, 2021 status conference and thereafter in writing, the Co-Leads discussed the primary work that was undertaken by the PSC from November 2019 to April 2020. The PSC work during this block of time is summarized as follows:

1. Census

Early in the litigation before PSC appointments were made, Judge Orrick appointed Sarah London, Joseph VanZandt and Ellen Relkin to develop a census to assess the scope of the MDL to determine Plaintiffs' leadership structure. These attorneys met and conferred with defendants and also worked with Professor Jamie Dodge to develop and execute the census and provide a report to Judge Orrick. Co-Lead counsel determined that work performed by these appointed attorneys and their firms in connection with the census (other than compliance in their individual cases) was approved common benefit time. Co-Lead counsel also determined that all other work performed by other firms related to the census would be considered individual and not common benefit work, as it was primarily to advance each firm's application for court appointments. All counsel seeking leadership positions were required to submit census

information. This information was integrated to reflect as a possible flag for further review in the Verus platform.

2. Amended Consolidated Pleadings

The PSC researched, prepared, and filed amended consolidated pleadings in the Class Action cases and in the Personal Injury cases. These consolidated pleadings exceed 1000-pages. The PSC also prepared template complaints for the Government Entity Plaintiffs. For the PI Plaintiffs, the PSC prepared a short form complaint and direct filing order, allowing for electronic service and avoiding the cumbersome process of filing in a home jurisdiction and effectuating a transfer.

3. Discovery

The PSC developed a discovery plan and case schedule and met and conferred with Defendants regarding ESI, a protective order, a 502(d) order, discovery dispute resolution protocol, deposition protocol, Plaintiff and Defendant fact sheets, and a coordination order. Disputes were briefed and argued. The PSC reviewed and analyzed the documents produced in the *Colgate* class action that preceded the MDL and those produced by JLI and Altria to government authorities, drafted and served written discovery, document requests, and third-party subpoenas.

4. Experts

The PSC identified, researched and retained experts in key liability and damages areas.

5. Case Management

The Co-Leads met weekly to discuss case strategy, management, and prepare for Court Conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as

did the PSC to discuss ongoing case developments. Each committee met on a regular basis to implement the case strategy.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM NOVEMBER 2019 TO APRIL 2020

This first Quarterly Report only includes the undersigned's review of the MDL's common benefit time and expense submissions from November 2019 through April 2020 and only with respect to reasonableness of hours and categories of time. Prior to the undersigned's review of this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed in the first-tier review and vetted by the MDL Leadership. Similarly, the Special Master's review in this Quarterly Report No. 1 does not include the JCCP's common benefit time and expense submissions which are still being input into Verus and in the process of the first-tier review and approval by the JCCP Leadership.

The undersigned was provided billing and expense summaries generated by the Verus platform from November 2019 through April 2020 representing time and expenses of forty law firms working in the MDL. [*See*, Ex. C, Listing of Firms]. The attorney time was broken down into twenty-one categories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties
4. Court Appearances;
5. Pleadings;
6. Written Discovery.
7. Plaintiff Discovery (Document Production, DME);
8. Document Review
9. Legal Research/Memorandum;

10. Scientific Research;
11. Motion/Briefs;
12. Depositions (Prepare/Take/Defend)
13. Class Certification/Notice;
14. Expert Consultants;
15. Settlement/Mediation
16. Bellwether Selection;
17. Trial Preparation;
18. Trial;
19. Appeal;
20. Client Communications; and
21. Miscellaneous

The expenses were broken down by firm, individual that incurred the expense, classification of the expense, date incurred, description, and amount. As part of the MDL Co-Leads' first-tier review and approval with respect to time entries, Verus flagged for additional review any time that fell into the following categories: 1. Any billing entry that exceeded 8 hours; 2. Any biller who exceeded 12 hours in a day; 3. Any entries that related to the census from firms other than Lief, Weitz, and Beasley (the firms appointed to prepare the census). After further review of flagged entries, the MDL Co-Lead's reviewed those reports and had Verus remove entries that were in error. With respect to expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses and the supporting receipts to certify expenses were in compliance with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for "reasonableness."

Back-up information for all time and expenses summaries were provided to the undersigned on the Verus platform. The Special Master did not examine every time and expense entry for all forty law firms from November 2019 through April 2020. Rather, the Special Master reviewed the summaries and back-up on Verus exercising professional judgment to

ensure the tasks, time and expenses were appropriate, reasonable and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. All concerns of the Special Master were adequately addressed through this process.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP. During the block of time reviewed by the undersigned, there were 150 case filings (120 cases ascertaining personal injury and 30 putative class actions) that increased to 437 cases filings by April of 2020 in the MDL action naming 65 defendants (and 50 cases that grew to 90 cases pending in the JCCP). The plaintiffs include government entities including tribes. There are other matters, not presently part of the MDL or JCCP actions, which counsel have been monitoring in order to coordinate various activities, including Antitrust actions and actions pending in state courts across the country. For example, and as summarized more particularly above, in the subject months reviewed, the PSC, among other tasks, drafted a 728-page consolidated class complaint; a 288-page consolidated personal injury complaint; conducted extensive legal research; negotiated fact sheets; analyzed thousands of documents; drafted and served third-party discovery; negotiated deposition protocols and coordination orders; interviewed and retained testifying and consulting experts; produced approximately 450,000 pages and 15,000 native documents; researched and submitted requests for vendors to host and manage ESI and hard-copy documents.

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific

articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

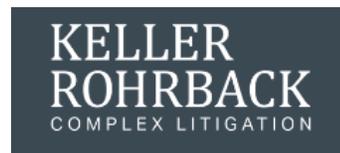
Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) set forth in CMO-5.

Based on a review of the billing and expense records and information presented, and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for the November 2019 through April, 2020 time period, the tasks, hours and expenses incurred to were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: February 12, 2021



Hon. Gail A. Andler (Ret.)



April 15, 2021

VIA E-MAIL (WHOCRD@cand.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report picks up where the last report—submitted February 12th—left off and provides time and expenses submitted by Participating Counsel from May 1, 2020 through August 31, 2020 ("current reporting period").

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed reasonable the tasks, time and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 2, detailing her review, findings and recommendations is enclosed herewith.

To this point, Co-Lead Counsel's review process has been focused on determining a baseline of objective compliance, which is necessary, but not sufficient to an ultimate endorsement or recommendation by the Co-Leads of an award of compensation on submitted

April 15, 2021

Page 2

time. For example, while Co-Leads have reviewed and approved the reasonableness of the time incurred by Participating Counsel, they have not approved the billing rates submitted.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 5,618.5 hours (\$3,104,992.00). During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 16,974.9 hours (\$8,096,981.60), Liaison Counsel firms submitted a total of 2,610.0 hours (\$1,382,502.00), and Authorized Counsel firms submitted a total of 1,296.5 hours (\$768,109.50). The total amount of hours submitted by all reporting firms for this period was 26,499.9 hours (\$13,352,585.10), and the total amount of hours submitted to date is 52,228.5 hours (\$28,235,953.85). Notably, several firms reported their hours after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual hours as of the current reporting period are 415 hours (\$200,864.70), and are detailed in the accompanying reports. The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and are continuing to develop an objective, metric-driven methodology for reconciling the appropriateness of rates and parity between attorneys.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$214,122.61; PSC firms submitted \$35,003.28; Liaison Counsel firms submitted \$16,091.90; and Authorized Counsel firms submitted \$1,918.67. The total amount of costs submitted by all reporting firms for this period was \$267,136.46, and the total amount of costs to date is \$2,061,647.87. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual contributions as of the current reporting period are \$3,588.13, and are detailed in the accompanying reports.

In terms of relative allocation and performance of common benefit work, to date the Co-Lead Counsel firms have performed approximately 25%; the PSC firms have performed approximately 58%; Liaison Counsel firms have performed approximately 10%; and Authorized Counsel have performed approximately 6%.

Co-Lead Counsel are working on responding to the Court's request for data regarding diversity in PSC assignments and looks forward to discussing this issue further with the Court.

With respect to out-of-pocket costs, to date the Co-Lead firms have incurred approximately 45%, the PSC firms have incurred approximately 45%, Liaison Counsel have incurred approximately 3%, and Authorized Counsel have incurred approximately 7%. These costs include the \$1,733,333.33 in common benefit assessments, \$800,000.00 of which were advanced by the Co-Leads and \$933,333.33 of which were collectively advanced by PSC firms, Liaison and Authorized Counsel.

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of

April 15, 2021

Page 3

common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we will submit these forthwith.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London", written in a cursive style.

Sarah R. London

Enclosures

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 2 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 2 covers common benefit time and expenses for the time period of May 1, 2020 through August 31, 2020. As set forth in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020 as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. The undersigned was also appointed on September 9, 2020 in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020 Case Management Order (“CMO”) No. 5 and May 27, 2020 CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. The PSC in the MDL and JCCP agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.”

The MDL Order of appointment as well as the JCCP Order of appointment in substantially similarly language specifies the scope of the undersigned duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants’ Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee (“PSC”), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.

II. SPECIAL MASTER’S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November, 2019 through and including April, 2020. This MDL Quarterly Report No. 2 covers billing and time summaries generated by Verus for the time period of May 1, 2020 through August 31, 2020. The total hours for this reporting period is 25,456.50 hours. The total for expenses is \$267,136.46. In addition, this Quarterly Report No. 2 also includes some residual records for time and expenses incurred from the period November 14, 2019 to April 30, 2020 (“Residual Submissions”) that were not included in Quarterly Report No. 1 due to late submissions to Verus. The total residual hours is 346.30 hours and the total residual expenses is \$3,710.42.

On March 30, 2021, the Co-Leads provided all the case management statements that were filed with the Court during this block of time for the Special Master’s review along with correspondence providing a description of the work undertaken by the PSC from May 2020 to August 2020. The PSC work during this block of time is summarized as follows:

Motions to Dismiss

The PSC researched, drafted, and responded to Defendants’ motions to dismiss on issues common across the individual cases, including issues such as federal preemption, FDA primary jurisdiction, RICO claims, as well as the California subclass and Government Entity claims in seven bellwether states. These consolidated responses exceeded 150-pages. The Court generally denied the motions to dismiss and permitted Plaintiffs to amend the Consolidated Class Action Complaint and Government Entity exemplar complaints to add further allegations in support of RICO claims and claims against the Director Defendants.

Amended Consolidated Pleadings and Antitrust Proceedings

On April 1, 2020, the FTC filed a complaint against Altria and JLI, alleging antitrust violations. The PSC briefed and argued a motion to amend the Consolidate Class Action Complaint to allege antitrust allegations. While the Court ultimately denied the motion to assert antitrust claims in the MDL, it permitted the Plaintiffs to amend their complaint to add the additional

allegations to support their underlying claims. Per the Court's direction, the PSC engaged in numerous discussions with the antitrust plaintiffs to identify opportunities for coordination.

Discovery

The PSC drafted and served written discovery (including multiple sets of interrogatories to multiple defendants), more than ten sets of document requests, and issued more than 140 third-party subpoenas. The PSC met and conferred with JLI and Altria regarding ESI custodians and search terms and engaged in Rule 26(f) discussions with Director, Retailer, Distributer, and E-Liquid Defendants. Disputes were briefed and argued, including proposed amendments to Plaintiff Fact Sheets (both Personal Injury and Government Entity) and authentication of Defendants' documents. The PSC reviewed and analyzed documents among the more than 1.5 million pages produced by JLI and Altria to government authorities. The PSC drafted and negotiated a remote deposition protocol to facilitate depositions during the pandemic.

Bellwether Selection

The PSC researched, briefed and argued for a bellwether selection procedure for the personal injury and government entity plaintiffs. The Court largely adopted Plaintiffs' proposals after several rounds of briefing.

Coordination

The Co-Leads and Liaison counsel negotiated an agreed proposed Common Benefit Order with leadership in the JCCP and interviewed and selected a Common Benefit Special Master to resolve disputes that may arise in time and expense submissions.

Experts

The PSC identified, researched and retained more than 20 experts in key liability and damages areas and continued to meet with retained experts to develop their testimony.

Case Management

The Co-Leads met weekly to discuss case strategy, management, and prepare for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC to discuss ongoing case developments. Each committee met on a regular basis to implement the case strategy.

Settlement

The Co-leads met with mediator Perrelli periodically to discuss resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM MAY 2020 TO AUGUST 2020

The present Quarterly Report No. 2 only includes the undersigned's review of the MDL's common benefit time and expense submissions from May 1, 2020 through August 31, 2020 and Residual Submissions, and only with respect to reasonableness of hours and categories of time. Prior to the undersigned's review of this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed in the first-tier review and vetted by the MDL Leadership. Similarly, the Special Master's review in this Quarterly Report No. 2 does not include JCCP's common benefit time and expense submissions which is set forth in a separate Quarterly Report No. 1 to the JCCP leadership.

On March 26, 2021 and April 7, 2021, the undersigned was provided billing and expense summaries generated by the Verus platform from May 1, 2020 through August 2020 and Residual Submissions representing time and expenses of forty law firms working in the MDL. The attorney time was broken down into twenty-one categories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties
4. Court Appearances;

5. Pleadings;
6. Written Discovery.
7. Plaintiff Discovery (Document Production, DME);
8. Document Review
9. Legal Research/Memorandum;
10. Scientific Research;
11. Motion/Briefs;
12. Depositions (Prepare/Take/Defend)
13. Class Certification/Notice;
14. Expert Consultants;
15. Settlement/Mediation
16. Bellwether Selection;
17. Trial Preparation;
18. Trial;
19. Appeal;
20. Client Communications; and
21. Miscellaneous

The expenses were broken down by: firm; individual who incurred the expense; classification of the expense; date incurred; description; and amount. As part of the MDL Co-Leads' first-tier review and approval with respect to time entries, Verus flagged for additional review any time that fell into the following categories: 1. Any billing entry that exceeded 8 hours; 2. Any biller who exceeded 12 hours in a day; and 3. Any entries that related to the census from firms other than Lief, Weitz, and Beasley (the firms appointed to prepare the census). After further review of flagged entries, the MDL Co-Leads reviewed those reports and had Verus remove entries that were in error. With respect to expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses and the supporting receipts to certify expenses were in compliance with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for "reasonableness." Any submission relating to time and expenses incurred

prior to entry of CMO-5 on January 13, 2020 were reviewed by the Co-Leads as to the appropriateness and reasonableness of the time and expenses using their best judgment.

