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-and-

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

18
19 GREGORY MATTHEW TRAVIS
20 TOWNSEND, an individual,

21 Plaintiff,

22 v.

23
24 MAGMA HOLDING, INC.. d/b/a
25 EIGHTVAPE a Nevada Company; and
26 JOHN DOE DEFENDANTS, 1 – 100,
black corporations and white partnerships.

27 Defendants.
28

CASE NO.: 2:26-cv-00742

**COMPLAINT & DEMAND FOR
JURY TRIAL**

1 COMES NOW, Plaintiff GREGORY MATTHEW TRAVIS TOWNSEND, by and
2 through his counsel of record, Christian M. Morris, Esq., and Lindsay N. Roginski, Esq.,
3 of the law firm CHRISTIAN MORRIS TRIAL ATTORNEYS, for his causes of action
4 against Defendants above named, and each of them, and complains and alleges as
5 follows:
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7 **NATURE OF THE ACTION**

8 1. This is a product liability action seeking recovery for substantial personal injuries
9 and damages suffered by Plaintiff after Plaintiff was supplied and used an “Imren” 18650
10 battery cell (hereafter referred to as “ Subject Battery”) marketed, sold, and distributed by
11 Defendant, Magma Holding, Inc. d/b/a EightVape (“Defendant EightVape”) and John
12 Doe Defendants 1 – 100 (collectively referred to as “John Doe Defendants”)
13

14 2. On or about February 10, 2023, Plaintiff was supplied the Subject Battery via
15 Defendant EightVape’s website.
16

17 3. On or about March 15, 2024, the Subject Battery exploded while in Plaintiff’s
18 front-right pants pocket. As a result, Plaintiff’s clothing caught fire, causing him to suffer
19 catastrophic burn injuries including, but not limited to, extensive second and third degree
20 burns to his right thigh and right hand.
21

22 4. In reality, these “batteries” are not intended for use in vaping devices but rather,
23 are “cells” to be used by sophisticated battery packers that utilize proper PCB circuit
24 protection.
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26 5. As a direct and proximate result of the Defendants’ collective conduct and
27 misrepresentations concerning the safety and efficacy of the Subject Battery, Plaintiff has
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1 incurred significant and painful bodily injuries, physical pain, mental anguish, and
2 diminished enjoyment of life.

3 **PARTIES, JURISDICTION & VENUE**

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5 6. At all times relevant, Plaintiff was and is a citizen and resident of the City of
6 Olivehurst, County of Yuba, State of California and remains domiciled in the same.
7 Plaintiff is therefore a resident and citizen of the State of California for purposes of
8 diversity pursuant to 28 U.S.C. § 1332.

9
10 7. Defendant EightVape is a Nevada corporation with its principal place of business
11 located at 8683 W. Sahara Blvd., Las Vegas, Nevada 89117. At all times relevant herein,
12 Defendant EightVape conducted substantial business in California and across the United
13 States through its website. Defendant is therefore a resident and citizen of Nevada for
14 purposes of diversity pursuant to 28 U.S.C. § 1332.

15
16 8. Defendant EightVape markets, sells and distributes e-cigarette products and
17 accessories, including the Subject Battery supplied to Plaintiff that is at issue in this
18 lawsuit. On or about February 10, 2023, Plaintiff was supplied the Subject Battery via
19 Defendant EightVape’s website.

20
21 9. Plaintiff is ignorant of the true identities and capacities of the Defendants sued
22 herein as John Doe Defendants, and therefore sues these Defendants by fictitious names.
23 Plaintiff will amend his Complaint to allege the true identities and capacities of these
24 Defendants once they are obtained. Plaintiff alleges upon information and belief that John
25 Doe Defendants may, in some manner and capacity, be responsible for the negligent and
26 wrongful acts or omissions alleged herein, and that the damages and injuries suffered by
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1 the Plaintiff were directly and proximately caused by the John Doe Defendants’ negligent
2 and wrongful acts or omissions.

3 10. This Court has subject matter jurisdiction over this case pursuant to diversity
4 jurisdiction prescribed by 28 U.S.C. § 1332 because the matter in controversy exceeds the
5 sum or value of \$75,000, exclusive of interest and costs, and there is complete diversity
6 between the parties.
7

8 11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 in that Defendant
9 maintains a principal place of business in this district and is deemed a citizen of this
10 district for purposes of diversity pursuant to 28 U.S.C. § 1332.
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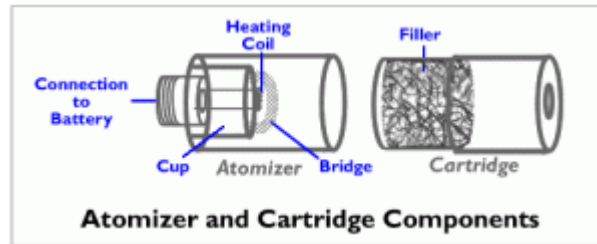
12 **FACTUAL ALLEGATIONS**

