

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

EJUICECONNECT.COM, LLC; FUGGIN VAPOR  
CO.; LAN & MIKE INTERNATIONAL  
TRADING INC.; LEVEL UP VAPOR, LLC;  
NEXT DAY VAPES; IPURCHASE ONLINE,  
SUORIN USA; and 2ND WIFE VAPE,

Defendants.

Civil Action No. 19. 3946 E

RECEIVED

DEC 20 2019

SUPERIOR COURT-CIVIL  
MICHAEL JOSEPH DONOVAN  
CLERK/MAGISTRATE

**COMPLAINT**

The Commonwealth of Massachusetts (the “Commonwealth”), by and through Attorney General Maura Healey, brings this action pursuant to G.L. c. 270, § 28, G.L. c. 93A § 4, and G.L. c. 12, § 10. Defendants Ejuiceconnect.com, LLC, Fuggin Vapor Co., Lan & Mike International Trading Inc., Level Up Vapor, LLC, Next Day Vapes, LLC, IPurchase Online, Suorin USA, and 2nd Wife Vape have violated and continue to violate G.L. c. 270, § 28 and G. L. c. 93A by offering for sale, selling, and advertising the sale of flavored tobacco products, specifically e-cigarettes and associated products such as e-liquids (together, “vape products”), to consumers in the Commonwealth; and have violated and continue to violate the Consumer Protection Act, G. L. c. 93A, and 940 C.M.R. 21.04(4)(a) by failing to use a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

## I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 212, § 4, G.L. c. 214, § 1 and G.L. c. 93A, § 4.
2. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 5 and G.L. c. 93A, § 4.
3. Pursuant to G.L. c. 223A, § 3, this court may exercise personal jurisdiction over the Defendants as to the claims in this Complaint. These claims arise from, among other things, the Defendants transacting business in the Commonwealth and contracting to supply flavored tobacco products in this Commonwealth.

## II. PARTIES

4. The Plaintiff is the Commonwealth of Massachusetts, represented by Attorney General Maura Healey, who brings this action in the public interest.
5. Defendant Ejuiceconnect.com, LLC is a Florida limited liability company and maintains a place of business at 221 NE 44 Street in Oakland Park, Florida.
6. Defendant Fuggin Vapor Co. maintains a place of business at 502 NE 190th Street in Miami, Florida.
7. Defendant Lan & Mike International Trading Inc., doing business as VaporDNA (“VaporDNA”), is California corporation and maintains a place of business at 22517 Crenshaw Blvd in Torrance, California.
8. Defendant Level Up Vapor, LLC (“Level Up Vapor”) is a Kansas limited liability company and maintains a place of business at 15012 S. Roxburghe St. in Olathe, Kansas.
9. Defendant Next Day Vapes, LLC (“Next Day Vapes”) maintains a place of business at 1358 Hooper Ave. #192 in Toms River, New Jersey.

10. Defendant IPurchase Online d/b/a Vape Society Supply and Vape Society Supplies (“Vape Society Supply”) maintains a place of business at 7355 Commercial Way, 115, in Henderson, Nevada.

11. Defendant Suorin USA maintains a place of business at 1612 W 139th St. Gardena, California 90249.

12. Defendant 2nd Wife Vape maintains a place of business at 1195 Fm 156 S Suite 140 in Haslet, Texas.

### **III. BACKGROUND**

13. E-cigarettes create an aerosol, commonly referred to as a “vapor,” by using a battery to heat up liquid that typically contains nicotine, flavorings, and other additives (“e-liquid”). Users inhale vapor into their lungs. The act of inhaling the vapor from the e-cigarette is called “vaping.”

14. E-cigarette use among youth is an urgent public health crisis. E-cigarettes are reversing decades of record declines in the number of young people who use nicotine.

15. On November 27, 2019, Massachusetts became the first state in the country to ban the sale of all flavored tobacco products, including e-cigarettes and e-liquids. As of November 27, 2019, it is unlawful for online and retail sellers to sell flavored tobacco products to Massachusetts residents.