Back-up information for all time and expense summaries after CMO-5 guidelines were in place were provided to the undersigned through Verus. The Special Master did not examine every time and expense entry for all forty law firms from May 2020 through August 2020 and the Residual Submissions. Rather, the Special Master reviewed the summaries and back-up from Verus exercising professional judgment to ensure the tasks, time and expenses were appropriate, reasonable and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. On April 2, 5, 6, and 7, 2021, concerns were communicated in writing with Co-Leads and all concerns of the Special Master were adequately addressed through this process.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP. During the reporting period reviewed by the undersigned from May 2020 to August 2020, there were substantial case filings reflecting 960 cases pending in the MDL by August of 2020 naming 76 defendants. This includes 810 personal injury cases and 114 government entity cases (including 79 school districts, 19 counties, one city and 15 tribes). During this time, the PSC researched, drafted and responded to multiple motions to dismiss. The consolidated responses exceed 150-pages. The PSC was also engaged in numerous discussions with the antitrust plaintiffs to identify opportunities for coordination. In addition, the PSC drafted and served written discovery. For example, the plaintiffs served 390 requests for production of documents and 42 interrogatories with subparts. During this reporting period, JLI produced approximately 4 million-pages of documents into the MDL Document Depository including re-produced regulatory production and other material culled from more than 46 custodians. The PSC reviewed and analyzed documents among the more than 1.5 million-pages produced by the JLI and Altria to government authorities. The PSC drafted and negotiated remote deposition protocol. The PSC researched, drafted and argued for a bellwether selection procedure and identified, researched and retained more than 20 experts in key liability and damage areas.

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) set forth in CMO-5.

Based on a review of the billing and expense records and information presented, and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for the May 2020 through August 2020 time period and the Residual Submissions, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: April 12, 2021



Hon. Gail A. Andler (Ret.)

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on April 12, 2021, I served the attached QUARTERLY REPORT NO. 2 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

Sarah London Esq.
Lieff, Cabraser, Heimann & Bernstein LLP
275 Battery St.
29th Floor
San Francisco, CA 94111
Phone: 415-956-1000
slondon@lchb.com
Parties Represented:

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Parties Represented:

Dena C. Sharp Esq.
Girard Sharp
601 California St.
Suite 1400
San Francisco, CA 94108
Phone: 415-981-4800
dsharp@girardsharp.com
Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on April 12, 2021.



Matthew Levington
JAMS
mlevington@jamsadr.com

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**SUPPLEMENTAL QUARTERLY REPORT NO. 2 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

On April 13, 2021, after the Special Master had already issued MDL Quarterly Report No. 2 the day prior, the Special Master was advised that due to issues Verus' accounting team experienced in capturing the time and expenses from counsel, Verus was providing revised information pertaining to the Master's summary of time and expenses as reported in MDL Quarterly Report No. 2. The MDL Quarterly Report No. 2 covered billing and time summaries generated by Verus for the period May 1, 2020 through August 31, 2020 ("Q2") and some residual records for time and expenses incurred for the period November 14, 2019 to April 30, 2020 ("Q1") that were not included in Quarterly Report No. 1 due to delayed submissions by the law firms to Verus. MDL Quarterly Report No. 2 provided a total summation of Q2 hours at 25,456.5 and Q1 residual submissions at 346.3 hours and \$3,710.42 in expenses. The updated information from Verus adjusted those total summations slightly to **26,499.9 total hours for Q2; and, 415 total hours and \$3,588.13 in total expenses for Q1 residual submissions.** These minor adjustments do not alter the Special Master's findings in the MDL Quarterly Report No. 2 that for the May 2020 through August 2020 time period and the Residual Submissions, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit.

Dated: April 14, 2021



Hon. Gail A. Andler (Ret.)

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on April 14, 2021, I served the attached SUPPLEMENTAL QUARTERLY REPORT NO. 2 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

Sarah London Esq.
Lieff, Cabraser, Heimann & Bernstein LLP
275 Battery St.
29th Floor
San Francisco, CA 94111
Phone: 415-956-1000
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Parties Represented:

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Dena C. Sharp Esq.
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San Francisco, CA 94108
Phone: 415-981-4800
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Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on April 14, 2021.



Matthew Levington
JAMS
mlevington@jamsadr.com



July 15, 2021

VIA E-MAIL (WHOCR@cd.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig., Case No. 3:19-md-02913-WHO*

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from September 1, 2020 through December 31, 2020 ("current reporting period"). Co-Lead Counsel have compiled time submissions preceding the interim leadership appointments and anticipate evaluating those submissions at a later date, in context of the overall litigation.

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed reasonable the tasks, time and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 3, detailing her review, findings and recommendations is enclosed herewith.

July 15, 2021

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To this point, Co-Lead Counsel's review process has been focused on determining a baseline of objective compliance, which is necessary, but not sufficient to an ultimate endorsement or recommendation by the Co-Leads of an award of compensation on submitted time. For example, while Co-Leads have reviewed and approved the reasonableness of the time incurred by Participating Counsel, they have not approved the billing rates submitted.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 5,063.1 (\$2,540,125.50). During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 17,170.3 hours (\$8,055,662.70), Liaison Counsel firms submitted a total of 226.4 hours (\$103,140.00), and Authorized Counsel firms submitted 856.0 hours (\$526,441.00). The total number of hours submitted by all firms submitting common benefit time is 23,315.8 hours (\$11,225,369.20). The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and will be assessing if there is some methodology to determine appropriateness of the rate and parity between counsel based upon objective factors.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$16,786.25; PSC firms submitted \$13,189.03; Liaison Counsel firms submitted \$0.00; and Authorized Counsel firms submitted \$1,374.55. The total amount of costs submitted by all reporting firms for this period was \$31,349.83. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports.

In terms of relative allocation and performance of common benefit work, the Co-Lead Counsel firms have performed approximately 22%; the PSC firms have performed approximately 74%; Liaison Counsel firms have performed approximately 1%; and Authorized Counsel have performed approximately 4%.

Regarding the Court's request for data regarding diversity in PSC assignments, Co-Lead Counsel intend to propose an amended CMO-5—addressing this issue—at the next status conference.

With respect to out-of-pocket costs, the Co-Lead firms have incurred approximately 54%, the PSC firms have incurred approximately 42%, Liaison Counsel have incurred 0%, and Authorized Counsel have incurred approximately 4%.

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

July 15, 2021

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If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we will submit these forthwith.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London", written in a cursive style.

Sarah R. London

Enclosures

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 3 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 3 covers common benefit time and expenses for the time period of September 1, 2020, through December 31, 2020. As set forth in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020, as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. (MDL Dkt. 680). The undersigned was also appointed on September 9, 2020, in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020, Case Management Order (“CMO”) No. 5 and May 27, 2020, CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. (MDL Dkt. 352, & 586). The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” (MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5). The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. (MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3). The PSC in the MDL and JCCP

agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.” (7-9-20 JCCP Order at 2:19-20).

The MDL Order of appointment as well as the JCCP Order of appointment in substantially similarly language specifies the scope of the undersigned duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants’ Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee (“PSC”), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” (MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13).

II. SPECIAL MASTER’S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November 2019 through and including April 2020. MDL Quarterly Report No. 2 covered billing and time summaries generated by Verus from May 1, 2020, through August 31, 2020.

This MDL Quarterly Report No. 3 covers billing summaries generated by Verus for the time period of September 1, 2020, through December 31, 2020 (*see*, Ex. A, Monthly Billing Summaries September 1, 2020 - December 31, 2020; Ex. B, Expense Summary September 1, 2020 – December 31, 2020). The total number of hours for this reporting period is approximately 23,316.4 hours. (Ex. A pg. 813)¹. The total amount of expenses is \$31,349.83. [Ex. B, pg. 9]. In addition, this Quarterly Report No. 2 also includes some residual records for expenses from three law firms incurred from the period May 1, 2020, to August 31, 2020 (“Residual Submissions”) that were not included in MDL Quarterly Report No. 2 due to late submissions to Verus. (*See*, Ex. C, Residual Expense May 1, 2020, to August 31, 2021). The total amount of residual expenses is \$3,755.13. (Ex. C, pg. 3).

On July 9, 2021, the Co-Leads provided all the case management statements that were filed with the Court during this block of time for the undersigned’s review along with correspondence providing a description of the work undertaken by the PSC from September 1, 2020 through December 31, 2021. The PSC work during this block of time is summarized as follows:

Amended consolidated and bellwether pleadings

The PSC researched, drafted, and filed the Consolidated Class Action Complaint and Government Entity exemplar complaints to add further allegations in support of RICO claims and claims against the Director Defendants, and to add 21 new class representatives.

Discovery

The PSC drafted and served more than 20 deposition notices, including ten 30(b)(6) notices covering more than 160 topics, written discovery (including multiple sets of interrogatories to

¹ Following issuance of Ex. A, on or about July 9, 2021, further adjustments were made to remove non-complying time and an updated number was not yet provided prior to issuance of this Quarterly Report No. 3.

multiple defendants), more than ten sets of document requests, an additional 16 third-party subpoenas, and negotiated with dozens of third parties over productions. The PSC met and conferred and ultimately reached agreement with JLI and Altria regarding ESI custodians and search terms and their responses to written discovery. The PSC also met and conferred with Director, Retailer, Distributer, and E-Liquid Defendants over their responses to written discovery, custodians, and search terms. Disputes were briefed and argued, including Plaintiffs' request for production of JLI's PMTA application, government entity fact sheets, Defendants' FOIA requests for government entities, discovery of named class representatives, and deposition scope and scheduling. The PSC negotiated and agreed upon a Fact Sheet Addendum and Retailer Defendant Fact Sheet Case Management Implementation Order, as well as an Amended Protective Order for Highly Confidential materials.

The PSC reviewed and analyzed documents among the more than 11.3 million pages produced by JLI and Altria, including productions from custodial searches and re-productions of material produced to government authorities. The PSC reviewed more than a dozen deposition vendor quotes, and then negotiated an agreement with a deposition vendor to handle depositions remotely during the pandemic. The PSC also reviewed and summarized transcripts and deposition exhibits from Rule 30(b)(6) depositions that were taken in *State of North Carolina ex rel. Joshua Stein, Attorney General v. Juul Labs, Inc.* This production consisted of 4,301 pages of testimony covering 22 days on 6 deposition notices and 30 deposition topics.

Bellwether Selection

The PSC researched, briefed, and argued *Lexecon* issues regarding bellwether selection for the personal injury plaintiffs. The Court largely adopted Plaintiffs' proposals. The parties met and conferred regarding the government entity bellwether selections and briefed disputed issues. Again, Plaintiffs' proposals were largely adopted.

Trial/Case theme development

The PSC participated in trial theme development with graphic artist and jury consultant Amy Hall. The PSC also conducted several online jury focus groups and convened a two-day meeting to share work product and brainstorm discovery themes and targets ("Juul School").

Coordination

The Co-Leads and Liaison counsel coordinated with the JCCP on discovery matters.

Experts

The PSC identified, researched, and retained 10 additional experts in key liability and damages areas and continued to meet with retained experts to develop their testimony.

Case Management

The Co-Leads met weekly to discuss case strategy, management, and prepare for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC to discuss ongoing case developments. Each committee met on a regular basis to implement the case strategy.

Settlement

The Co-leads met with Special Master Perrelli periodically to discuss resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM SEPTEMBER 1, 2020 THROUGH DECEMBER 31, 2020

The present Quarterly Report No. 3 only includes the undersigned's review of the MDL's common benefit time and expense submissions from September 1, 2020 through December 31, 2020 and Residual Submission, and only with respect to reasonableness of hours and categories of time for the common benefit. Prior to the undersigned's review of this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed and vetted by the MDL Leadership; however, the Special Master noted that much of the preliminary work continued to be properly allocated to paralegals and associates at lower billing rates as compared to entries for partners performing more

sophisticated analysis, review, and leadership tasks at higher billing rates. It should also be noted that, the Special Master's review in this Quarterly Report No. 3 does not include JCCP's common benefit time and expense submissions which is set forth in a separate Quarterly Report No. 3 to the JCCP leadership.

On June 23, 2021, the undersigned was provided billing and expense summaries generated by the Verus platform from September 1, 2020 through December 31, 2020 and Residual Submissions representing MDL expenses from May 1, 2020 to August 31, 2020. On July 8, 2021, the undersigned received correspondence from Verus confirming the accuracy of the data received in the reports. The attorney time was broken down into twenty-one categories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties
4. Court Appearances;
5. Pleadings;
6. Written Discovery.
7. Plaintiff Discovery (Document Production, DME);
8. Document Review
9. Legal Research/Memorandum;
10. Scientific Research;
11. Motion/Briefs;
12. Depositions (Prepare/Take/Defend)
13. Class Certification/Notice;
14. Expert Consultants;
15. Settlement/Mediation
16. Bellwether Selection;
17. Trial Preparation;
18. Trial;

19. Appeal;
20. Client Communications; and
21. Miscellaneous

The expenses were broken down by firm, individual who incurred the expense, classification of the expense, date incurred, description, and amount. As part of the MDL Co-Leads' first-tier review and approval with respect to time entries, Verus flagged for additional review any time that fell into the following categories: 1. Any billing entry that exceeded 8 hours; and, 2. Any biller who exceeded 12 hours in a day. After further review of flagged entries, the MDL Co-Lead's reviewed those reports and had Verus remove entries that were in error. With respect to expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses and the supporting receipts to certify expenses were in compliance with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for "reasonableness." With respect to expenses related to printing, conference calls, and Westlaw, Co-Leads confirmed on July 9, 2021, that they relied upon submitting counsel to submit only costs connected to common benefit work, and thereafter reviewed for appropriateness and reasonableness using their best judgment.