13 12. Manufacturers, distributors, and sellers of electronic cigarettes, or “e-cigarettes,”
14 as they are more commonly known, claim to provide a tobacco-free and smoke-free
15 alternative to traditional cigarettes. E-cigarettes offer doses of nicotine via a vaporized
16 solution.
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18 13. All e-cigarettes are designed and function in a similar way. They consist of three
19 primary component parts: a tank or cartridge that is filled with a liquid (known as "juice"
20 or "e-liquid")¹ that usually contains a concentration of nicotine; an “atomizer” or
21 “cartomizer”, which heats and converts the contents of the liquid-filled cartridge to a
22 vapor that the user then inhales (hence the term, “vaping”); and a battery, which provides
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26 _____
27 ¹ While the ingredients of the liquid vary from brand to brand, E-Juice typically contains
28 95% propylene glycol and glycerin. Hundreds of different types and brands of E-Juice
exist, and come in flavors such as cherry, cheesecake and cinnamon.

1 power for the atomizer. The atomizer itself typically contains three components: the
2 casing; the wire (or "coil"); and the wicking material. The wire is wrapped around the
3 wicking material (usually cotton) in a coil formation; the two ends of the coil are then
4 connected to the casing in a way that permits contact with the battery. When e-liquid is
5 added to the e-cigarette's tank, the wicking material absorbs it. When the user activates
6 the e-cigarette's battery, the coil heats, vaporizing the e-liquid within the wicking
7 material.
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16 See <http://vapingguides.com/blog/vapor-trails-2/atomizer-vs-cartomizer/> (last assessed
17 March 9, 2026)

18 14. Heating coils feature a specific resistance,² which is measured in ohms.³ In order
19 for an e-cigarette to work effectively (and safely) the battery voltage must be carefully
20 balanced with the heating coil resistance. If the battery voltage is too high and the
21 resistance is too low, the heating coil can overheat and damage the battery, allowing for
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24 ² Specific resistance is the measure of the potential electrical resistance of a conductive
25 material. It is determined experimentally using the equation $\rho = RA/l$, where R is the
26 measured resistance of some length of the material, A is its cross-sectional area (which
27 must be uniform), and l is its length.

28 ³ Ohms are the standard international unit of electrical resistance, expressing the
resistance in a circuit transmitting a current of one ampere when subjected to a potential
difference of one volt.

1 “thermal runaway”⁴ to occur, whereby the internal battery temperature can cause a fire or
2 explosion, and which is often the result of “poor design, use of low quality materials ...
3 [and] manufacturing flaws and defects....”⁵

4
5 15. E-cigarette batteries, like the Subject Battery in this case, are typically cylindrical
6 lithium-ion batteries. Some e-cigarette batteries are rechargeable, and others are
7 disposable. Some e-cigarettes are closed systems, in which prefilled tanks are used;
8 others are also open systems that allow the user to manually refill the tank with e-liquid.
9
10 E-cigarettes come in pen form (these are usually plastic and are modeled after a
11 traditional cigarette) and in a form known as a ‘mod.’ Mods are metal devices that are
12 heavier than pen e-cigarettes and carry a much higher capacity for juice and creation of
13 vapor. There are many different types of mods, some of which require the use and
14 replacement of atomizer coils like those described above.
15

16 16. E-cigarette “batteries”, like the Subject Battery, typically consist of layers of
17 metallic anode and cathode⁶ material separated by a porous film or “wrapping”⁷ which
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21 ⁴ Thermal runaway refers to a chemical reaction in which a repeating cycle of excessive
22 heat causes more heat until an explosion occurs. According to the USFA, one of the main
23 causes of thermal runaway is the battery overheating. *See generally*, U.S. Fire
24 Administration, “Electronic Cigarette Fires and Explosions in the United States 2009 –
2016,” updated July 2017.

25 ⁵ *See* Ben DJ. *Burn Care Res.* 2009 Nov-Dec; 30(6): 1048.

26 ⁶ The cathode of a device is the terminal where the energy current flows out, as where the
anode is where the energy current flows in.

27 ⁷ The battery “wrapping” is often made of plastic or other porous film and serves to keep
28 the liquid electrolytes within the battery from coming into direct contact with outside
sources.

1 holds liquid electrolytes. The electrolytes used in these batteries are either flammable or
2 combustible liquids.