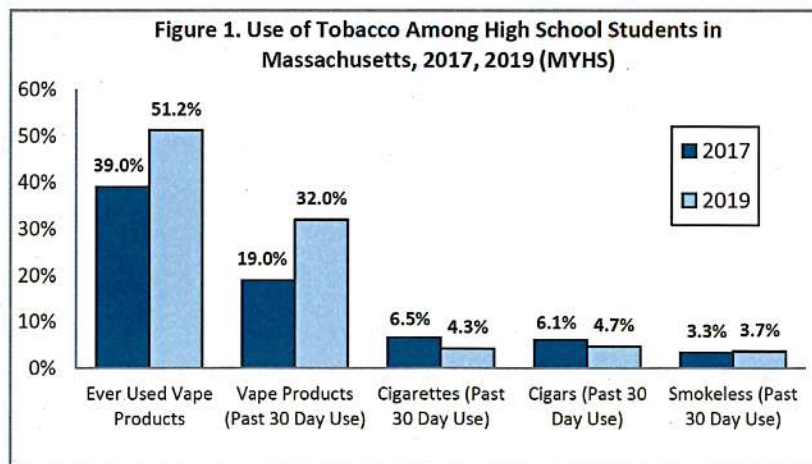
16. The Massachusetts Minimum Legal Sales Age to buy tobacco products is 21 as of December 31, 2018, exempting anyone who turned 18 years of age by December 31, 2018 and could already legally purchase tobacco products. G.L. c. 270, § 6(b), as amended by 2018 Mass. Acts, c. 157, §§ 9, 19. A “tobacco product” is one “containing, made or derived from tobacco or nicotine that is intended for human consumption” and includes “electronic cigarettes, electronic

cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization . . . .” G.L. c. 270, § 6(a). Accordingly, the vaping products sold by Defendants in Massachusetts are subject to the minimum-age law for sales of “tobacco products.”

17. E-cigarette products entered the United States marketplace in 2007, and by 2014, e-cigarettes had become the most commonly used tobacco product among young people. Among high school and middle school students nationwide, e-cigarette use has increased particularly dramatically, even since 2014. E-cigarette use by young people represents the largest jump in the use of any drug, including alcohol, in over 40 years.

18. In December 2018, the United States Surgeon General issued an advisory on e-cigarette use among youth, declaring the growing problem an epidemic.

19. Preliminary data from the 2019 Massachusetts Youth Health Survey show that the percentage of high school students in Massachusetts who have used vape products is at an all-time high, at over 50%, with over 30% reporting that they had used vape products in the past month.



Massachusetts Department of Public Health, “Youth Vaping and Cessation Data,” accessed December 12, 2019 at <https://www.mass.gov/files/documents/2019/11/27/youth-vaping-and-cessation-data-11-26-2019.pdf>.

20. E-liquids often contain constituent ingredients that produce a particular flavor. Countless varieties of vape products containing flavored e-liquids are available for purchase where not prohibited, including sweet flavors such as cotton candy, sour gummy worm, and fruit loops. Flavored vape products are popular among young consumers, and they are a reason why many young people initiate vaping nicotine and continue to use vaping products. The majority of teens who report having ever used a tobacco product report that they started ingesting nicotine with a flavored product.

21. Executive function and neurocognitive processes in the brain are not fully developed in early adolescence. As a result, young people are more likely to experiment with substances like e-cigarettes.

22. E-cigarettes are leading young people into nicotine use and addiction and placing them at higher risk of transitioning to other substances, including traditional cigarettes. A 2018 report from the National Academies of Sciences, Engineering, and Medicine addressed this issue and concluded that there is “substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”

23. Youth are particularly susceptible to nicotine addiction. Young people are physiologically more vulnerable to addiction than adults. It is estimated that tens of thousands of young people in Massachusetts are currently addicted to nicotine from e-cigarette use.