Back-up information for all time and expenses summaries after CMO-5 guidelines were in place were available to the undersigned through Verus. The Special Master did not examine every separate time and expense entry for each timekeeper from each law firm from September 1, 2020 through December 31, 2020 and the Residual Submissions. Rather, the Special Master reviewed the summaries and back-up from Verus exercising professional judgment to ensure the tasks, time and expenses were appropriate, reasonable and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. On July 8, 2021, concerns were communicated in writing to the Co-Leads and on July 9, 2021, all concerns of the Special Master were responded to and adequately addressed to the satisfaction of the Special Master. Prior to completing this report, the Special Master did a final "spot-check" of time

records for reasonableness and spoke to Co-Lead Counsel to discuss the amount of time represented by cumulative entries in a single day by selected billers. The Special Master learned that the subject time period was one involving intensive document review based on productions that had just occurred and review and coding needed to be completed before the depositions commenced. Generally the billers were associates and paralegals doing intensive first level document review which was described with sufficient specificity in the time records. The Special Master was satisfied with the explanations provided by Co-Lead Counsel, but it should be noted that the Special Master was lacking specific information regarding the experience level of the billers which could potentially be relevant to a determination that the number of hours expended was reasonable and necessary for the task. For example, document review by a first or second year attorney might take longer than document review by a fifth year associate, which is typically accounted for in the billing rate differential. Thus, the conclusion of the Special Master that the time expended was reasonable and necessary may be revisited if subsequent information provided to the Special Master requires adjustment on this basis.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP following review of the Joint Case Management Statements filed on September 16, 2020, October 14, 2020, November 18, 2020, and December 16, 2020 as well the discovery reports during this block of time including the October 6, 2020 Joint Letter brief regarding discovery on JUUL's Premarket Tobacco Product Applications ("PMTA"), the October 28, 2020 Joint Letter brief regarding class representative discovery issues, and the Joint Discovery Status Reports filed on November 16, 2020 and December 9, 2020. During the reporting period reviewed by the undersigned from September 1, 2020 to December 31, 2020, there were substantial case filings reflecting 1459 cases pending in the MDL by December of 2020 naming 83 defendants. This includes 1293 personal injury cases and 143 government entity cases (including 104 school districts, 19 counties, one city and 19 tribes). During this time, the PSC researched, drafted and Consolidated Class Action Complaint and Government Entity exemplar complaints. The PSC also researched, briefed and argued *Lexecon* issues regarding bellwether selection for the personal injury plaintiffs. The parties met and conferred regarding the government entity bellwether selections and briefed disputed issues. The PSC drafted and served more than 20 deposition notices including ten

30(b)(6) notices covering more than 160 topics. Plaintiffs had issued notices of third-party subpoenas to more than 140 entities or persons such as Amazon, Google, eBay, and Twitter and during this period issued an additional 16 third-party subpoenas. A number of third-party recipients produced documents which were reviewed and summarized while extensive meet and confer negotiations ensued as to other third-party subpoenas. *By December of 2020, JUUL had produced over 6.3 million pages of documents including re-productions of materials produced to federal and state authorities and Altria had produced 5.5 million pages of documents including re-productions of documents produced to the FTC. PSC reviewed and analyzed these documents.* This work was substantial and accounted for a large percentage of the hours submitted. With the Court's assistance, JUUL and Plaintiffs reached agreement on custodians and search terms for ESI productions. JUUL also produced its PMTA under the parties negotiated Amended Protective Order. Additionally, during this reporting period, the PSC researched and retained 10 additional experts in key liability and damages, attended monthly Case Management conferences on September 21, October 16, November 17 and December 18, 2020, met weekly to discuss ongoing case developments, participated on October 28 and 29, 2020 in a JUUL School with JCCP leadership and met periodically with Special Master Perrelli.

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation

for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) set forth in CMO-5.

Based on a review of the billing and expense records and information presented and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for the September 1, 2020, through December 31, 2020, time period and the Residual Submission, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: July 12, 2021



Hon. Gail A. Andler (Ret.),

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on July 12, 2021, I served the attached QUARTERLY REPORT NO. 3 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

Sarah London Esq.
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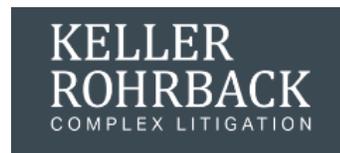
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Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on July 12, 2021.



Matthew Levington
JAMS
mlevington@jamsadr.com



January 20, 2022

VIA E-MAIL (WHOCR@cd.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from January 1, 2021 through August 31, 2021 ("current reporting period"). Co-Lead Counsel have compiled time submissions preceding the interim leadership appointments and anticipate evaluating those submissions at a later date, in context of the overall litigation.

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed reasonable the tasks, time and expenses set forth in the Common Benefit Report, subject to the ongoing audits described in her Report. Judge Andler's Quarterly Report No. 4, detailing her review, findings and recommendations is enclosed herewith.

To this point, Co-Lead Counsel's review process has been focused on determining a baseline of objective compliance, which is necessary, but not sufficient to an ultimate endorsement

or recommendation by the Co-Leads of an award of compensation on submitted time. For example, while Co-Leads have reviewed and approved the reasonableness of the time incurred by Participating Counsel, they have not approved the billing rates submitted.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 29,016.1 (\$14,092,005). During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 53,467.2 hours (\$27,451,048.20), Liaison Counsel firms submitted a total of 13,772.1 hours (\$6,691,945.50), and Authorized Counsel firms submitted 15,762.6 hours (\$7,708,489.00). The total number of hours submitted by all firms submitting common benefit time is 112,018 hours (\$55,943,487.70). The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and will be assessing if there is some methodology to determine appropriateness of the rate and parity between counsel based upon objective factors.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$367,870.88; PSC firms submitted \$619,606.40; Liaison Counsel firms submitted \$840,586.98; and Authorized Counsel firms submitted \$26,495.88. The total amount of costs submitted by all reporting firms for this period was \$1,854,560.14. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports.

In terms of relative allocation and performance of common benefit work, the Co-Lead Counsel firms have performed approximately 26%; the PSC firms have performed approximately 48%; Liaison Counsel firms have performed approximately 12%; and Authorized Counsel have performed approximately 14%.

With respect to out-of-pocket costs, the Co-Lead firms have incurred approximately 20%, the PSC firms have incurred approximately 33%, Liaison Counsel have incurred 45%, and Authorized Counsel have incurred approximately 1%.

Regarding the Court's request for data regarding diversity in PSC assignments, Co-Lead Counsel intend to submit a diversity report to the Court following the January 21, 2022 Conference.

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we will submit these forthwith.

Page 3

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Sarah R. London

Enclosures

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-MD-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 4 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 4 covers common benefit time and expenses for the period of January 1, 2021, through August 31, 2021. As outlined in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020, as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. (MDL Dkt. 680). The undersigned was also appointed on September 9, 2020, in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020, Case Management Order (“CMO”) No. 5 and the May 27, 2020, CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. (MDL Dkt. 352, & 586). The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” (MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5). The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. (MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3). The PSC in the MDL and JCCP

agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.” (7-9-20 JCCP Order at 2:19-20).

The MDL Order of appointment, as well as the JCCP Order of appointment in substantially similar language, specifies the scope of the undersigned’s duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis, and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information

contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants' Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee ("PSC"), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” (MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13).

II. SPECIAL MASTER'S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November 2019 through and including April 2020. MDL Quarterly Report No. 2 covered billing and time summaries generated by Verus from May 1, 2020, through August 31, 2020. MDL Quarterly Report No. 3 covered billing summaries generated by Verus for the period of September 1, 2020, through December 31, 2020. The present MDL Quarterly Report No. 4 covers billing summaries generated by Verus for the period January 1, 2021, through August 31, 2021. (*see*, Ex. A, MDL Time Detail January 2021 - August 2021; Ex. B, Expense Detail Report January 2021 – August 2021). The undersigned reviewed Excel Verus reports including (1) MDL Time (Summary) January 2021 – August 2021; (2) MDL Time (Detail) January 2021 – August 2021; (3) MDL Law Firm Listing; (4) MDL Expense (Summary) January 2021 – August 2021; (5) MDL Expense (Detail) January 2021 – August 2021; (6) MDL 12HR+ (Per Day) Report January 2021 – August 2021; (7) MDL 8HR+ Report January 2021 – August 2021; (8) Leaderships' comments on MDL Expense (Detail) January 2021 – August 2021; (9) Leaderships' comments on MDL Time (Detail) January 2021 – August 2021; (10) Residual Time Summary; and (11) Weitz Residual Time (Detail) January 2021 – August 2021. The total hours for this reporting period is approximately 111,346.50 hours. (Ex. A). The total expenses is \$2,049,911.21. (Ex. B). In addition, this Quarterly Report No. 4 also includes some residual submission from Co-Lead Counsel Weitz & Luxenberg, P.C. for the period January 2021 – August 2021 (“Residual Submissions”) that late submissions to Verus and not included in the initial time detail reports for Q4. (*See*, Ex. C, Residual Submissions). The total Residual Submission is 1,493.1 hours. (Ex. C).

In order to appreciate the significant activity that occurred during the present reporting period, Leadership provided the undersigned with the following documents to review: (1) 1-8-21 Joint Discovery Status Report; (2) 1-13-21 Joint Case Management Conference Statement and Proposed Agenda; (3) 2-5-21 Joint Discovery Status Report; (4) 2-17-21 Joint Case Management Conference Statement and Proposed Agenda; (5) 3-8-21 Joint Discovery Status Report; (6) 3-22-21 Joint Discovery Report; (7) 3-24-21 Joint Case Management Conference Statement and

Proposed Agenda; (8) 4-13-21 Joint Discovery Status Report; (9) 4-14-21 Joint Case Management Conference Statement and Proposed Agenda; (10) 4-27-21 Joint Discovery Status Report; (11) 5-7-21 Joint Discovery Status Report; (12) 5-19-21 Joint Case Management Conference Statement and Proposed Agenda; (13) 6-14-21 Joint Discovery Status Report; (14) 6-16-21 Joint Case Management Conference Statement and Proposed Agenda; (15) 6-17-21 Supplemental Joint Case Management Statement Regarding Governmental Selection and Scheduling Issues; (16) 6-28-21 Joint Discovery Status Report; (17) 7-14-21 Joint Case Management Conference Statement and Proposed Agenda; (18) 7-23-21 Joint Discovery Status Report; (19) 8-16-21 Joint Discovery Status Report; and (20) 8-18-21 Joint Case Management Conference Statement and Proposed Agenda.

Based on upon the undersigned's review of the preceding documents and the narrative provided by Leadership to the undersigned on January 8, 2022, the primary work was undertaken during the present reporting period from January 1, 2021, through August 31, 2021, is summarized as follows:

Amended Consolidated and Bellwether Pleadings

The PSC researched, drafted, and filed the Second Amended Consolidated Class Action Complaint and Government Entity briefing Bellwether Complaints to add further allegations in support of RICO claims and claims against the Director Defendants and to add 21 new class representatives. They also researched, drafted, and filed Amended Personal Injury Complaints for Bellwether Personal Injury Pool and final selections. Additionally, the PSC Tribal Subcommittee filed amended complaints.

Discovery

The PSC prepared for and took more than 52 generic fact depositions of JLI, Altria, Director Defendant, and third-party witnesses, including multiple 30(b)(6) depositions covering more than 160 topics and two apex depositions. The PSC summarized depositions on a rolling basis. The Co-Leads sought the appointment of a Special Master to oversee depositions, researched and interviewed candidates, and met and conferred with defendants, resulting in the

appointment of Retired Judge Stephen Larson. Judge Larson attended and guided dozens of depositions, resolving disputes and keeping discovery moving on pace.

The PSC continued to draft written discovery (including multiple sets of interrogatories to multiple defendants), issue third-party subpoenas, and negotiate with dozens of third parties overproductions. The PSC met and conferred and ultimately reached an agreement with Altria regarding additional ESI custodians and search terms and their responses to written discovery. The PSC also met and conferred with Director, Retailer, Distributor, and E-Liquid Defendants over their responses to written discovery, custodians, and search terms.

The PSC continued to review and analyze documents among the more than 29 million pages produced by JLI, Altria, and the Director Defendants including productions from custodial searches and re-productions of material produced to government authorities.

The PSC responded to written discovery directed to PI bellwether pool candidates, including contention interrogatories, reviewed and produced thousands of pages of documents, and defended dozens of depositions. Plaintiffs vetted and retained a vendor to assist with ESI searches and production of the social media material.

The PSC also responded to written discovery, including contention interrogatories, directed to the Government Entity Bellwether Plaintiffs. The Government Entity Bellwether Plaintiffs reviewed and produced hundreds of thousands of documents.

The PSC responded to written discovery, including contention interrogatories, directed to the class representatives; reviewed and produced responsive documents, including social media and medical records, and defended dozens of class representative depositions.

Disputes were briefed and argued, including Plaintiffs' request for production of JLI's correspondence with the FDA, government entity fact sheets, Defendants' social media and text message requests, parameters of compulsory medical exams, Defendants' requests to alter the

deposition protocol, requests for inspection of the E-Liquid facilities, the discovery of named class representatives and their friends and relatives, and deposition scope and schedule.

Privilege Challenges

The PSC reviewed, analyzed, and challenged multiple privilege logs encompassing more than 95,000 documents, resulting in several favorable orders compelling the de-designation of more than 15,000 documents. Plaintiffs also successfully challenged more than 1300 privilege claims on custodial documents, resulting in a withdrawal of privilege for approximately 500 documents. The PSC also met and conferred extensively regarding JLI's clawback notices covering approximately 370 documents and resolved nearly all disputes without court intervention.

Bellwether Selection

The parties met and conferred regarding the government entity bellwether selections and briefed disputed issues. The Court largely adopted Plaintiffs' proposals. The PSC analyzed the bellwether pool, exercised their strike, and advocated for the first four bellwether PI cases, resulting in the favorable selection. At the Court's request, the PSC researched and prepared letter briefs concerning multi-plaintiff personal injury bellwether trials.

Class Certification

The PSC, led by the class committee, filed a Motion for Class Certification with supporting expert declarations.

Experts

The PSC identified, researched, and retained 27 experts in key liability and damages areas and continued to meet with retained experts to develop their testimony, facilitate their review of documents and depositions, and prepare their expert reports. The class committee worked with five experts to prepare expert declarations in support of class certification and defended their depositions.

Case Management

The Co-Leads met weekly to discuss case strategy, management, and prepare for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC, to discuss ongoing case developments. Each committee met regularly to implement the case strategy.

At the Court's direction, the Co-Leads pioneered a system for tracking diversity, equity, and inclusion in MDL assignments. In consultation with the undersigned Special Master, and Yolanda Jackson, Executive Director and General Counsel of the Bar Association of San Francisco (BASF) and Executive Director of the Justice and Diversity Center (JDC), the Co-Leads proposed a survey for gathering salient metrics (*i.e.* race, gender identity, sexual orientation) as well as an updated proposed monthly time report form to facilitate the reporting of Common Benefit time with additional task codes reflecting leadership roles.