3 17. Lithium-ion batteries, commonly used in e-cigarettes due to improper marketing
4 from distributors such as EightVape, pose a risk of fire and explosion.⁸ A medical case
5 report of a man in New Jersey, whose e-cigarette exploded in his pocket causing him
6 severe burns, noted, “the potential for serious burn injuries related to device malfunction
7 is of concern.”⁹

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10 18. In reality, these “batteries” are not intended for use in vaping devices but rather,
11 are “cells” to be used by sophisticated battery packers that utilize proper PCB circuit
12 protection.

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14 19. These products continue to be placed into the stream of commerce in an untested
15 and unsafe condition and will continue to cause injuries unless and until those responsible
16 are held accountable.

17
18 20. The Subject Battery is one such Lithium-ion battery.

19 21. Defendant EightVape sells and distributes 18650 batteries such as the Subject
20 Battery around the United States, including in California.

21
22 22. EightVape, its agents, servants and employees, participated in the marketing,
23 distribution, delivery, and sale of the 18650 batteries, including the Subject Battery.

24
25 ⁸ Lithium-ion batteries have been referred to as the “mini bomb in your pocket” due to its
26 known ability to spontaneously ignite. *See* Ben D., Ma B., Liu L, et al., *Unusual Burns*
27 *with Combined Injuries Caused by Mobile Phone Explosion: Watch Out for the “mini*
Bomb!”, J. Burn Care Res. 2009 Nov-Dec; 30(6): 1048.

28 ⁹ *Spontaneous Electronic Cigarette Explosion: A Case Report, American Journal of*
Medical Case Reports, 2015, Vol. 3, No. 4, 93-94, 94.

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23. On or about February 10, 2023, Plaintiff was supplied the Subject Battery via Defendant EightVape’s website.

24. On or about March 15, 2024, the Subject Battery exploded while in Plaintiff’s front-right pants pocket. As a result, Plaintiff’s clothing caught fire, causing him to suffer catastrophic burn injuries including, but not limited to, extensive second and third degree burns to his right thigh and right hand.

25. At no time prior to the Incident did Plaintiff have facts or information sufficient to apprise him, actually or constructively, of the dangers posed by the defective condition of the Subject Battery.

26. At no time prior to the Incident did Plaintiff, upon having facts or information which not only apprised him of the defective condition of the Subject Battery, but also imparted knowledge and appreciation of the dangers posed thereby, then proceed to make use of the Subject Battery in an unreasonable or unforeseeable manner.

27. Upon information and belief, all of the Defendants in this case were aware, or should have been aware, that 18650 batteries, including the Subject Battery, were defective due to their manufacture, construction, design, formulation; due to their inadequate warnings or instructions; and/or due to being unit fit for either their ordinary and foreseeable purpose, or the particular purpose for which they were purported to be sold.

28. As a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff has suffered lost wages.

1 29. As a direct and proximate result of the acts and omissions of Defendants and each
2 of them, Plaintiff has obtained medical services and treatment and may be required to
3 obtain additional medical services and treatment in the future.

4 30. As a direct and proximate result of the acts and omissions of Defendants and each
5 of them, Plaintiff has suffered and will continue to suffer from debilitating injuries,
6 permanent scaring, as well as severe physical pain and suffering, loss of enjoyment of
7 life, emotional distress, anxiety, fear, and mental anguish.

8 31. Plaintiff has been damaged by the acts and omissions of Defendants, and each of
9 them in an amount in excess of \$75,000.00.

10 32. As a direct and proximate result of the acts or omissions of Defendants, Plaintiff
11 has had to retain the services of CHRISTIAN MORRIS TRIAL ATTORNEYS and
12 JOHNSON BECKER, PLLC to pursue this action and is entitled to recover costs of suit
13 and reasonable attorney's fees incurred herein.

14 **FIRST CLAIM FOR RELIEF**
15 **(Strict Products Liability, Defective Design, and Failure to Warn)**
16 **Against All Defendants**

17 33. Plaintiff re-alleges and incorporates by reference each and every allegation
18 contained in preceding paragraphs as though fully set forth herein.

19 34. The Defendants in this case designed, manufactured, assembled, distributed,
20 tested, inspected and sold the Subject battery.

21 35. The Defendants manufactured, designed, assembled, distributed, tested, inspected
22 and sold the Subject Battery with actual and/or constructive knowledge that it would be
23 purchased and used by members the general public, such as Plaintiff.
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1 36. The Subject Battery was expected to and did reach Plaintiff without undergoing
2 any substantial changes or alterations.