24. The use of e-cigarettes by young people causes them serious harm. Youth addicted to vaping nicotine exhibit many of the serious and debilitating symptoms more commonly associated with other substance use disorders. Nicotine is particularly dangerous for young people because it can interfere with adolescent brain development. Adolescent exposure to nicotine is associated with increased risk of mood and attention problems, as well as issues

with learning and memory. Nicotine can also alter nerve cell functioning and brain chemistry in ways that can make young brains more susceptible to addiction to other drugs.

25. E-cigarettes contain other chemical substances, in addition to nicotine, that threaten serious harm. The full range of adverse health impacts of e-cigarettes is still unknown, particularly the short- and long-term health consequences for youth.

26. The public health system in Massachusetts is struggling to develop and implement effective e-cigarette cessation methods to meet the needs of young people and their families. Currently, there are no physician guidelines for treating youth nicotine addiction from e-cigarette use and there are no treatment facilities or programs solely focused on youth nicotine addiction treatment in Massachusetts.

27. While withdrawing from nicotine, young people report increased anxiety and physical symptoms such as uncontrollable shaking. Young people – and their families – experience a sense of helplessness and powerlessness in pursuing treatment options.

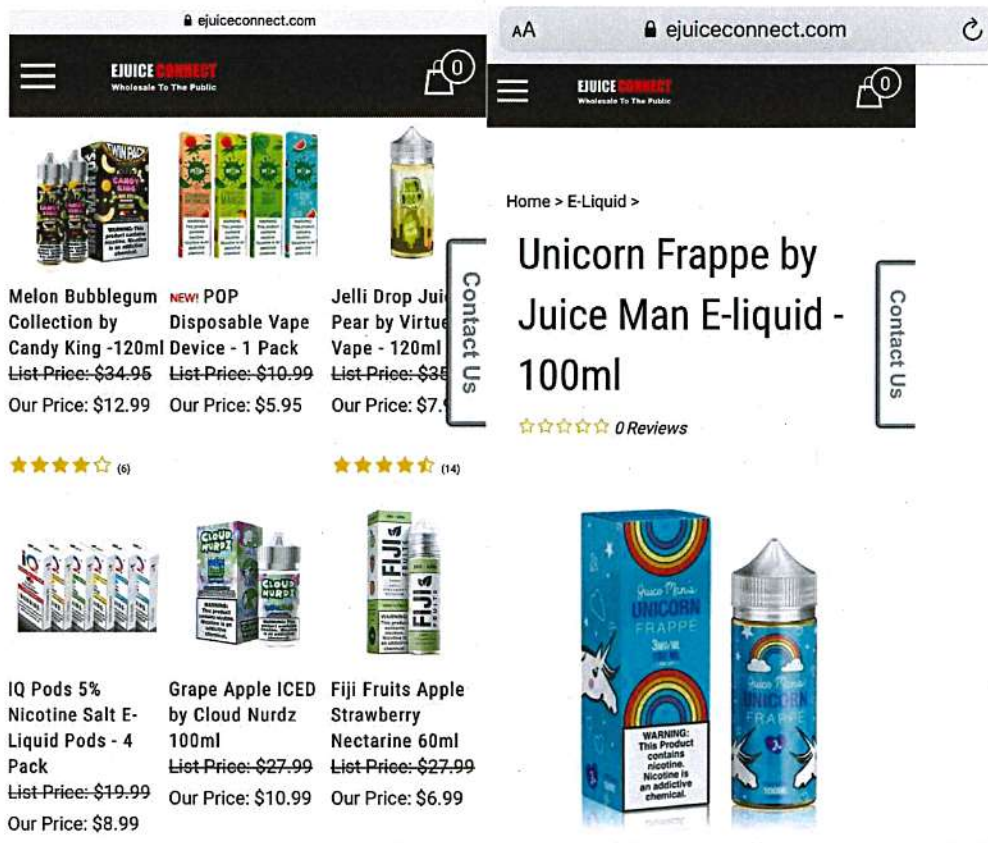
28. Youth who become addicted to nicotine from e-cigarette use are also harmed in other ways, including by spending down savings accounts to pay for devices and e-liquids and altering school and social schedules in order to use e-cigarette devices.