Trial/Case Theme Development

The PSC participated in a second trial theme development session with graphic artist and jury consultant, Amy Hall. The PSC also conducted several online jury focus groups and convened a second two-day meeting to share work product and brainstorm discovery themes and targets ("Juul Graduate School").

Trial Mechanics

The PSC continued to meet and confer with Defendants on trial mechanics, including preparing a jury questionnaire and list of witnesses they would like to call live in their case-in-chief.

Coordination

The Co-Leads and Liaison counsel coordinated with the JCCP on discovery matters.

Settlement

The Co-leads met with Special Master Perrelli periodically to discuss a resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM JANUARY 1, 2021 THROUGH AUGUST 31, 2021

The present Quarterly Report No. 4 only includes the undersigned's review of the MDL's common benefit time and expense submissions from January 1, 2021, through August 31, 2021, and Residual Submission, and only concerning the reasonableness of hours and categories of time for the common benefit. Before the undersigned reviewed this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed and vetted by the MDL Leadership. Similarly, the Special Master's review in this Quarterly Report No. 4 does not include JCCP's common benefit time and expense submissions which is outlined in a separate Quarterly Report No. 4 to the JCCP leadership.

On January 8, 2022, the undersigned was provided billing and expense reports generated by the Verus platform from January 1, 2021 through December 31, 2021 and Residual Submissions representing MDL time and expenses during the current reporting period. Consistent with the Third Amendment to the CMO 5, the attorney time was broken down into twenty-one categories and subcategories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties;
 - a. Case Management (Reports/Filing)
 - b. Case Management (Administrative)
4. Court Appearances;
 - a. preparation;
 - b. argument/presentation;
 - c. attendance at the direction of Leadership;
5. Pleadings;
6. Written Discovery;
 - a. written – propounding;

- b. dispute – analysis;
 - c. dispute – negotiate;
 - d. dispute – lead negotiation;
 - e. third party;
 - f. third party – lead negotiation analysis;
- 7. Plaintiff Discovery (Document Production, DME);
 - a. plaintiff discovery responses;
- 8. Document Review
- 9. Legal Research/Memorandum;
- 10. Scientific Research;
- 11. Motion/Briefs;
 - a. motions/briefs – Lead author;
 - b. motions/briefs
- 12. Depositions (Prepare/Take/Defend)
 - a. fact deposition – scheduling;
 - b. fact deposition – preparation;
 - c. fact deposition – questioning;
 - d. fact deposition – defending;
 - e. fact deposition – attendance at the direction of Leadership
- 13. Class Certification/Notice;
- 14. Expert Consultants;
 - a. administrative;
 - b. lead deposition preparation;
 - c. deposition preparation;
 - d. defending deposition;
 - e. taking deposition;
 - f. attending at the direction of Leadership;
 - g. preparation of reports
- 15. Settlement/Mediation;
 - a. settlement/mediation;
 - b. administrative;
- 16. Bellwether Selection;
- 17. Trial Preparation;
- 18. Trial;

- a. bellwether trial – Lead Counsel;
 - b. bellwether trial – oral argument;
 - c. bellwether trial – attend at the direction of Leadership
 - d. bellwether trial – presentation of evidence/cross-exam;
 - e. bellwether trial – jury selection;
 - f. bellwether trial – administrative;
 - g. bellwether trial – lead negotiation
 - h. bellwether trial – witness preparation;
- 19. Appeal;
 - 20. Client Communications;
 - 21. Miscellaneous; and,
 - 22. Internal Presentation;
- a. Internal presentation - strategy/evidence/analysis - Lead presentation;
 - b. Internal presentation – strategy/evidence/analysis – preparation.

The expenses were broken down by firm, the individual that incurred the expense, classification of the expense, date incurred, description, and amount. As part of the MDL Co-Leads' first-tier review and approval concerning time entries, Verus flagged for additional review any time that fell into the following categories: 1. Any billing entry that exceeded 8 hours; and, 2. Any biller who exceeded 12 hours in a day. After further review of flagged entries, the MDL Co-Leads reviewed those reports and had Verus remove entries that were in error. Concerning expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses, and the supporting receipts to certify expenses complied with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for "reasonableness."

Back-up information for all time and expenses summaries after CMO-5 guidelines were in place were available to the undersigned through Verus. The Special Master did not examine every separate time and expense entry for each timekeeper from each law firm from January 1, 2021, through August 31, 2021, and the Residual Submissions. Rather, the Special Master reviewed the summaries, reports, and backup receipts from Verus exercising professional judgment to ensure the tasks, time and expenses were appropriate, reasonable, and for the common benefit. The Special Master independently reviewed the data looking for flags or

anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads.

On January 10, 2022, concerns were communicated in writing with Co-Leads. On January 11, 2022, and January 14, 2022, Leadership and the undersigned discussed all these irregularities and concerns. Although approximately nine law firms had zero time entered in Verus, Leadership explained only three of the law firms did common benefit work and their time would be inputted into the Verus platform and would roll over to the next reporting period for the undersigned's review under residual submissions. As to time billed for preparing, taking and defending depositions, Leadership explained they are currently conducting an audit of all time relating to depositions to ensure compliance with CMO 5. Leadership advised the Special Master that the audit will be completed and available for the undersigned by the next reporting period. The Special Master is therefore deferring approval of time relating to depositions for the present time period of January 2021 through August 2021, until the next reporting period when the audit will be available. As to the undersigned's concerns about possible block billing where timekeepers had multiple entries (some over 40 entries and others over 100 entries) of a flat 8.0 hours for document review, Leadership explained timekeepers were instructed to bill no more than 8.0 hours for document review. As such, timekeepers that spent more than the 8.0 hours in document review just billed a flat 8.0 hours. Timekeepers were reminded by Leadership of best practices and instructed to bill their actual time. Accordingly, all concerns of the Special Master were responded to and adequately addressed to the satisfaction of the Special Master.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP following a review of the Joint Case Management Statements and Joint Discovery Status Reports set forth above. At the beginning of the current reporting period in January 2021, 1733 cases were pending in the MDL naming 101 defendants. This includes 1539 personal injury cases and 161 government entity cases (including 119 school districts, 20 counties, two cities, and 20 tribes). (*See*, 1-13-21 Joint Case Management Conference Statement). At the end of the current reporting period in August 2021, 2540 cases were pending in the MDL naming 108 defendants. This includes 1540 personal injury cases and 161 government entity cases (including 120 school districts, 20

counties, two cities, and 25 tribes). (*See*, 8-18-21 Joint Case Management Conference Statement).

During this reporting period, the PSC researched, drafted and filed the Second Amended Consolidated Class Action Complaint and Government Entity briefing Bellwether Complaints, added 21 new class representatives,rafted and filed Amended Personal Injury Complaints for Bellwether Personal Injury Pool and final selections, took more than 52 generic fact depositions of JLI, Altria, Director Defendant and third-party witnesses, including multiple 30(b)(6) depositions covering more than 160 topics and two apex deposition, drafted written discovery (including multiple sets of interrogatories to multiple defendants), issue third-party subpoenas, and negotiated with dozens of third parties over productions, met and conferred and ultimately reached agreement with Altria regarding additional ESI custodians, met and conferred with Director, Retailer, Distributer, and E-Liquid Defendants over their responses to written discovery, custodians and search terms, reviewed more than 29 million pages of documents produced by JLI, Altria, and the Director Defendants, responded to written discovery directed to PI bellwether pool candidates, retained a vendor to assist with ESI searches and production of social media material, responded to written discovery, including contention interrogatories, directed to the Government Entity Bellwether Plaintiffs and the class representatives; reviewed and produced responsive documents, including social media and medical records, and defended dozens of class representative depositions, challenged multiple privilege logs encompassing more than 95,000 documents, met and conferred regarding the government entity bellwether selections and briefed disputed issues, filed a Motion for Class Certification with supporting expert declarations, retained 27 experts in key liability and damages areas, met weekly with Co-Leads to discuss case strategy, management, and prepare for court conferences and meetings with the Special Masters. In addition, the Co-Leads pioneered a system for tracking diversity, equity, and inclusion in MDL assignments. The PSC also conducted several online jury focus groups and convened a second two-day meeting to share work product and brainstorm discovery themes and targets (“Juul Graduate School”). Finally, the Co-leads met with Special Master Perrelli periodically to discuss a resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER’S FINDINGS AND RECOMMENDATIONS

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) outlined in CMO-5.

Based on a review of the billing and expense records and information presented, and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for the January 1, 2021, through August 31, 2021 time period and the Residual Submission, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: January 18, 2022



Hon. Gail A. Andler (Ret.),
Special Master

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on January 18, 2022, I served the attached QUARTERLY REPORT NO. 4 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

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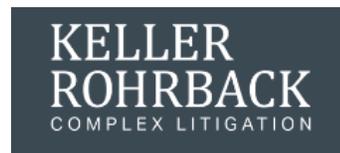
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Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on January 18, 2022.



Matthew Levington
JAMS
mlevington@jamsadr.com



May 2, 2022

VIA E-MAIL (WHOCRD@cand.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from September 1, 2021, through December 31, 2021 ("current reporting period").

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed appropriate, fair and reasonable, and for the common benefit, the tasks, time, and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 5, detailing her review, findings and recommendations is enclosed herewith.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 14,043.1 hours (\$7,248,780.00). During this same period, Plaintiff

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Steering Committee (PSC) firms submitted a total of 21,873.7 hours (\$10,940,287.20), Liaison Counsel firms submitted a total of 8,784.6 hours (\$4,550,640.00), and Non-Designated Counsel firms submitted a total of 2,912.6 hours (\$1,529,292.00). The total amount of hours submitted by all reporting firms for this period was 47,614.0 hours (\$24,268,999.20). Several firms reported their hours after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual hours as of the current reporting period are 5,865.1 hours (\$3,854,924.50), and are detailed in the accompanying reports. The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and are continuing to develop an objective, metric-driven methodology for reconciling the appropriateness of rates and parity between attorneys.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$1,158,296.37; PSC firms submitted \$740,133.00; Liaison Counsel firms submitted \$229,704.95; and Non-Designated Counsel firms submitted \$159,871.69. The total amount of costs submitted by all reporting firms for this period was \$2,188,006.01. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual contributions as of the current reporting period are \$712,165.18, and are detailed in the accompanying reports.

In terms of relative allocation and performance of common benefit work, during this period the Co-Lead Counsel firms have performed approximately 30%; the PSC firms have performed approximately 46%; Liaison Counsel firms have performed approximately 18%; and Non-Designated Counsel have performed approximately 6%.

As described in the attached demographic reports, Plaintiffs are making significant strides towards gender parity as women accounted for 40% of those who recorded time for court appearances and as lead author of briefs. There is also a fairly even distribution of timekeepers with varying levels of experience, though a significant majority of those taking depositions or appearing in court have more than ten years of experience. By contrast, a majority of lead authors of motions/briefs have less than 15 years of experience. Those who identify as LGBTQIA account for 5.6% of those who recorded time for oral argument, but only .2% of lead authors of briefs. There is significant work to be done with regard to racial diversity; White (not Hispanic or Latino) timekeepers make up greater than 60% of every timekeeping category, including an even larger proportion of those who argue motions, take depositions, or author briefs/motions. More details can be found in the attached reports. Plaintiffs look forward to discussing these reports with the Court.

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's

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independent review and award of common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

Erin Dickenson recently advised Co-Lead Counsel that she regrettably must step down from her role on the PSC due to other pressing commitments related to the opioid litigation. We have thanked her for her service and accepted her resignation, subject to the Court's approval. She is prepared to submit a letter to the Court or address the Court upon request.

Finally, Co-Lead Counsel respectfully request that the next Common Benefit Report, currently due on July 15, 2022, be submitted at the same time as the subsequent Common Benefit Report due on October 15, 2022. The next Common Benefit Report due date will occur during the first bellwether trial. An extension until October will allow Plaintiffs' counsel to focus their energies on the first bellwether trial and ensure sufficient time after the trial to review the submissions and prepare a complete report. We look forward to discussing this possibility with you at the next case management conference.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we welcome the opportunity to discuss any of these issues at a time convenient for the Court.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London", written in a cursive style.

Sarah R. London

Enclosures

2411382.1

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 5 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 5 covers common benefit time and expenses for the time period of September 1, 2021, through December 31, 2021. As set forth in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020, as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. (MDL Dkt. 680). The undersigned was also appointed on September 9, 2020, in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020, Case Management Order (“CMO”) No. 5 and the May 27, 2020, CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. (MDL Dkt. 352, & 586). The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs and resolve any common benefit disputes that may arise . . .” (MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5). The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. (MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3). The PSC in the MDL and JCCP

agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.” (7-9-20 JCCP Order at 2:19-20).

The MDL Order of appointment, as well as the JCCP Order of appointment in substantially similarly language, specifies the scope of the undersigned’s duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information

contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants' Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee ("PSC"), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” (MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13).

II. SPECIAL MASTER'S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November 2019 through April, 2020. MDL Quarterly Report No. 2 covered time and expenses incurred for the period from May 1, 2020, through August 31, 2020. MDL Quarterly Report No. 3 covered time and expenses incurred for the period of September 1, 2020, through December 31, 2020. MDL Quarterly Report No. 4 covered time and expenses incurred from January 1, 2021, through August 31, 2021.

The present MDL Quarterly Report No. 5 covers time and expense reports the undersigned received on April 21, 2022 from Verus, incurred by counsel during the time period of September 1, 2021, through December 31, 2021. (*see*, Ex. A, MDL Time Detail September 2021 - December 2021; Ex. B, Expense Detail Report September 2021 – December 2021). Specifically, the undersigned reviewed Excel Verus reports including (1) MDL Time (Summary) September 2021 – December 2021; (2) MDL Time (Detail) September 2021 – December 2021; (3) MDL Law Firm Listing; (4) MDL Expense (Summary) September 2021 – December 2021; (5) MDL Expense (Detail) September 2021 – December 2021; (6) MDL 12HR+ (Per Day) Report September 2021 – December 2021; and (7) MDL 8HR+ Report September 2021 – December 2021. The hours for this reporting period total approximately 47,654.80 hours. (Ex. A). The expenses for this reporting period total \$2,188,006.01. (Ex. B). In addition, this Quarterly Report No. 5 also includes residual submissions (Girard Sharp; Weitz & Luxenberg, P.C.; Beasley Allen; Levin Papantonio and Watts Guerra, LLP) (“Residual Submissions”) that were late and not included in the initial time and expert reports. (*See*, Ex. C, Residual Submissions). The total Residual Submission for expenses is \$712,165.18 and the total Residual Submission for time is 5,865.1 hours. (Ex. C).

