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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

Case No. 19-md-02913-WHO

**CASE MANAGEMENT
ORDER NO. 3 – DIRECT FILING ORDER**

This Document Relates to:
ALL ACTIONS

CASE MANAGEMENT ORDER NO. 3

I. Scope of Order

This Order shall govern all actions in the above-captioned MDL proceeding (“the MDL”) to the extent set forth herein that are directly filed in this District as a member case of the MDL after the date of this Order.

II. Direct Filing of Actions into the MDL

A. Direct Filing: To eliminate potential delays associated with transfer to this Court of actions filed in or removed to other federal district courts, and to promote judicial efficiency, any Plaintiff whose action qualifies for transfer to the MDL may, subject to the provisions set forth below, file his or her action against one or more Defendants hereto directly in this District as a member case of the MDL.

1 **B. Pretrial Proceedings Only; No Lexecon Waiver:** Each action filed directly in
2 this District will be deemed related to and become a member case in the MDL for pretrial
3 proceedings only, consistent with the JPML’s October 2, 2019, transfer Order. Plaintiffs’ and
4 Defendants’ agreement to this Order does not constitute a waiver under *Lexecon, Inc. v. Milberg*
5 *Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) (“*Lexecon*”), by any party. However,
6 nothing in this Order shall preclude the parties from agreeing to such waivers in the future.

7 **C. Designated Forum.** Each case filed directly in this District as a member case of
8 the MDL must identify the federal district court in which the Plaintiff would have filed his or her
9 case in the absence of direct filing. This designation shall not, standing alone, constitute a
10 determination by this Court that jurisdiction or venue is proper in the designed forum. At the
11 completion of all pretrial proceedings applicable to such cases, and subject to any agreement that
12 may be reached concerning a waiver of the requirements for transfer pursuant to *Lexecon*, this
13 Court will transfer such cases to a federal district court of proper venue as defined by 28 U.S.C. §
14 1391. The parties reserve all rights with respect to the proper venue for remand and any post-
15 remand jurisdictional, venue, or forum challenges or motions, including pursuant to 28 U.S.C. §
16 1404(a).

17 **D. Choice of Law.** Filing an action as a member case of the MDL pursuant to this
18 Order will not determine the applicable choice of law, including the choice of law for any of the
19 claims in the action and for statute of limitations purposes. The parties’ agreement to this Order
20 shall not constitute a waiver of or agreement to the application of any choice of law principles or
21 substantive choice of law to a particular Plaintiff’s action. The fact that an action was filed in this
22 District as a member case of the MDL pursuant to this Order will have no impact on choice of
23 law. Choice of law issues are reserved and shall be briefed, as appropriate, at a later date.

24 **E. Electronic Filing of Complaints.** All complaints must be filed electronically.
25 Filing of a complaint in this District requires the completion of a Civil Cover Sheet which can be
26 found here: <https://www.cand.uscourts.gov/forms/civil-forms/>. When filing a complaint in this
27 District pursuant to this Order, plaintiff’s counsel must identify the MDL Case name and number
28 in Section VIII of the Civil Cover Sheet to ensure the case is included as a member case of the

1 MDL. Before any Plaintiff's attorney files a complaint in this District pursuant to this Order, that
2 attorney must become a Northern District of California ECF User and must be assigned a
3 Northern District of California ECF login name and password in accordance with Pre-Trial Order
4 No. 1 entered on October 2, 2019. All forms and instructions may be found on the Court's
5 website at www.cand.uscourts.gov/cm-ecf.

6 **F. Attorney Admission.** Immediately after filing a complaint in this District
7 pursuant to this Order, counsel who are not admitted to practice in the Northern District of
8 California must file an application to be admitted *pro hac vice* in accordance with instructions
9 provided in Pre-Trial Order No. 1 entered on October 2, 2019, as well as Northern District of
10 California Civil Local Rule 11-3. The *pro hac vice* application shall be filed only in the
11 underlying member case, and not in the main MDL Docket. Any attorney whose *pro hac vice*
12 application is granted in a member case has permission to appear in MDL proceedings and file in
13 the main MDL Docket. Once a counsel is admitted *pro hac vice* for any case in this litigation,
14 that admission will suffice for any future cases filed in this MDL.

15 **G. Service of Process.** For Complaints that are properly filed in, removed to, or
16 transferred to this MDL, JLI, Altria Group, Inc., and PAX Labs, Inc. agree to waive formal
17 service of summons pursuant to Rule 4 of the Federal Rules of Civil Procedure. Service upon
18 these entities will be deemed complete upon providing copies of the Complaint, Summons, and
19 Civil Cover Sheet to the following email addresses:

20 MDL2913_Service_JUUL@winston.com for JLI;

21 MDL2913_Service_AltriaGroupInc@arnoldporter.com; MDL2913_Service_PMUSA@
22 arnoldporter.com; MDL2913_Service_AltriaClientServices@arnoldporter.com; MDL2913_
23 Service_AltriaDistributionGroup@arnoldporter.com; MDL2913_Service_NuMark@arnold
24 porter.com; and MDL2913_Service_NuMarkInnovations@arnoldporter.com for Altria Group,
25 Inc.; and

26 ELow@goodwinlaw.com for PAX Labs, Inc.

27 Defendants' email system will generate an automated response to the sender upon receipt
28 of an e-mail to the designated address. The automated response will confirm receipt of the e-mail

1 and shall constitute proof of service upon JLI, Altria Group, Inc. and PAX Labs, Inc.,
2 respectively. Defendants will not otherwise respond to emails sent to the above e-mail address.
3 Plaintiffs shall make proof of electronic service to the Court as required by Rule 4(1) of the
4 Federal Rules of Civil Procedure. For all Complaints filed in, removed to, or transferred to this
5 MDL: (i) all requests for issuance of summons shall be made in the underlying member case, and
6 not through the MDL case; (ii) all proofs of service shall be filed only in the underlying member
7 case and not in the MDL Docket. Acceptance of electronic service shall not constitute a waiver
8 of any defense.

9 **H. Filing Fees.** Internet credit card payments shall be required for all electronically
10 filed complaints and made online through pay.gov. Plaintiff's counsel will be prompted to pay
11 the required filing fee. Information regarding filing fees may be found at
12 <https://www.cand.uscourts.gov/ecf/payments>.

13 **I. Response to Complaint.** Defendants need not move, plead, or otherwise respond
14 to any Complaint directly filed in this District as a member case of the MDL until so ordered by
15 the Court.

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17 **IT IS SO ORDERED.**

18 Dated: December 13, 2019

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21 HON. WILLIAM H. ORRICK
22 UNITED STATES DISTRICT JUDGE
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