29. Teachers and school administrators are increasingly struggling to manage students who use e-cigarettes in class or elsewhere in school, expending valuable and limited learning time. The Commonwealth will bear the costs of developing appropriate treatments and prevention measures as well as the public health costs of a new generation of young people addicted to nicotine.

## IV. FACTS

### A. EJuiceConnect.com, LLC

30. EJuiceConnect.com, LLC maintains a website accessible to Massachusetts residents, located at [www.ejuiceconnect.com](http://www.ejuiceconnect.com). The following images are screenshots of EJuiceConnect.com, LLC's website advertising the sale of flavored tobacco products, including but not limited to holiday-themed flavors such as "Unicorn Frappe," "Melon Bubblegum," "Pear," "Grape Apple" and "Fiji Apple Strawberry Nectarine."



31. On or after November 27, 2019, Defendant EJuiceConnect.com, LLC sold, distributed, caused to be sold and distributed, and offered for sale "flavored tobacco products," as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.ejuiceconnect.com](http://www.ejuiceconnect.com).

32. Defendant EJuiceConnect.com, LLC continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.ejuiceconnect.com](http://www.ejuiceconnect.com).

33. Defendant EJuiceConnect.com, LLC. has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.ejuiceconnect.com](http://www.ejuiceconnect.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

**B. Fuggin Vapor Co.**

34. Fuggin Vapor Co. maintains a website accessible to Massachusetts residents, located at <https://fugginvapor.com>. The following image is a screenshot of Fuggin Vapor Co.’s website advertising the sale of flavored tobacco products, including but not limited to holiday-themed flavors such as “North Pole,” “Santa Baby,” “Butta Booze,” “Gingerbread Dude,” and “Strawberry Cream Nog.”



fugginvapor.com



**HOLIDAY FLAVORS**

SANTA BABY 120ML  
SWEET BERRY CANDY CANE

NORTH POLE 120ML  
SWEET AND ICY PEPPERMINT BLAST

BITTER BOOZE 120ML  
MAGICAL BUTTERSCOTCH BEER

GINGERBREAD DUDE 120ML  
GINGERBREAD & CAPPUCCINO

STRAWBERRY CREAM NOG 120ML  
STRAWBERRIES AND CREAMY EGG NOG

**40% OFF SINGLE BOTTLES - CODE: FUGGIN40**

**GET 3 BOTTLES FOR \$40 - CODE: FUGGIN3**

**GET 6 BOTTLES FOR \$60 - CODE: FUGGIN6**

**GET 10 BOTTLES FOR \$90 - CODE: FUGGIN9**

Read More



Santa Baby 120mL  
★★★★★ 59 Reviews  
Fuggin EJuice



North Pole 120mL  
★★★★★ 51 Reviews  
Fuggin EJuice

35. On or after November 27, 2019, Defendant Fuggin Vapor Co. sold, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at <https://fugginvapor.com>.

36. Defendant Fuggin Vapor Co. continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at <https://fugginvapor.com>.

37. Defendant Fuggin Vapor Co. has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at <https://fugginvapor.com>, without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

**C. Lan & Mike International Trading Inc. d/b/a VaporDNA**

38. Lan & Mike International Trading Inc. d/b/a VaporDNA maintains a website accessible to Massachusetts residents, located at [www.vapordna.com](http://www.vapordna.com). The following image is a screenshot of VaporDNA’s website advertising the sale of flavored tobacco products, including but not limited to such youth appealing flavors as “OMG WTF,” “Vapetasia,” “Rainbow Nuggets,” and “Butter Brew.”



39. On or after November 27, 2019, Defendant Lan & Mike International Trading Inc. d/b/a VaporDNA (“VaporDNA”) sold, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.vapordna.com](http://www.vapordna.com).

40. Defendant VaporDNA continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.vapordna.com](http://www.vapordna.com).

41. Defendant VaporDNA has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.vapordna.com](http://www.vapordna.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

**D. Level Up Vapor, LLC**

42. Level Up Vapor LLC maintains a website accessible to Massachusetts residents, located at [www.levelupvapor.com](http://www.levelupvapor.com). The following image is a screenshot of Level Up Vapor, LLC’s website advertising the sale of flavored tobacco products, including but not limited to youth appealing fruit flavors with names like “Sticky Bombs.”