On April 22, 2022, the undersigned also received four diversity reports as follows: (1) Demographic Report – Race Ethnicity; (2) Demographic Report - Years of Service; (3) Demographic report – Gender; and (4) Demographic Report – LGBTQIA. The undersigned noted but did not evaluate the reports, in deference to the scope of her appointment.

In order to appreciate the significance of the activity that occurred during the present reporting period, Leadership provided the undersigned with the following documents to review: (1) 9-15-21 Joint Case Management Conference Statement and Proposed Agenda; (2) 10-13-21 Joint Case Management Conference Statement and Proposed Agenda; (3) 10-15-21 Joint Discovery Status Report; (4) 11-3-21 Joint Case Management Conference Statement and Proposed Agenda; (5) 11-9-21 Joint Discovery Status Report; (6) 12-2-21 Joint Case Management Conference Statement and Proposed Agenda; and, (7) 12-10-21 Joint Case Management Conference Statement and Proposed Agenda.

Based upon the undersigned's review of the preceding documents and the narrative provided by Leadership to the undersigned on April 22, 2022, the primary work that was undertaken during the present reporting period from September 1, 2021, through December 31, 2021, is summarized as follows:

Experts

This reporting period was dominated by expert work. The PSC prepared and served 23 generic expert reports across all case groups in key liability and damages areas and prepared for and defended these expert depositions. The class committee deposed the Defendants' class certification experts and worked with three experts to prepare rebuttal expert declarations in support of class certification and defended their depositions. The PI bellwether Plaintiffs prepared and served case-specific expert reports, prepared for, and defended their experts' depositions, and took Defendants' generic and case-specific experts' depositions.

Discovery

The PSC completed generic discovery, including key apex fact witness depositions (i.e. JUUL's CEO and largest shareholder). The PSC summarized depositions on a rolling basis. The PSC continued to review and analyze documents among the more than 35 million pages produced by JLI, Altria, and the director defendants including productions from custodial searches and re-productions of material produced to government authorities.

The PSC responded to written discovery directed to PI bellwether plaintiffs, reviewed and produced thousands of pages of records and social media files, and took and defended case-specific bellwether depositions.

The PSC also responded to written discovery directed to the government entity bellwether plaintiffs. The Government Entity Bellwether Plaintiffs reviewed and produced hundreds of thousands of documents.

Disputes were briefed and argued, including the scope of Plaintiffs' injury claims, whether Defendants could compel invasive medical examinations, and requests to supplement expert reports.

Privilege challenges

The PSC reviewed, analyzed, and challenged multiple privilege logs encompassing more than 56,000 documents, resulting in the successful production of thousands of previously withheld documents.

Class Certification

The PSC, led by the class committee, filed a Reply in Support of their Motion for Class Certification with supporting rebuttal expert declarations. The PSC successfully briefed and argued disputed issues regarding the scope of rebuttal reports.

Motions/Hearings

The PSC argued class certification and the associated *Daubert* challenges. The PSC also briefed and argued Defendants' motions to dismiss the amended PI bellwether complaints and largely prevailed. The government entity committee successfully briefed and argued disputes regarding the sequencing of bellwether trials. The tribal committee briefed and successfully argued in opposition to the Defendants' motions to dismiss the tribal complaints. The PSC also researched and filed affirmative summary judgment motions and a *Daubert* motion against one of the Defendants' key experts – whom Defendants subsequently withdrew in the first bellwether case.

Case Management

The Co-Leads met weekly to discuss case strategy and management and prepared for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC to discuss ongoing case developments. Each committee met on a regular basis to implement the case strategy.

Trial/Case Theme Development

Lead trial counsel, with support from the PSC, participated in jury focus groups to test themes and get feedback on witnesses and case presentation.

Trial Mechanics

The PSC continued to meet and confer with Defendants on trial mechanics, including preparing a jury questionnaire and a list of witnesses they would like to call live in their case-in-chief.

Coordination

The Co-Leads and Liaison counsel coordinated with the JCCP on discovery matters.

Settlement

The Co-leads met with Special Master Perrelli periodically to discuss resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER’S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM SEPTEMBER 1, 2021 THROUGH DECEMBER 31, 2021

The present Quarterly Report No. 5 includes only the undersigned’s review of the MDL’s common benefit time and expense submissions from September 1, 2021 through December 31, 2021 and the Residual Submission, and only with respect to the reasonableness of hours and

categories of time for the common benefit. Prior to the undersigned's review of this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed and vetted by the MDL Leadership. The Co-Leads plan to assess rates further and discuss with the JCCP to determine whether further recommendations should be made. Similarly, the Special Master's review in this Quarterly Report No. 5 does not include JCCP's common benefit time and expense submissions which are set forth in a separate Quarterly Report No. 5 to the JCCP leadership.

On April 21, 2022, the undersigned was provided billing and expense reports generated by the Verus platform as specifically set forth above from September 1, 2021 through December 31, 2021 and Residual Submissions representing MDL time and expenses during the current reporting period. Consistent with the Third Amendment to the CMO 5, the attorney time was broken down into twenty-one categories and subcategories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties;
 - a. Case Management (Reports/Filing)
 - b. Case Management (Administrative)
4. Court Appearances;
 - a. preparation;
 - b. argument/presentation;
 - c. attendance at the direction of Leadership;
5. Pleadings;
6. Written Discovery;
 - a. written – propounding;
 - b. dispute – analysis;
 - c. dispute – negotiate;
 - d. dispute – lead negotiation;
 - e. third party;
 - f. third party – lead negotiation analysis;
7. Plaintiff Discovery (Document Production, DME);

- a. plaintiff discovery responses;
8. Document Review
9. Legal Research/Memorandum;
10. Scientific Research;
11. Motion/Briefs;
 - a. motions/briefs – Lead author;
 - b. motions/briefs
12. Depositions (Prepare/Take/Defend)
 - a. fact deposition – scheduling;
 - b. fact deposition – preparation;
 - c. fact deposition – questioning;
 - d. fact deposition – defending;
 - e. fact deposition – attendance at the direction of Leadership
13. Class Certification/Notice;
14. Expert Consultants;
 - a. administrative;
 - b. lead deposition preparation;
 - c. deposition preparation;
 - d. defending deposition;
 - e. taking deposition;
 - f. attending at the direction of Leadership;
 - g. preparation of reports
15. Settlement/Mediation;
 - a. settlement/mediation;
 - b. administrative;
16. Bellwether Selection;
17. Trial Preparation;
18. Trial;
 - a. bellwether trial – Lead Counsel;
 - b. bellwether trial – oral argument;
 - c. bellwether trial – attend at the direction of Leadership
 - d. bellwether trial – presentation of evidence/cross-exam;
 - e. bellwether trial – jury selection;
 - f. bellwether trial – administrative;
 - g. bellwether trial – lead negotiation
 - h. bellwether trial – witness preparation;

19. Appeal;
20. Client Communications;
21. Miscellaneous; and,
22. Internal Presentation;
 - a. Internal presentation - strategy/evidence/analysis - Lead presentation;
 - b. Internal presentation – strategy/evidence/analysis – preparation.

The expenses were broken down by firm, the individual that incurred the expense, classification of the expense, date incurred, description, and the amount. As part of the MDL Co-Leads' first-tier review and approval with respect to time entries, Verus flagged for additional review any time that fell into the following categories: (1) any billing entry that exceeded 8 hours; and, (2) any biller who exceeded 12 hours in a day. After further review of flagged entries, the MDL Co-Lead's reviewed those reports and had Verus remove entries that were in error. With respect to expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses and the supporting receipts to certify expenses were in compliance with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for "reasonableness."

Back-up information for all time and expenses summaries after CMO-5 guidelines were in place were available to the undersigned through Verus. The Special Master did not examine every separate time and expense entry for each timekeeper from each law firm from September 1, 2021 through December 31, 2021 and the Residual Submission. Rather, the Special Master reviewed the summaries, reports and back-up from Verus exercising professional judgment to ensure the tasks, time and expenses were appropriate, reasonable and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. On April 25, 2022, the Special Master communicated in writing to Leadership concerns and anomalies she found with respect to certain entries in the time and expenses reports. Between April 25, 2022 and April 27, 2022 the Special Master exchanged emails with Leadership discussing the status of the anomalies noted in the time and expense reports. By April 27, 2022, Leadership adequately addressed all concerns to the satisfaction of the Special Master.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP following a review of the Joint Case Management Statements and the Joint Discovery Status Reports set forth above. Specifically, at the beginning of the current reporting period in September 2021, there were 2,616 cases pending in the MDL naming 109 defendants. The total is broken down into 2,214 personal injury cases and 345 government entity cases (including 297 school districts, 20 counties, two cities and 26 tribes). (*See*, 9-15-21 Joint Case Management Conference Statement). By the end of the current reporting period in December 2021, the cases had grown to 2,947 cases pending in the MDL naming 109 defendants. This includes 2,429 personal injury cases and 462 government entity cases (including 414 school districts, 20 counties, two cities and 26 tribes). (*See*, 12-2-21 Joint Case Management Conference Statement).

During this reporting period, the parties met and conferred on a process for selecting further bellwether pools. The parties agreed to amendments or modifications to the then current Plaintiff Fact Sheet process to address issues concerning the accuracy and completeness of the submissions. The parties met and conferred and entered into a stipulation regarding a proposed schedule for resolving outstanding disputes related to the fact discovery and the supplemental bellwether discovery. The MDL Plaintiffs held weekly calls with JCCP counsel regarding discovery, as detailed by the Joint Coordination Order (CMO No. 9, ECF No. 572) and the Deposition Protocol (CMO No. 10, ECF No. 573). The parties also met and conferred on modifications to the case schedule (ECF No. 2168) to address the timing of depositions and reports for merits and case-specific experts for the first two personal injury bellwether cases and related issues. The parties attended several discovery conferences with Judge Corley. Significant law and motion activity occurred including briefing on class certification and opposing *Daubert* motions as to one of the Defendants' class certification. Plaintiffs submitted rebuttal reports from three of their five class certification experts, totaling more than 200 pages. The parties briefed the issues regarding their proposals on government entity bellwether sequencing. With respect to discovery, by the end of the reporting period in December 2021, JLI had produced approximately 9.8 million documents, consisting of over 28 million pages. JLI completed the vast majority of its production pursuant to the parties' agreed-upon search terms and protocol.

JLI continued to make rolling document productions including custodial files of individuals the Parties had identified as likely deposition witnesses and of documents produced in the State Attorney General cases. Plaintiffs noticed or requested more than 93 depositions of JLI-related witnesses. This includes at least 78 Rule 30(b)(1) or Rule 45 depositions. Plaintiffs completed 53 30(b)(1) depositions of current and former JLI employees. Altria produced approximately 877,000 documents consisting of over 6.6 million pages. These document productions included Altria's productions to the FTC. Plaintiffs took 20 depositions of current and/or former Altria employees. Plaintiffs also deposed five third-party witnesses. Plaintiffs issued third-party subpoenas to more than 190 entities or persons. In total, by the end of December 2021, responsive recipients had produced approximately 388,000 pages of documents. JLI had issued approximately 149 third-party subpoenas by December 2021. Plaintiffs disclosed twenty-five experts. By the end of the reporting period in December 2021, the parties had completed generic depositions of all of the Plaintiffs' experts, and the parties had scheduled the balance of the bellwether-specific expert depositions. Defendants disclosed twenty experts. By the end of the reporting period in December 2021, the parties had completed depositions of ten of the Defendants' experts.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation

for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) set forth in CMO-5.

Based on a review of the billing and expense records and information presented and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for the September 1, 2021, through December 31, 2021, time period and the Residual Submission, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: May 2, 2022



Hon. Gail A. Andler (Ret.),
Special Master

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on May 2, 2022, I served the attached QUARTERLY REPORT NO. 5 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

Sarah London Esq.
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Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on May 2, 2022.



Matthew Levington
JAMS
mlevington@jamsadr.com



October 15, 2022

VIA E-MAIL (WHOCR@cd.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from January 1, 2022 through July 31, 2022 ("current reporting period").

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (e.g. authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed appropriate, fair and reasonable, and for the common benefit, the tasks, time, and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 6, detailing her review, findings and recommendations is enclosed herewith.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 17,325.30 hours (\$10,218,495.00).

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During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 27,538.1 hours (\$14,920,519.90), Liaison Counsel firms submitted a total of 9,961.7 hours (\$5,872,818.00), and Non-Designated Counsel firms submitted a total of 2,183.1 hours (\$1,296,960.90). The total amount of hours submitted by all reporting firms for this period was 57,008.2 hours (\$32,308,794.30). Several firms reported their hours after the current reporting period, so they will appear in subsequent quarterly reports. There are no unreported residual hours as of the current reporting period, as stated in the accompanying reports. The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and are continuing to develop an objective, metric-driven methodology for reconciling the appropriateness of rates and parity between attorneys.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$2,255,713.71; PSC firms submitted \$1,051,850.90; Liaison Counsel firms submitted \$281,594.75; and Non-Designated Counsel firms submitted \$317,514.71. The total amount of costs submitted by all reporting firms for this period was \$3,906,674.07. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual contributions as of the current reporting period are \$403,543.65, and are detailed in the accompanying reports.

In terms of relative allocation and performance of common benefit work, during this period the Co-Lead Counsel firms have performed approximately 32%; the PSC firms have performed approximately 46%; Liaison Counsel firms have performed approximately 18%; and Non-Designated Counsel have performed approximately 4%.

As described in the attached demographic reports, Plaintiffs have achieved near gender parity in argument appearances and lead authoring of briefs, with more than 40% of recorded timekeepers identifying as female. Timekeepers who identified as LGBTQ accounted for 10.8% of time entries for lead authors on briefs and 6.4% of time entries for argument/presentation. Plaintiffs' counsel have opened up significant opportunities for younger attorneys. Attorneys with 10 to 15 years of experience accounted for the largest proportions of time recorded for court appearances and as lead author of briefs – 39.9% and 29.1%, respectively. Attorneys with 16 or more years of experience accounted for only 35% of time recorded for court appearances and 15.9% of time recorded as lead authors of briefs. And while time spent on preparation, questioning, taking, and defending of depositions was by predominantly white, male, and non-LGBTQ attorneys during the reported period, overall timekeeping for these activities was minimal during this phase of the litigation – only 1.2% of the total reported time. Racial diversity remains a work-in-progress. White (not Hispanic or Latino) timekeepers accounted for 60% of time recorded for court appearances and 87.6% of lead authors on briefs. More details can be found in the attached reports. Plaintiffs look forward to discussing these reports with the Court.

