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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

This Document Relates to:
ALL CLASS ACTIONS

Case No. 19-md-02913-WHO

**SUPPLEMENTAL STATEMENT IN
SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 Class Plaintiffs provide this supplemental statement regarding matters discussed with the
2 Court at the January 20, 2023, hearing and in response to the Court’s subsequent minute order.
3 ECF 3765.

4 **Preliminary and Final Approval Orders**

5 The Court directed Class Counsel to “review the text of the Proposed Preliminary Approval
6 Order and scope of the release to determine whether any final adjustments should be made for
7 enhanced findings in support of certification of the settlement class and limiting the scope of the
8 release to economic loss claims other than antitrust claims.” ECF 3765. After conducting this review,
9 Class Counsel believes that further edits to the proposed orders are appropriate. The revised
10 preliminary and final approval orders contain additional support for certification of the Settlement
11 Class. The revised orders also clarify that the Settlement releases economic loss claims only to
12 the extent they are included within the definition of the Released Claims of the Settlement, and
13 that the Released Claims are consistent with the scope of the claims alleged in the class action
14 complaint.

15 In addition, based on the timing of JLI’s expected delivery of updated contact information
16 and other data for Settlement Class Members who purchased from JLI’s website, and after further
17 consultation with the Settlement Administrator, Class Plaintiffs have made modest proposed
18 revisions to the claims administration and settlement approval schedule. To provide additional
19 time for implementation of the notice program, the revised schedule reduces Class Plaintiffs’
20 counsel’s time to file a reply in support of the final approval and the attorneys’ fees and expense
21 motions, and adds ten additional days to the overall timeline. The time afforded to Settlement
22 Class Members to opt-out, object, or submit claims after the completion of the notice program
23 remains the same.

24 Redlined versions of the proposed preliminary and final approval orders are attached to this
25 Statement as Exhibits 1 and 2, respectively.

26 **Notice and Settlement Administration Expenses**

27 As discussed at the January 20 hearing, Class Plaintiffs share the Court’s commitment to
28 ensuring the costs of the proposed notice and claims administration program represent a good

1 deal for the class, and Class Counsel will monitor those costs closely and on a routine basis to
 2 ensure they are consistent with Rule 23(c)(2) and incurred only where doing so would provide
 3 appreciable benefit to the Settlement Class. The revised preliminary approval order thus includes
 4 enhanced provisions (*see* redlines in Ex. 1, ¶ 11) directed at setting controls on costs incurred in
 5 connection with settlement administration. Those provisions will require the Settlement
 6 Administrator to provide Class Counsel with regular reporting concerning the administration
 7 expenses incurred and caps the expenses that the Settlement Administrator can incur without
 8 written consent of Class Counsel. The preliminary approval order continues to direct that the
 9 Settlement Administrator will only be entitled to receive payments for costs actually incurred.

10 The preliminary approval order, as revised, would authorize the payment of notice and
 11 settlement administration costs incurred prior to final approval in an amount up to \$3,000,000. To
 12 provide context, below is an estimate of these initial costs, which may increase or decrease
 13 depending on class member response and other factors:

14 Data, Printing and Mailing Notice (print, address updating, undeliverables, remails):	\$243,928
15 Postcard Notice Postage	\$1,145,055
16 Email Notice	\$24,964
17 Media Notice	\$227,323
18 Claims Intake and Some Initial Processing	\$873,825
19 Project Management and Reporting	\$59,400
20 Bilingual Call Center and Website Set Up	\$23,025
21 Bilingual Toll-Free Contact Center Claimant Communications	\$44,182
22 TOTAL:	\$2,641,702

23 Another substantial cost consideration is whether to undertake reminder communications.
 24 Settlement Class members who purchased directly from JLI, for example, may benefit from a
 25 reminder notice several weeks after the delivery of their initial email or postcard notice. Class
 26 Counsel will confer with the Settlement Administrator concerning the initial email and postcard
 27 notice, and the extent to which those notices were viewed and class members who received them
 28 either visited the website or filed a claim, to determine whether a reminder notice is warranted

1 and, if so, whether such notice should be sent via email, postcard, or both. If Class Counsel and
2 the Settlement Administrator determine that all Settlement Class Members who purchased
3 directly from JLI should receive a reminder postcard, the additional cost of such reminder notice
4 could be as much as \$1.1 million.¹ But even if that cost is incurred, under no circumstances would
5 payments to the Settlement Administrator prior to final approval exceed the \$3,000,000 amount
6 set forth in the preliminary approval order absent further order of the Court.

7 Notice Documents

8 Class Plaintiffs and Altria have met and conferred regarding Altria's objections to the
9 proposed forms of notice and the notice plan. As a result of those meet and confer efforts, Class
10 Plaintiffs have made additional edits to the draft long form notice, claim stimulation postcard, and
11 internet banner notices, revised versions of which are attached as Exhibits 3, 4 and 5,
12 respectively.

13 In addition, pursuant to Altria's request, Class Counsel provided Altria with a draft (1)
14 press release that provides information concerning the settlement, the process for submitting
15 claims, and the ongoing litigation against Altria, (2) email notice to be sent to JUUL purchasers
16 for whom JLI has email addresses, and (3) script to be used for the automated number where class
17 members can receive additional information (and talk to a live representative, if they so desire).
18 The parties have met and conferred, and Class Plaintiffs understand that, aside from objections on
19 which Altria is reserving its rights (including objections to the settlement generally), Altria has no
20 remaining objections to the forms or manner of notice. Accordingly, the draft press release, email
21 notice, and script are attached as Exhibits 6 (press release), 7 (email notice), and 8 (automated
22 telephone script). And for completeness purposes and ensure that the final versions of all notice
23 documents are in one place for future reference, the other notice documents are also attached to
24 this statement as Exhibits 9 (postcard notice) and 10 (video script). There are no edits to the
25 proposed Plan of Allocation (ECF 3724-3) and claim forms (ECF 3724-7).

27 ¹ In the preliminary approval motion and long form notice, Class Plaintiffs indicated that they
28 may ultimately seek the payment of notice and settlement administration expenses of up to \$7
million. The approximately \$1.2 million for postcard reminder notices to all Class Members who
purchased directly from JLI is included in that estimate.

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Dated: January 27, 2023

Respectfully submitted,

By: /s/ Dena C. Sharp

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Class Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

By: /s/ Dena C. Sharp
Dena C. Sharp