43. On or after November 27, 2019, Defendant Level Up Vapor, LLC sold, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.levelupvapor.com](http://www.levelupvapor.com).

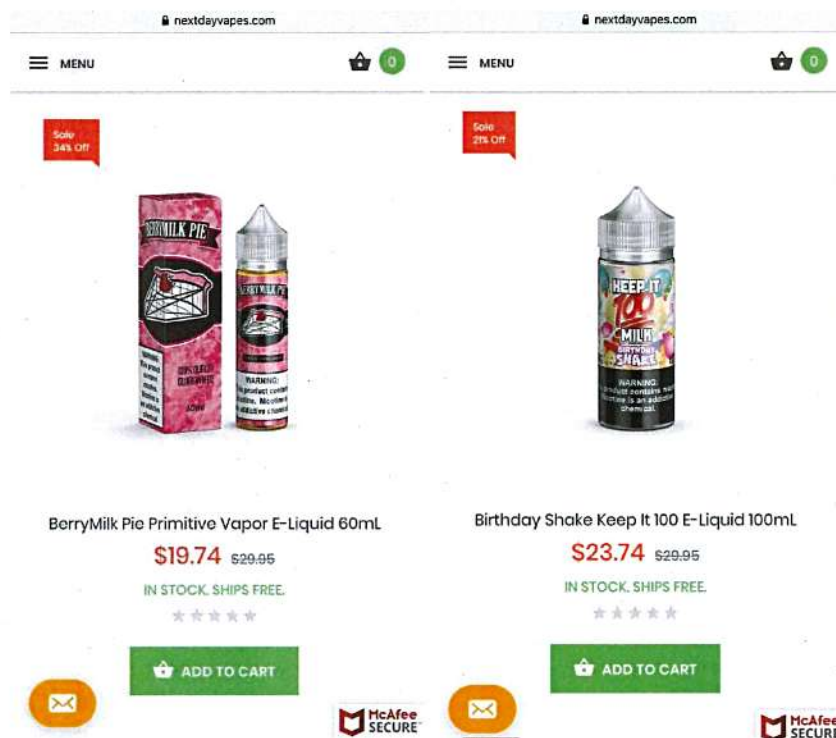
44. Defendant Level Up Vapor, LLC continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.levelupvapor.com](http://www.levelupvapor.com).

45. Defendant Level Up Vapor, LLC has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.levelupvapor.com](http://www.levelupvapor.com), without using a method of mailing, shipping, or delivery that requires

signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

### E. Next Day Vapes

46. The following image is a screenshot of Next Day Vapes' website advertising the sale of flavored tobacco products, including but not limited to youth appealing flavors with names like "Berry Milk Pie" and "Birthday Shake Keep it 100."



47. On or after November 27, 2019, Defendant Next Day Vapes sold, distributed, caused to be sold and distributed, and offered for sale "flavored tobacco products," as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.nextdayvapes.com](http://www.nextdayvapes.com).

48. Defendant Next Day Vapes continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.nextdayvapes.com](http://www.nextdayvapes.com).

49. Defendant Next Day Vapes has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.nextdayvapes.com](http://www.nextdayvapes.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

#### F. Vape Society Supply

50. Vape Society Supply maintains a website accessible to Massachusetts residents, located at [www.vapesocietysupplies.com](http://www.vapesocietysupplies.com). The following image is a screenshot of Vape Society Supply’s website advertising the sale of flavored tobacco products, including but not limited to youth appealing flavors with names like “Blueberry,” “Bubble Gum,” “Cake,” and “Candy.”