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Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of common benefit time or costs, must await further events as set forth in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

Finally, Co-Lead Counsel respectfully request that the next Common Benefit Report, currently due on January 15, 2023, be submitted at the same time as the subsequent Common Benefit Report due on May 15, 2023. The next Common Benefit Report due date will occur during the second bellwether trial, which begins on January 9, 2023. An extension until May 2023 will allow Plaintiffs' counsel to focus their energies on the second bellwether trial and ensure sufficient time after the trial to review the submissions and prepare a complete report. We look forward to discussing this possibility with you at the next case management conference.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we welcome the opportunity to discuss any of these issues at a time convenient for the Court.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sarah R. London', written in a cursive style.

Sarah R. London

Enclosures

2466317.1

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 6 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 6 covers common benefit time and expenses for the time period of January 1, 2022 through July 31, 2022. As set forth in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020, as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. (MDL Dkt. 680). The undersigned was also appointed on September 9, 2020, in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to the January 13, 2020, Case Management Order (“CMO”) No. 5 and the May 27, 2020, CMO No. 5(A) which established a Common Benefit Fee and Expense Fund. (MDL Dkt. 352, & 586). The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” (MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5). The MDL and JCCP have negotiated a Coordination Order and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively concerning discovery and coordination of the Lead Actions. (MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3). The PSC in the MDL and JCCP

agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.” (7-9-20 JCCP Order at 2:19-20).

The MDL Order of appointment, as well as the JCCP Order of appointment in substantially similarly language, specifies the scope of the undersigned’s duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads believe merit the Court’s attention. Because of the nature of the information

contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants' Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee ("PSC"), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” (MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13).

II. SPECIAL MASTER'S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November 2019 through April, 2020. MDL Quarterly Report No. 2 covered time and expenses for the period from May 1, 2020, through August 31, 2020. MDL Quarterly Report No. 3 covered time and expenses for the period of September 1, 2020, through December 31, 2020. MDL Quarterly Report No. 4 covered time and expenses from January 1, 2021, through August 31, 2021. MDL Quarterly Report No. 5 covered time and expenses from September 1, 2021, through December 31, 2021.

The present MDL Quarterly Report No. 6 covers billing summaries the undersigned received on October 3, 2022, from Verus for the time period January 1, 2022, through July 31, 2022. The undersigned reviewed Excel Verus reports including (1) MDL Time (Summary) January 2022 – April 2022; (2) MDL Time (Summary) May 2022 – July 2022; (3) MDL Time (Detail) January 2022 – April 2022; (4) MDL Time (Detail) May 2022 – July 2022; (5) MDL Law Firm Listing; (6) MDL Expense (Summary) January 2022 – April 2022; (7) MDL Expense (Summary) May 2022 – July 2022; (8) MDL Expense (Detail) January 2022 – April 2022; (9) MDL Expense (Detail) May 2022 – July 2022; (10) MDL 12HR+ (Per Day) Report January 2022 – April 2022; (11) MDL 12HR+ (Per Day) Report May 2022 – July 2022; (12) MDL 8HR+ Report January 2022 – April 2021; and (13) MDL 8HR+ Report May 2022 – July 2022. The total hours for this reporting period is approximately 57,102.10 hours (*i.e.* 37,503.80 total hours per the MDL Time Summary January 2022 – April 2022 + 19,598.30 per the MDL Time Summary May 2022 – July 2022 = 57,102.10). The total expenses for this reporting period is approximately \$3,980,062.29 (*i.e.* \$2,938,214.03 expenses total per the MDL Expenses Summary January 2022 – April 2022 + \$1,041,848.26 expenses total per MDL Expenses Summary May 2022 – July 2022 = \$3,980,062.29).

In order to appreciate the significant activity that occurred during the present reporting period, on October 4, 2022, Leadership provided the undersigned with the following documents to review: (1) 1-10-22 Joint Discovery Status Report; (2) 1-20-22 Joint Case Management Conference Statement and Proposed Agenda; (3) 2-14-22 Joint Discovery Status Report; (4) 2-

23-22 Joint Case Management Conference Statement and Proposed Agenda; (5) 3-23-22 Order Regarding Certain In Limine Issues; (6) 3-24-22 Joint Case Management Conference Statement and Proposed Agenda; (7) 4-12-22 Joint Case Management Conference Statement and Proposed Agenda; (8) 4-26-22 Order Regarding Motion to Strike re Cutler; (9) Stipulation and Order re Briefing Schedule on Rule 43 and Rule 32(a)(3) Motions; (10) 4-29-22 Order on Defendants' Motions for Summary Judgment Regarding B.B.; (11) 5-9-22 Civil Minutes re Pretrial Conference; (12) Order on Motions to Exclude; (13) 6-14-22 Joint Case Management Conference Statement and Proposed Agenda; (14) 6-28-22 Order on Motion for Class Certification and Related Daubert Motion; and (15) 7-13-22 Joint Case Management Conference Statement and Proposed Agenda.

Based upon the undersigned's review of the preceding documents and the narrative provided by Leadership to the undersigned on October 4, 2022, the main work that was undertaken during the present reporting period from January 1, 2022, through July 31, 2021, is summarized as follows:

Bellwether Trial Preparation

The PSC prepared for three bellwether trials, with the first trial (B.B. – personal injury) scheduled originally for April 2022, then moved to September 2022, and then reset for January 2023. The PSC briefed and argued Defendants' summary judgment motions, as well as Daubert motions as to nearly all generic experts and case-specific experts in the B.B. case (27 experts). Plaintiffs defeated the sprawling, several hundred-page Daubert attacks and summary judgment motions in nearly all respects, other than a Tennessee state law-specific issue as to the non-management directors. To streamline the trial and save time and costs, the Plaintiffs opted to dismiss the remaining managing directors.

Lead trial counsel, with PSC support, prepared and negotiated jury instructions, stipulations regarding Altria defendants, witness, and exhibit lists, and jury questionnaires. The team briefed numerous disputes, and largely prevailed on multiple issues, including supplemental witness disclosures, witness testimony via remote means, presentation of video deposition testimony during each party's case-in-chief, motions in limine, pretrial logistics, trial

length, interim schedules, and summary exhibits and scope of expert witness testimony about Juul sales in plaintiffs' community. Lead counsel worked with graphic artists and witnesses to prepare for direct examinations, prepared cross-examination outlines, prepared opening statement, closing argument and facilitated trial team meetings to hone the order of proof. Lead trial counsel, with support from the PSC, prepared and argued disputes at the pretrial conference, including bifurcation, Plaintiffs' affirmative summary judgment motions, motions in limine, and jury selection procedures. Trial counsel deposed Zach Frankel to establish the admissibility of the key documents.

The PSC also reviewed more than 100 depositions (from the MDL and other related actions) to select their deposition designations for trial, reviewed and responded to defendants' deposition designations, engaged in extensive negotiations with defense, and prepared the submissions with argument to the Special Master. Most of the trial preparation effort laid the foundation for future trials for MDL member cases. The second PI bellwether case team (Pesce) filed and responded to motions for summary judgment and met periodically to prepare for trial.

Government Entity and Tribal committees

The government entity committee worked with myriad experts to prepare 33 case-specific expert reports, spanning thousands of pages, as well as rebuttal reports, for the first six bellwether cases. PSC members took and defended dozens of expert depositions, and briefed and argued multiple disputes over the expert disclosures and scope and timing of expert discovery. The tribal subcommittee developed a bellwether selection process and conducted case-specific discovery.

Class Committee

The class committee, with support from the PSC, obtained class certification of nationwide and CA subclasses. The committee briefed a response to Defendants' 23(f) petitions and worked with experts to prepare a state-of-the-art class notice.

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Discovery

The PSC continued to review and analyze document productions that rolled in past the discovery cutoff, including hundreds of thousands of pages from retailer and distributor defendants, as well as likely trial witness custodial files with high TAR ratings. Disputes were briefed and argued, including privilege disputes over Plaintiffs' request for supplemental productions of JLI's correspondence with the FDA

Settlement

The Co-leads dedicated considerable time to working with the Court appointed settlement Special Master and the PSC to advance the cases toward resolution. The Co-leads successfully gained consensus among the PSC and worked collaboratively to maintain a constructive, unified position, and to respond to Juul's financial crisis arising from the FDA's decision to deny Juul's PMTA application. The Co-leads worked closely with bankruptcy counsel to prepare for a Juul chapter filing. The Co-leads also negotiated and obtained an amended Census order to aid in settlement and further bellwether selection.

Case Management

The Co-Leads met weekly to discuss case strategy, management, and prepare for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC to discuss ongoing case developments. Each committee met on a regular basis to implement the case strategy.

Coordination

The Co-Leads and Liaison counsel coordinated with the JCCP on discovery matters.

Settlement

The Co-leads met with Special Master Perrelli periodically to discuss resolution and responded to his requests for information and proposals.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM JANUARY 1, 2022 THROUGH JULY 31, 2022

The present Quarterly Report No. 6 only includes the undersigned's review of the MDL's common benefit time and expense submissions from January 1, 2022, through July 31, 2022, and only with respect to the reasonableness of hours and categories of time for the common benefit. Prior to the undersigned's review of this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not include a review of firm rates which are still being analyzed and vetted by the MDL Leadership. The Co-Leads plan to assess this further and discuss it with the JCCP to determine whether further recommendations should be made. Similarly, the Special Master's review in this Quarterly Report No. 6 does not include JCCP's common benefit time and expense submissions which will be set forth in a separate Quarterly Report No. to the JCCP leadership.

On October 3, 2022, the undersigned was provided billing and expense reports generated by the Verus platform from January 1, 2022, through July 31, 2022, representing MDL time and expenses during the current reporting period. Consistent with the Third Amendment to the CMO 5, the attorney time was broken down into twenty-one categories and subcategories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties;
 - a. Case Management (Reports/Filing)
 - b. Case Management (Administrative)
4. Court Appearances;
 - a. preparation;
 - b. argument/presentation;
 - c. attendance at the direction of Leadership;
5. Pleadings;
6. Written Discovery;

- a. written – propounding;
 - b. dispute – analysis;
 - c. dispute – negotiate;
 - d. dispute – lead negotiation;
 - e. third party;
 - f. third party – lead negotiation analysis;
7. Plaintiff Discovery (Document Production, DME);
 - a. plaintiff discovery responses;
 8. Document Review
 9. Legal Research/Memorandum;
 10. Scientific Research;
 11. Motion/Briefs;
 - a. motions/briefs – Lead author;
 - b. motions/briefs
 12. Depositions (Prepare/Take/Defend)
 - a. fact deposition – scheduling;
 - b. fact deposition – preparation;
 - c. fact deposition – questioning;
 - d. fact deposition – defending;
 - e. fact deposition – attendance at the direction of Leadership
 13. Class Certification/Notice;
 14. Expert Consultants;
 - a. administrative;
 - b. lead deposition preparation;
 - c. deposition preparation;
 - d. defending deposition;
 - e. taking deposition;
 - f. attending at the direction of Leadership;
 - g. preparation of reports
 15. Settlement/Mediation;
 - a. settlement/mediation;
 - b. administrative;
 16. Bellwether Selection;
 17. Trial Preparation;
 18. Trial;

- a. bellwether trial – Lead Counsel;
 - b. bellwether trial – oral argument;
 - c. bellwether trial – attend at the direction of Leadership
 - d. bellwether trial – presentation of evidence/cross-exam;
 - e. bellwether trial – jury selection;
 - f. bellwether trial – administrative;
 - g. bellwether trial – lead negotiation
 - h. bellwether trial – witness preparation;
19. Appeal;
 20. Client Communications;
 21. Miscellaneous; and,
 22. Internal Presentation;
 - a. Internal presentation - strategy/evidence/analysis - Lead presentation;
 - b. Internal presentation – strategy/evidence/analysis – preparation.

The expenses were broken down by firm, the individual that incurred the expense, classification of the expense, date incurred, description, and amount. As part of the MDL Co-Leads’ first-tier review and approval with respect to time entries, Verus flagged for additional review any time that fell into the following categories: (1) any billing entry that exceeded 8 hours; and, (2) any biller who exceeded 12 hours in a day. After further review of flagged entries, the MDL Co-Lead’s reviewed those reports and had Verus remove entries that were in error. With respect to expenses, the Time & Expense team at Ms. London’s firm performed an initial review of all expenses and the supporting receipts to certify expenses were in compliance with the CMO-5 guidelines. Thereafter, the Co-Leads did a review of the expenses for “reasonableness.”

Back-up information for all time and expense summaries after CMO-5 guidelines were in place were available to the undersigned through Verus. The Special Master did not examine every separate time and expense entry for each timekeeper from each law firm from January 1, 2022, through July 31, 2022. Rather, the Special Master reviewed the summaries, time-detail reports, and back-up from Verus exercising professional judgment to ensure the tasks, time, and expenses were appropriate, reasonable, and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. The Special Master’s

concerns were communicated in writing via email on October 7, 10, and 11, 2022, with Co-Leads and Co-Leads thereafter adequately addressed all the noted concerns to the satisfaction of the Special Master.

In assessing whether the time and expenses were properly requested, the Special Master has considered the size and complexity of the MDL and JCCP following a review of the Joint Case Management Statements, Joint Discovery Status Reports and relevant orders issued during the reporting period as set forth above. At the beginning of the current reporting period in January 2022, there were 3,142 cases pending in the MDL naming 109 defendants. This included 2,562 personal injury cases and 522 government entity cases (including 473 school districts, 21 counties, two cities, and 26 tribes). (*See*, 1-20-22 Joint Case Management Conference Statement, pg. 2:14-21). At the end of the current reporting period in July 2022, there were 3823 cases pending in the MDL naming 109 defendants. This includes 2,700 personal injury cases and 1,069 government entity cases (including 1,012 school districts, 27 counties, two cities, and 28 tribes). (*See*, 7-13-22 Joint Case Management Conference Statement, pg. 2:13-19).