51. On or after November 27, 2019, Defendant Vape Society Supply sold, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by

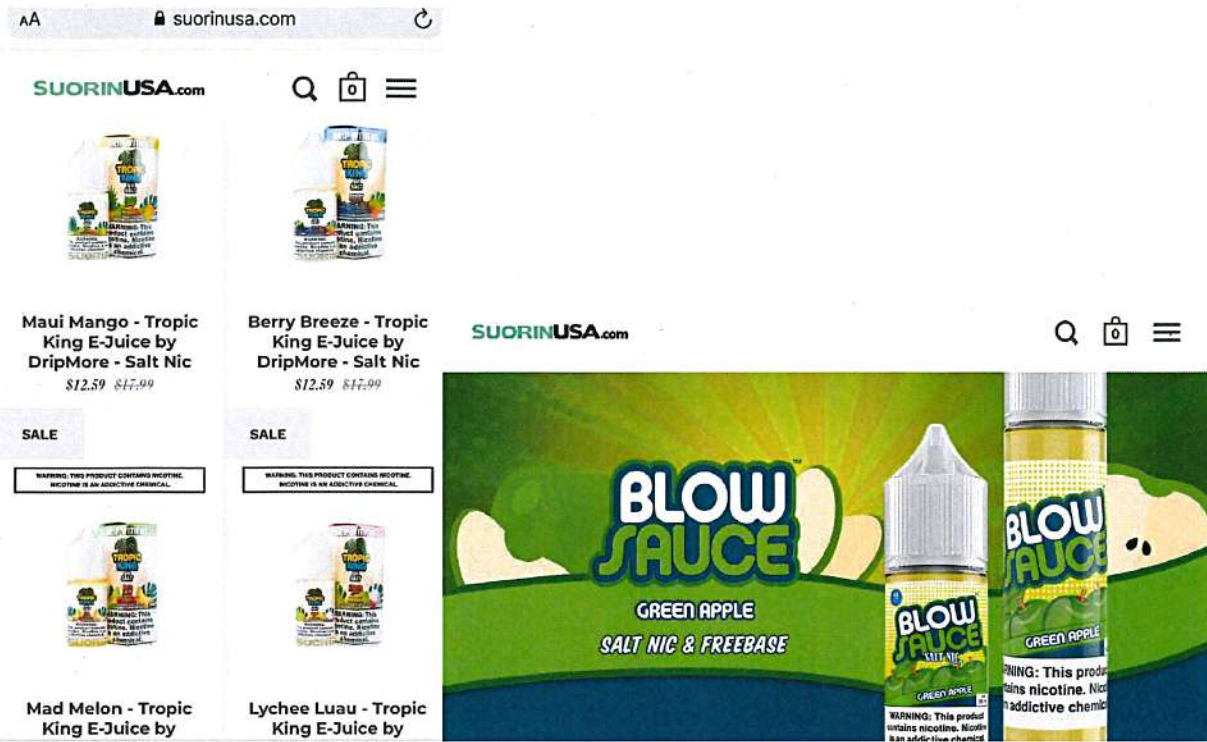
G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.vapesocietysupplies.com](http://www.vapesocietysupplies.com).

52. Defendant Vape Society Supply continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.vapesocietysupplies.com](http://www.vapesocietysupplies.com).

53. Defendant Vape Society Supply has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.vapesocietysupply.com](http://www.vapesocietysupply.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

#### **G. Suorin USA**

54. Suorin USA maintains a website accessible to Massachusetts residents, located at [www.SuorinUSA.com](http://www.SuorinUSA.com). The following images are screenshots of Suorin USA’s website advertising the sale of flavored tobacco products, including but not limited to youth appealing flavors with names like “Maui Mango,” “Berry Breeze,” “Mad Melon,” “Lychee Luau, and Green Apple.”



55. On or after November 27, 2019, Suorin USA, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.2ndwife-vape.com](http://www.2ndwife-vape.com).

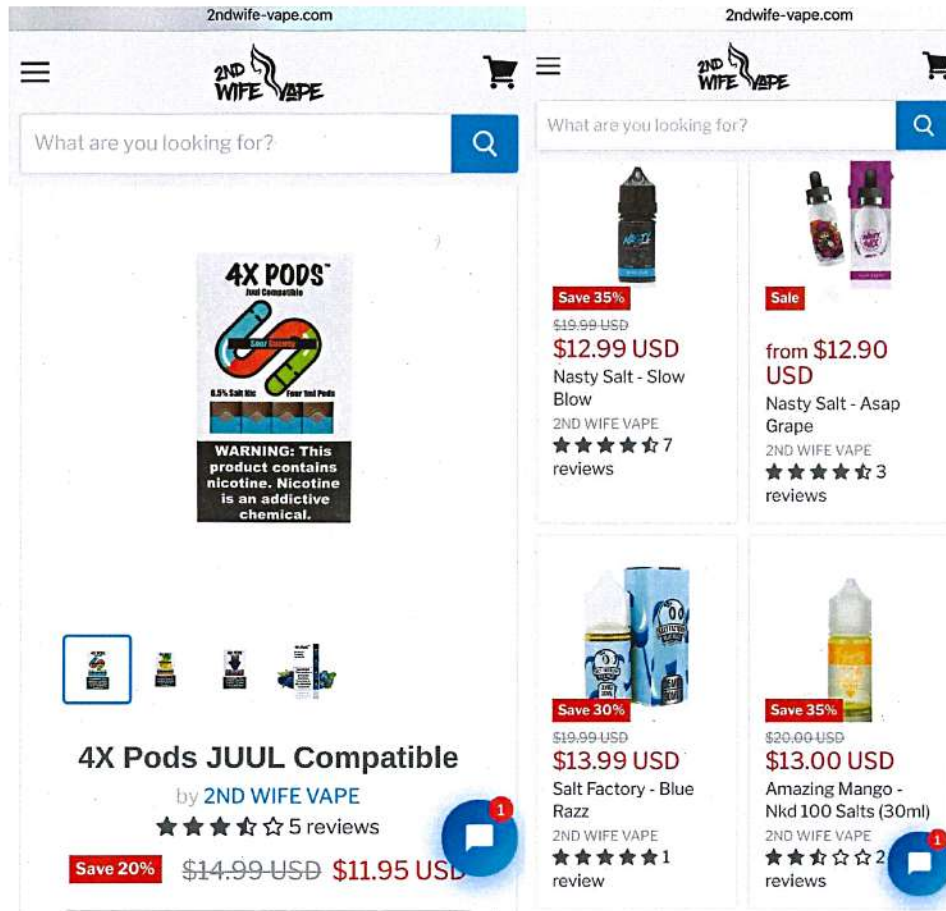
56. Defendant Suorin USA continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.SuorinUSA.com](http://www.SuorinUSA.com). Defendant Suorin USA has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website, located at [www.SuorinUSA.com](http://www.SuorinUSA.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

#### H. 2nd Wife Vape

57. 2nd Wife Vape maintains a website accessible to Massachusetts residents, located at [www.2ndwife-vape.com](http://www.2ndwife-vape.com). The following images are screenshots of 2nd Wife Vape’s website



advertising the sale of flavored tobacco products, including but not limited to youth appealing flavors with names like “Sour Gummy,” “Slow Blow,” “Asap Grape,” “Blue Razz,” and “Amazing Mango.”



58. On or after November 27, 2019, Defendant 2nd Wife Vape sold, distributed, caused to be sold and distributed, and offered for sale “flavored tobacco products,” as defined by G.L. c. 270, § 28, to residents of Massachusetts by means of its website, located at [www.2ndwife-vape.com](http://www.2ndwife-vape.com).

59. Defendant 2nd Wife Vape continues to sell, distribute, cause to be sold or distributed, and offer for sale flavored tobacco products to residents of Massachusetts by means of its website, located at [www.2ndwife-vape.com](http://www.2ndwife-vape.com). Defendant 2nd Wife Vape has sold “electronic smoking devices,” 940 C.M.R. 21.03, to residents of Massachusetts by means of its website,

located at [www.2ndwife-vape.com](http://www.2ndwife-vape.com), without using a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

## V. CAUSES OF ACTION

### COUNT ONE

#### Violations of G.L. c. 270, § 28

60. The Commonwealth repeats and realleges the foregoing paragraphs and incorporates them herein by reference.

61. An Act Modernizing Tobacco Regulations, G.L. c. 270, § 28, states in part, “No person, retailer, or manufacturer shall sell, distribute, cause to be sold or distributed, offer for sale, or market or advertise any flavored tobacco product or tobacco product flavor enhancer in any retail establishment, online, or through any other means to any consumer in the commonwealth.”