During this reporting period from January 2022 through July 2022, significant law and motion activity occurred including an extensive briefing on class certification, *Daubert* motions, and summary judgment motions. In a 31-page opinion, Judge William Orrick denied JLI's motion for partial summary judgment and Altira's motion for summary judgment. (*See*, 4-29-22 Order on Defendants' Motions for Summary Judgment Regarding B.B.). In a 94-page opinion, Judge William Orrick granted the plaintiffs' motion for class certification. (6-28-22 Class Certification Order). Substantial time was also spent on trial preparation for the bellwether trials scheduled for November 7, 2022 (*San Francisco Unified School District*), January 9, 2023 (*B.B.*), April 17, 2023 (*Class*), June 12, 2023 (*Pesce*), and September 5, 2023 (*Tucson Unified School District*). (*See*, 7-13-22 Joint Case Management Conference Statement and Proposed Agenda, pg. 3:18-26). As to the *B.B.* personal injury trial, plaintiffs identified 26 generic and case specific experts. Through seven opening briefs, JLI moved to exclude or strike opinions, in whole or part, of 22 of plaintiffs' experts. Altira also moved to strike or exclude opinions of eight of plaintiffs' experts. The briefing included many hundreds of pages of arguments. In a

69-page opinion, Judge William H. Orrick ruled, for the most part, in favor of plaintiffs and against JLI and Altria's *Daubert* attacks. (*See*, 6-2-22 Order on Motions to Exclude).

During this reporting period, plaintiffs also continued to confer with Settlement Master Thomas J. Perrelli and cooperate with his recommendations. (*See*, 7-13-22 Joint Case Management Conference Statement and Proposed Agenda, pg. 9:12-13).

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A) which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenses in Section 11(C) set forth in CMO-5.

Based on a review of the billing and expense records and information presented, and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for

the January 1, 2022 through July 31, 2022 time period, the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master in connection with these billing and expense summaries or otherwise during this reporting period.

Dated: October 13, 2022



Hon. Gail A. Andler (Ret.),
Special Master

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on October 13, 2022, I served the attached QUARTERLY REPORT NO. 6 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

Sarah London Esq.
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Parties Represented:

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on October 13, 2022.



Matthew Levington
JAMS
mlevington@jamsadr.com



May 15, 2023

VIA E-MAIL (WHOCR@cd.uscourts.gov)

Honorable William H. Orrick
United States District Court
Northern District of California
450 Golden Gate Avenue
Courtroom 2, 17th Floor
San Francisco, CA 94102

*In re JUUL Labs, Inc., Marketing, Sales Practices, and Products
Liability Litig.*, Case No. 3:19-md-02913-WHO

Dear Judge Orrick:

Pursuant to the Court's instructions and the Amended Case Management Order No. 5 ("CMO-5"), Co-Lead Counsel respectfully submit the enclosed report of common benefit time and expenses recorded by Participating Counsel in the above-referenced matter ("Common Benefit Report"). Dkt. No. 381.

The enclosed Common Benefit Report provides time and expenses submitted by Participating Counsel from August 1, 2022 through January 31, 2023 ("current reporting period").

In accordance with the common benefit time keeping and expenses protocol set forth in CMO-5, Co-Lead Counsel have reviewed and approved the time entries and expenses listed in this report to confirm all aspects of qualitative evaluation (*e.g.* authorization, scope, and reasonableness). Additionally, and in accordance with the Court's order appointing her as Common Benefit Special Master (Dkt. No. 680), Judge Andler has reviewed and deemed appropriate, fair and reasonable, and for the common benefit, the tasks, time, and expenses set forth in the Common Benefit Report. Judge Andler's Quarterly Report No. 7, detailing her review, findings and recommendations is enclosed herewith.

For the current reporting period, the total hours submitted by the four Co-Lead Counsel firms was 14,205.3 hours (\$9,125,606.50).

May 15, 2023

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During this same period, Plaintiff Steering Committee (PSC) firms submitted a total of 8,082.5 hours (\$5,474,651.00), Liaison Counsel firms submitted a total of 9,140.0 hours (\$5,150,053.00), and Non-Designated Counsel firms submitted a total of 1,793.7 hours (\$1,096,550.00). The total amount of hours submitted by all reporting firms for this period was 33,221.5 hours (\$20,846,860.50). Several firms reported their hours after the current reporting period, so they will appear in subsequent quarterly reports. This report also includes a detail of unreported residual time in the amount of 1,425.0 hours (\$801,887.30). The dollar figures submitted here are based upon the billing rates submitted by the respective counsel, and as noted above, the Co-Leads have not approved the billing rates, and are continuing to develop an objective, metric-driven methodology for reconciling the appropriateness of rates and parity between attorneys.

For the current reporting period, the total expenses submitted by Co-Lead Counsel firms is \$983,765.68; PSC firms submitted \$635,199.55; Liaison Counsel firms submitted \$236,352.19; and Non-Designated Counsel firms submitted \$877,303.91. The total amount of costs submitted by all reporting firms for this period was \$2,732,621.33. Notably, several firms reported their assessment contributions after the current reporting period, so they will appear in subsequent quarterly reports. The previously unreported residual contributions as of the current reporting period are \$2,339,856.71, and are detailed in the accompanying reports.

In terms of relative allocation and performance of common benefit work, during this period the Co-Lead Counsel firms have performed approximately 42%; the PSC firms have performed approximately 24%; Liaison Counsel firms have performed approximately 27%; and Non-Designated Counsel have performed approximately 5%.

As described in the attached demographic reports, Plaintiffs have achieved near gender parity in argument appearances and lead authoring of briefs, with more than 40% of recorded timekeepers identifying as female. Timekeepers who identified as LGBTQ accounted for 21.4% of time entries for taking depositions. Plaintiffs' counsel have opened up significant opportunities for younger attorneys. Attorneys with 10 to 15 years of experience accounted for the largest proportions of time recorded for court appearances and taking expert depositions – 39.7% and 54.3%, respectively. Attorneys with 16 or more years of experience accounted for only 23.4% of time recorded for court appearances and 8.4% of time recorded as lead authors of briefs. Racial diversity remains a work-in-progress. White (not Hispanic or Latino) timekeepers accounted for 77% of time recorded for court appearances and 95% of lead authors on briefs. More details can be found in the attached reports. Plaintiffs look forward to discussing these reports with the Court.

Co-Lead Counsel have not made any representations or guarantees to any submitting counsel that any of their reported time or costs will or should be compensated or reimbursed by the Court. Any such recommendations, and the Court's independent review and award of common benefit time or costs, must await further events as set forth

May 15, 2023

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in CMO-5 and 5(A). Such an analysis will precede any submission of time or costs in connection with any future common benefit or class counsel fee and costs application.

If the Court has any questions or concerns about the process being followed, or would like additional information, records or variations on the provided reports, we welcome the opportunity to discuss any of these issues at a time convenient for the Court.

Respectfully,

A handwritten signature in black ink, appearing to read "Sarah R. London". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Sarah R. London

Enclosures

**JAMS ARBITRATION
JAMS REF. NO. 1200057171**

**IN RE JUUL LABS, INC. MARKETING, SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION, MDL Case No. 19-md-02913-WHO**

JUUL LABS PRODUCT CASES, JCCP LASC Case No. 5052

**QUARTERLY REPORT NO. 7 OF SPECIAL
MASTER TO THE MDL CO-LEADS**

I. SPECIAL MASTER APPOINTMENT AND DUTIES

The present MDL Quarterly Report No. 7 covers common benefit time and expenses from August 1, 2022, through January 31, 2023. In addition, the undersigned reviewed pre-MDL time and expenses from May 2018 through November 2019, previously uncaptured Baron & Bud and Walkup Melodia time and expenses, and residual time from November 2019 through July 2022. As outlined in Quarterly Report No. 1, the undersigned was appointed on June 19, 2020, as the Common Benefit Special Master in the above-referenced Multi-District Litigation against JUUL Labs, Inc. (“MDL”) by the Honorable William H. Orrick under Rule 53 of the Federal Rules of Civil Procedure. (MDL Dkt. 680). The undersigned was also appointed on September 9, 2020, in the above-referenced Judicial Council Coordinated Proceedings (“JCCP”) by the Honorable Ann I. Jones under California Code of Civil Procedure section 845. The MDL appointment relates to January 13, 2020, Case Management Order (“CMO”) No. 5 and the May 27, 2020, CMO No. 5(A), which established a Common Benefit Fee and Expense Fund. (MDL Dkt. 352, & 586). The scope of the appointment in both the MDL and JCCP is “to audit reported common benefit time and costs, and resolve any common benefit disputes that may arise . . .” (MDL Dkt. 586 at ¶27; 9-9-20 JCCP Order at 1:3-5). The MDL and JCCP have negotiated a Coordination Order, and the Plaintiffs’ Steering Committee (“PSC”) in the MDL and JCCP (collectively referred to as “Lead Actions”) have been working cooperatively

concerning the discovery and coordination of the Lead Actions. (MDL Dkt. No. 586, ¶3; 7-9-20 JCCP Order, ¶3). The PSC in the MDL and JCCP agreed that “parallel common benefit orders will facilitate cooperation and coordination between the federal and state cases.” (7-9-20 JCCP Order at 2:19-20).

The MDL Order of Appointment, as well as the JCCP Order of Appointment in substantially similar language, specifies the scope of the undersigned’s duties and authority as follows:

“3. Judge Andler’s duties will include monitoring, auditing, conducting legal analysis, and advising Co-Lead Counsel for Plaintiffs on all matters relating to common benefit time, fees, expenses and disbursements.

4. Judge Andler’s authority is limited to reviewing and making recommendations regarding submissions for common benefit fees and expenses. This shall include the authority to make initial determinations and findings regarding whether certain tasks, categories of costs, or level of fee requests are properly sought. To the extent carrying out such duties requires construing agreements, interpreting orders, resolving disputes that may arise between any parties authorized to submit common benefit time and or expenses, and or reviewing evidence, Judge Andler shall have that authority as well. Judge Andler will not adjudicate or assist the Court with adjudicating any issue outside the propriety of requests for common benefit fees and costs.

5. In keeping with the procedure set forth in Case Management Order No. 5 (“CMO-5”), Co-Lead Counsel for Plaintiffs shall submit quarterly reports of all approved common benefit fees and expenses sought in this proceeding, beginning August 15, 2020. Judge Andler shall provide quarterly reports to the MDL Co-Leads and JCCP Co-Leads for Plaintiffs (“JCCP Co-Leads”) as to her review of the common benefit time and cost submissions. Within thirty days of each report being provided to the MDL Co-Lead Counsel for Plaintiffs, the MDL Co-Lead Counsel for Plaintiffs shall submit a report to the Court, including Judge Andler’s findings, as well as any matters that the Co-Leads

believe merit the Court's attention. Because of the nature of the information contained in this submission, it may be made *ex parte* and will not be submitted to Defendants or Defendants' Counsel and will not be posted on any docket.

6. As Special Master, Judge Andler shall maintain those records upon which she bases her recommendations as set forth in her quarterly reports on a platform established by the Plaintiffs Steering Committee ("PSC"), in consultation with the JCCP leadership, for entry or analysis of common benefit time and expenses, and shall make those records available for inspection.

7. Prior to the submission of the quarterly report described in CMO-5 and CMO- 5(A), Judge Andler shall work directly with the MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads to resolve any issues regarding the quarterly fee and expense requests. Judge Andler has the authority to schedule and sequence this review process as she deems appropriate. Judge Andler shall have authority to alter the reporting deadlines specified in CMO-5 to accommodate her supervisory role, informally resolve any disputes, and ensure that each quarterly report is complete.

8. Judge Andler shall be responsible for and shall have the authority to engage appropriate support personnel to assist in carrying out her duties as Special Master.

9. With approval from MDL Co-Lead Counsel for Plaintiffs and the JCCP Co-Leads, Judge Andler may have *ex parte* communications with any attorney submitting requests for common benefit time or expenses. Where necessary, the existence of such communications and their contents shall be noted and reasonably summarized in the quarterly report. Judge Andler may communicate to the Court—on an *ex parte* basis—non-confidential information where necessary for the full and fair implementation of this Order.” (MDL Dkt. No. 680 at 1:24-3:23; *see also*, JCCP 9-9-20 Order at 1:6-2:13).

II. SPECIAL MASTER'S REVIEW OF MDL TIME AND EXPENSES

The first MDL Quarterly Report covered billing summaries generated by Verus representing the MDL time and expenses for each month from November 2019 through April 2020. MDL Quarterly Report No. 2 covered time and expenses from May 1, 2020, through August 31, 2020. MDL Quarterly Report No. 3 covered time and expenses from September 1, 2020, through December 31, 2020. MDL Quarterly Report No. 4 covered time and expenses from January 1, 2021, through August 31, 2021. MDL Quarterly Report No. 5 covered time and expenses from September 1, 2021, through December 31, 2021. MDL Quarterly Report No. 6 covered time and expenses from January 1, 2022, through July 31, 2022.

The present MDL Quarterly Report No. 7 covers billing detail and summaries the undersigned received on April 24, 2023, from Verus from August 1, 2022, through July 31, 2023. The undersigned reviewed Excel Verus reports, including (1) MDL Time (Summary) August 2022 – January 2023; (2) MDL Time (Detail) August 2022 – January 2023; (3) MDL Law Firm Listing; (3) MDL Expense (Summary) August 2022 – January 2023; (5) MDL Expense (Detail) August 2022 – January 2023; (4) MDL 12HR+ (Per Day) Report August 2022 – January 2023; and (5) MDL 8HR+ Report August 2022 – January 2023. The Special Master also received from Verus billing detail and summaries that included (6) pre-MDL time and expenses from May 2018 through November 2019, (7) previously uncaptured Baron & Bud and Walkup Melodia time and expenses from January 2020 through May 2022, and (8) residual time and expenses from November 2019 through July 2022.

The total hours for August 2022 to January 2023 is approximately 33,221.50 hours (not including Pre-MDL time, Residual time, and previously uncaptured time from Baron & Bud and Walkup Melodia) totaling \$20,846,860.50. There was a total of 1,425 previously unreported residual hours totaling \$801,887.30. In addition, there was 1,491.50 of previously uncaptured time from Baron & Bud and Walkup Melodia totaling \$958,157.50. Finally, there were 13,876.9 hours of pre-MDL time totaling \$9,860,877.70.

The total expenses for this reporting period are approximately \$2,732,621.33 (not including Pre-MDL expenses, Residual expenses, and previously uncaptured expenses from Baron & Budd and Walkup Melodia). The previously uncaptured expenses are approximately \$2,339,856.71. The previously uncaptured Baron & Budd and Walkup Melodia expenses are approximately \$355,124.50. Finally, the pre-MDL expenses are approximately \$198,951.76.