62. G.L. c. 270, § 28 went into effect on November 27, 2019.

63. Defendants are each a “person” or “manufacturer” as defined by G.L. c. 270, § 28(a).

64. Defendants have offered for sale, marketed, advertised, and sold flavored tobacco products to Massachusetts consumers in violation of G.L. c. 270, § 28(a).

65. Defendants continue to offer for sale, market, advertise, and sell flavored tobacco products to Massachusetts consumers in violation of G.L. c. 270, § 28(a).

## COUNT TWO

### **Violations of G.L. c. 93A and 940 C.M.R. 21.00 *et seq.* Selling and Shipping Vaping Products Without Age Verification**

66. The Commonwealth repeats and realleges the foregoing paragraphs and incorporates them herein by reference.

67. The Consumer Protection Act, G.L. c. 93A, §2(a) prohibits “unfair or deceptive acts or practices in the conduct of any trade or commerce.”

68. The Defendants are “persons” as defined by G.L. c. 93A, § 1.

69. Defendants are engaged in “trade” or “commerce” as defined by G.L. c. 93A, § 1, which includes “the advertising, the offering for sale...of any services and any property...directly or indirectly affecting the people of this commonwealth.”

70. Pursuant to her authority under G.L. c. 93A, § 2(c), the Attorney General has promulgated regulations defining specific unfair or deceptive acts and practices relating to manufacturers and retailers of cigarettes, smokeless tobacco products, and electronic smoking devices. See 940 C.M.R. 21.00 *et. seq.*

71. Defendants are persons who manufacture, package, import for sale, distribute, or sell within Massachusetts cigarettes, smokeless tobacco products, or electronic smoking devices as defined in 940 CMR 21.00.

72. Defendants sold and continue to sell smokeless tobacco products or electronic smoking devices to individuals in Massachusetts for personal consumption through their websites.

73. 940 C.M.R. 21.04(4)(a) requires that retailers who make mail-order and internet sales that are subject to age verification make “use of a method of mailing, shipping, or delivery

that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.”

74. Defendants have willfully, knowingly, repeatedly, and systematically violated the Consumer Protection Act, G. L. c. 93A, and 940 C.M.R. 21.04(4)(a) by failing to use a method of mailing, shipping, or delivery that requires signature of a person who is of the Minimum Legal Sales Age before the shipping package is released.

75. Defendants have willfully, knowingly, repeatedly, and systematically violated the Consumer Protection Act, G. L. c. 93A by unlawfully selling and delivering flavored tobacco products to consumers in the Commonwealth in violation of G.L. c. 270, § 28.

#### **VI. PRAYER FOR RELIEF**

WHEREFORE, the Commonwealth requests that this Court enter judgment and grant the following relief after trial on the merits:

76. Award restitution to consumers injured by the Defendants’ violations of law;
77. Award civil penalties of \$5,000 for each violation of G.L. c. 93A;
78. Award attorneys’ fees, costs and other relief available under G.L. c. 93A;
79. Enter injunctive relief preventing Defendants from continuing to engage in the violations of law set forth herein; and
80. Grant such other relief as permitted by law and the Court deems appropriate.

[Signature on p. 21]

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS  
MAURA HEALEY  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Samantha Shusterman (BBO #689849)  
Max Weinstein (BBO #600982)  
Assistant Attorneys General  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
p. 617.727.2844  
f. 617.727.5765  
[Samantha.a.Shusterman@mass.gov](mailto:Samantha.a.Shusterman@mass.gov)  
[Max.Weinstein@mass.gov](mailto:Max.Weinstein@mass.gov)

Dated: December 20, 2019