To appreciate the significant activity that occurred during the present reporting period, on April 25, 2023, Leadership provided the undersigned with the following documents to review: (1) 8-24-22 Joint Case Management Conference Statement and Proposed Agenda; (2) 9-14-22 Joint Case Management Conference Statement and Proposed Agenda; (3) 10-06-22 Joint Case Management Conference Statement and Proposed Agenda; (4) 10-20-22 Joint Case Management Conference Statement and Proposed Agenda; (5) 11-27-22 Joint Case Management Conference Statement and Proposed Agenda; (6) 12-14-22 Joint Case Management Conference Statement and Proposed Agenda; and (7) 1-18-23 Joint Case Management Conference Statement and Proposed Agenda.

Based upon the undersigned's review of the preceding documents and the narrative provided by Leadership to the undersigned on April 26, 2023, the main work that was undertaken during the present reporting period from August 1, 2022, through January 31, 2023, is summarized as follows:

Bellwether trial preparation

The PSC prepared for two bellwether trials. The PSC completed preparation for the first trial (B.B. – personal injury), which was scheduled for September 2022 and then reset for January 2023. The PSC simultaneously prepared the second trial (San Francisco Unified School District – government entity) initially planned for November 2022 but reset for April 2023.

Preparation of the SFUSD trial was substantially distinct from the B.B. trial, as it involved five additional Defendants and had different causes of action, including a complex RICO conspiracy claim. Lead trial counsel, with PSC support, prepared and negotiated jury instructions, witness and exhibit lists, and jury questionnaires. The team briefed and argued

multiple motions for summary judgment, *motions in limine*, and opposed hundreds of pages of *Daubert* challenges. The team also briefed numerous disputes and largely prevailed on various issues, including priority challenges to advisory rulings on objections to critical deposition testimony, pretrial logistics, and interim schedules. With the support of the PSC, lead trial counsel defended the case-specific depositions of multiple expert and fact witnesses, including those likely to testify at trial.

The PSC also reviewed more than 100 depositions (from the MDL and other related actions) to select their deposition designations for trial, reviewed and responded to defendants' deposition designations, and engaged in extensive negotiations with the defense. The PSC fully prepared for the November SFUSD trial, submitting a Joint Pretrial Conference Statement and appearing at the October 25 Pretrial Conference. On November 9, the Court reset the SFUSD trial for April 2023. The trial preparation efforts have laid the foundation for future trials for personal injury (B.B.) and government entity (SFUSD) MDL member cases.

Government entity and Tribal committees

The government entity committee was devoted to the preparation of the SFUSD bellwether trial, which (in addition to the work noted above) included the preparation of the government entity-specific experts for trial. The tribal subcommittee briefed and argued motions to dismiss and engaged in discovery in all three of their bellwether cases.

Class committee

Following the Court's June certification of a nationwide class, the class committee, with support from the PSC, prepared a class certification notice program, completed a preliminary approval briefing, and iterated proposed claim forms. The committee finished briefing Defendants' 23(f) petitions and (before the class trial being reset for 2024) began working on pre-trial matters, including evaluations of experts to use in class cases and the scope of testimony.

Personal Injury Committee

In addition to finalizing preparation for the B.B. trial, the personal injury committee worked extensively on settlement negotiations, including multiple rounds of mediation with the Court appointed settlement special master Tom Perrelli.

Post-settlement, the committee began implementing the settlement programs, including meetings with ethics counsel and the personal injury Settlement Oversight Committee (SOC) of the MDL and JCCP to develop an ethically and medically appropriate matrix for the settlement of personal injury claims.

Settlement

On December 6, 2022, the Co-leads announced that the Plaintiffs, JLI, the Director Defendants, the E-Liquid Defendants, the Retailer Defendants, and the Distributor Defendants reached an agreement that will create settlement programs to resolve the personal injury, class, tribal, and government entity cases as to those entities and individuals.

Following the initial denial of JLI's PMTA and its resultant financial crisis, negotiating this settlement required a vast amount of time and resources. Balancing appropriate protection of Plaintiffs' interests with Defendants' complex requirements required drafting (and continuously iterating) over thirty separate agreements. It also required the creation of a trust and extensive work with bankruptcy counsel. Each committee was heavily involved in supporting this process and has subsequently worked on implementing their respective settlement programs.

Case Management

The Co-Leads met weekly to discuss case strategy and management and to prepare for court conferences and meetings with the Special Masters. The PSC committee chairs met weekly, as did the PSC, to discuss ongoing case developments. Each committee met regularly to implement the case/settlement implementation strategy.

Coordination

The Co-Leads and Liaison counsel coordinated with the JCCP on settlement matters.

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS AS TO MDL COMMON BENEFIT TIME & EXPENSES FROM AUGUST 1, 2022, THROUGH JANUARY 31, 2023

The present Quarterly Report No. 7 only includes the undersigned's review of the MDL's common benefit time and expense submissions from August 1, 2022, through January 31, 2023, pre-MDL time and expenses from May 2018 through November 2019, previously uncaptured Baron & Bud and Walkup Melodia time and expenses and residual time from November 2019 through July 2022. The undersigned reviewed the time and expenses, primarily concerning the reasonableness of hours and categories of time for the common benefit, as well as flagging for MDL Leadership certain hourly rates for document review. Before the undersigned reviewed this block of time and expenses, the data had a first-tier review and approval by MDL Leadership. The Special Master's review of this block of MDL time and expenses does not otherwise include a review of firm rates, which are still being analyzed and vetted by the MDL Leadership. The Co-Leads plan to assess this further and discuss it with the JCCP to determine whether further recommendations should be made on firm rates. Similarly, the Special Master's review in this Quarterly Report No. 6 does not include JCCP's common benefit time and expense submissions which will be outlined in a separate Quarterly Report No. to the JCCP leadership.

On April 24, and May 10, 2023, the undersigned was provided billing and expense reports generated by the Verus platform from August 1, 2022, through January 31, 2023, representing MDL time and expenses during the current reporting period. Consistent with the Third Amendment to the CMO 5, the attorney time was broken down into twenty-one categories and subcategories as follows:

1. Investigative Factual Research;
2. Attorney Meetings/Strategy;
3. Leadership Case Management Duties;
 - a. Case Management (Reports/Filing)
 - b. Case Management (Administrative)

4. Court Appearances;
 - a. preparation;
 - b. argument/presentation;
 - c. attendance at the direction of Leadership;
5. Pleadings;
6. Written Discovery;
 - a. written – propounding;
 - b. dispute – analysis;
 - c. dispute – negotiate;
 - d. dispute – lead negotiation;
 - e. third party;
 - f. third party – lead negotiation analysis;
7. Plaintiff Discovery (Document Production, DME);
 - a. plaintiff discovery responses;
8. Document Review
9. Legal Research/Memorandum;
10. Scientific Research;
11. Motion/Briefs;
 - a. motions/briefs – Lead author;
 - b. motions/briefs
12. Depositions (Prepare/Take/Defend)
 - a. fact deposition – scheduling;
 - b. fact deposition – preparation;
 - c. fact deposition – questioning;
 - d. fact deposition – defending;
 - e. fact deposition – attendance at the direction of Leadership
13. Class Certification/Notice;
14. Expert Consultants;
 - a. administrative;
 - b. lead deposition preparation;
 - c. deposition preparation;
 - d. defending deposition;
 - e. taking deposition;
 - f. attending at the direction of Leadership;
 - g. preparation of reports

15. Settlement/Mediation;
 - a. settlement/mediation;
 - b. administrative;
16. Bellwether Selection;
17. Trial Preparation;
18. Trial;
 - a. bellwether trial – Lead Counsel;
 - b. bellwether trial – oral argument;
 - c. bellwether trial – attend at the direction of Leadership
 - d. bellwether trial – presentation of evidence/cross-exam;
 - e. bellwether trial – jury selection;
 - f. bellwether trial – administrative;
 - g. bellwether trial – lead negotiation
 - h. bellwether trial – witness preparation;
19. Appeal;
20. Client Communications;
21. Miscellaneous; and,
22. Internal Presentation;
 - a. Internal presentation - strategy/evidence/analysis - Lead presentation;
 - b. Internal presentation – strategy/evidence/analysis – preparation.

The expenses were broken down by firm, the individual that incurred the expense, classification of the expense, date incurred, description, and amount. As part of the MDL Co-Leads' first-tier review and approval for time entries, Verus flagged for additional review any time that fell into the following categories: (1) any billing entry that exceeded 8 hours; and (2) any biller who exceeded 12 hours in a day. After further review of flagged entries, the MDL Co-Leads reviewed those reports and had Verus remove entries that were in error. Concerning expenses, the Time & Expense team at Ms. London's firm performed an initial review of all expenses and the supporting receipts to certify expenditures complied with the CMO-5 guidelines. After that, the Co-Leads reviewed the expenses for "reasonableness."

Backup information for all time and expense summaries after CMO-5 guidelines were in place were available to the undersigned through Verus. The Special Master did not examine

every time and expense entry for each timekeeper from each law firm from August 1, 2022, through January 31, 2023. Instead, the Special Master reviewed the summaries, time-detail reports, and backup from Verus, exercising professional judgment to ensure the tasks, time, and expenses were appropriate, reasonable, and for the common benefit. The Special Master independently reviewed the data looking for flags or anomalies, and cross-checked the reports relating to flagged information reflecting the review by MDL Co-Leads. The Special Master's concerns were communicated in writing via email exchanges on April 25 and 26, 2023, May 1, 2, 4, 8, and 10, 2023, with Co-Leads and Co-Leads thereafter adequately addressed all the noted concerns to the satisfaction of the Special Master.

In assessing whether the time and expenses were for the common benefit, the Special Master has considered the size and complexity of the MDL and JCCP following a review of the Joint Case Management Statements issued during the reporting period as set forth above. At the beginning of the current reporting period in August 2022, 3,895 cases were pending in the MDL, naming 120 defendants. These cases comprise 2,724 personal injury cases and 1,117 government entity cases (including 1,062 school districts, 24 counties, two cities, and 29 tribes). (*See*, 8-24-22 Joint Case Management Conference Statement, pg. 2:14-21). At the end of the current reporting period in January 2023, the cases had grown to approximately 5,702 cases pending in the MDL, naming 120 defendants. These cases comprise 4,270 personal injury cases and 1,435 government entity cases (including 1,349 school districts, 43 counties, eight cities, and 36 tribes). (*See*, 1-18-23 Joint Case Management Conference Statement, pg. 2:11-19).

During this reporting period from August 2022 through January 2023, initially significant time was focused on preparing the bellwether cases for trial. Simultaneously, the parties spent time and effort in settlement negotiations, including multiple mediation sessions. These efforts culminated with the parties announcing at the December 6, 2022, Case Management Conference that Plaintiffs and Juul Labs Inc. ("JLI"), the Director Defendants, the E-Liquid Defendants, the Retailer Defendants, and the Distributor Defendants reached an agreement that will create settlement programs to resolve personal injury, class, tribal and government entity cases. (*See*, 1-18-23 Joint Case Management Conference Statement, pg. 4:5-13). On December 14, 2022, JLI

filed a Notice Regarding Proposed Order Re Implementing Settlement. (*Ibid.*) On December 19, 2022, the Plaintiffs moved for preliminary approval of the class action settlement.

The settlement does not include Altria. Alteria initially filed its Response and Objections to the Plaintiffs' Motion for Preliminary Approval. Plaintiffs' and Alteria met and conferred on whether the class proceedings, in general, should be stayed pending Alteria's appeal. Based on the continued discussions, Alteria withdrew certain specific objections that it previously raised concerning Plaintiffs' proposed class notice and notice plan. (*See*, 1-18-23 Joint Case Management Conference Statement, pg. 4:19-5:2). Plaintiffs and Alteria continued to confer with Settlement Master Thomas J. Perrelli and cooperate with his recommendations during this reporting period. (*See*, 1-18-23 Joint Case Management Conference Statement and Proposed Agenda, pg. 4:14-17).

III. SPECIAL MASTER'S FINDINGS AND RECOMMENDATIONS

In further assessing whether the work performed was for the common benefit, the Special Master relied upon CMO No. 5(A), which defines common benefit work as follows:

“Common Benefit Work includes, but is not limited, to the following authorized activities: maintenance and working in the Joint Document Depository; factual investigation and research; legal research; conducting authorized discovery (e.g. reviewing, indexing, and coding documents); preparation of timelines/chronologies; drafting and filing pleadings, briefs, pre-trial motions and orders; preparation of deposition cuts that may be used in a case set for trial; preparation of the trial exhibits; assembly of the scientific articles; approved PSC activities; work of the MDL Discovery, Law and Briefing, and Science Committee Co-Chairs; other MDL committee work authorized by Co-Lead Counsel; expert development authorized by the Co-Chairs of the Science Committee or Co-Lead Counsel; authorized preparation for and participation at state and federal court hearings; preparation for and taking of depositions of Defendants and third-party witnesses, and experts; and activities associated with preparation for trial and the trial of any cases designated by the PSC.” (MDL Dkt. No. 586 at 16:15-17:2).

Similarly, in assessing whether expenses incurred were for the common benefit, the Special Master relied upon the requirements for expenditures in Section 11(C) outlined in CMO-5.

Based on a review of the billing and expense records and information presented, and guided by the CMO No. 5 and CMO No. 5(A) referenced above, the Special Master finds that for this Quarterly Report No. 7 covering the time period of August 1, 2022, through January 31, 2023, as well as the pre-MDL time and expenses from May 2018 through November 2019, previously uncaptured Baron & Bud and Walkup Melodia time and expenses and residual time from November 2019 through July 2022 the tasks, hours and expenses incurred were appropriate, fair and reasonable and for the common benefit. No disputes were submitted to the Special Master concerning these billing and expense summaries or otherwise during this reporting period.

Dated: May 12, 2023



Hon. Gail A. Andler (Ret.),
Special Master

PROOF OF SERVICE BY E-Mail

Re: In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation
Reference No. 1200057171

I, Matthew Levington, not a party to the within action, hereby declare that on May 12, 2023, I served the attached QUARTERLY REPORT NO. 7 OF SPECIAL MASTER TO THE MDL CO-LEADS on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

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I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine,
CALIFORNIA on May 12, 2023.



Matthew Levington
JAMS
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