3 37. From the time the Subject Battery left the control of the Defendants until the time
4 of the Incident, it did not undergo any substantial changes or alterations.
5

6 38. At all times relevant hereto, Defendants, and each of them, expected and intended,
7 and it was reasonably foreseeable, that the Subject Battery would be used by members of
8 the general public, including Plaintiff, in the same manner that Plaintiff used it at the time
9 of the Incident.
10

11 39. At the time it was produced, distributed and sold by the Defendants, the Subject
12 Battery was defective in its design and/or warnings/information and was unreasonably
13 dangerous for its foreseeable uses, such as Plaintiff.
14

15 40. At the time it was produced, distributed and sold by the Defendants, the Subject
16 Battery was defective in its manufacture and/or design for or more of the following
17 reasons:
18

- 19 a. The Subject Battery deviated from its design specifications,
20 formulas, and/or performance standards;
- 21 b. The Subject Battery was not intended for use in a vaping device;
- 22 c. The Subject Battery was designed and manufactured without any
23 form of internal temperature control or protection circuitry;
- 24 d. The Subject Battery failed to incorporate protection circuitry or to
25 integrate other safety devices to protect against overcurrent,
26 overtemperature, short circuit, or overload;
- 27 e. The Subject Battery was designed, manufactured and/or fabricated
28 with materials that failed to resist and/or magnified the ordinary
pressures stress, thermal stress, and fatigue stress;

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- f. The Subject Battery was designed, manufactured and/or fabricated using material or materials that caused or contributed to cause excessive thermal and pressure build up;
- g. The Subject Battery was designed, manufactured and/or fabricated with inadequate ventilation which caused or contributed to unreasonable heat and pressure build up;
- h. The Subject Battery was designed, manufactured and/or fabricated with a package or container that failed prevent short circuiting leading to rapid discharge, overheating, and catastrophic failure;
- i. The Subject Battery was designed and sold without underdoing adequate testing, analysis, surveys or assessments to identify the unreasonable dangers described herein;
- j. The Subject Battery was designed in a manner such that it exposed individuals who purchased and used the product, including Plaintiff, to unreasonable risks of harm during foreseeable uses of the product, including the risks of fire, explosion, and/or burns from heat, fire or battery acid; and
- k. In such other particulars as the evidence may show.

41. The Defendants are also strictly liable as the Subject Battery was defective and unreasonably dangerous due to information defects, inadequate warnings and/or instructions for use because, *inter alia*:

- a. Defendants knew, or in the exercise of reasonable care, should have known that there was a significant risk of energizing, explosion, fire, and burn injuries associated with the foreseeable use and/or storage of the Subject Battery, but failed to provide adequate warnings, labels or instructions related to that risk;
- b. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress, but failed to provide adequate warnings, labels or instructions related to that risk;
- c. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it could cause or contribute to cause excessive thermal and pressure

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- build up, but failed to provide adequate warnings, labels or instructions related to that risk;
- d. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner whereby heat and energy could rapidly escape from the battery, but failed to provide adequate warnings, labels or instructions related to that risk;
 - e. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it could cause or contribute breaching of the exterior of the battery due to unreasonable heat and pressure, but failed to provide adequate warnings, labels or instructions related to that risk;
 - f. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it should not be stored in a pocket, and that short circuiting of the battery could lead to catastrophic failure, but failed to provide adequate warnings, labels or instructions related to that risk;
 - g. Defendants knew, or in the exercise of reasonable care, should have known that its own personnel, its distributors and the end users and consumers of its batteries would not be aware of industry standards, instructions on proper use, and instructions on proper storage of these batteries, but failed to provide adequate warnings, labels or instructions related to that risk;
 - h. Defendants knew, or in the exercise of reasonable care, should have known, that both its own personnel, its distributors and the end users and consumers of its batteries would not be aware of the dangers associated with the use and storage of these batteries, but failed to provide adequate warnings, labels or instructions related to that risk;
 - i. Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries, in light of the anticipated, foreseeable and known uses and environments of use of these batteries, but failed to provide adequate warnings, labels or instructions related to that risk;
 - j. Defendants failed to provide adequate warnings that a manufacturer exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries associated with the

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storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk;

k. Upon information and belief, Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries, in light of incident reports that some people had suffered burn injuries during anticipated, foreseeable, known and/or ordinary use of theseg batteries; and

l. Upon information and belief, Defendants failed to provide warnings that a manufacturer exercising reasonable care would have provided concerning the energizing, explosion, fire, and burn injuries associated with the use and/or storage of these batteries; and

m. In such other particulars as the evidence may show.

42. The risk of the Subject Batteries energizing, exploding and/or catching fire when being used and/or stored is not an open and obvious risk, nor is it a risk that is a matter of common knowledge.

43. Plaintiff did not know at the time of his use of the Subject Battery, nor at any time prior thereto, of the existence of the defects in the product.

44. The unreasonable dangers associated with the foreseeable uses of the Subject Battery exceed those that the ordinary user or consumer would anticipate, and the risk of harm stemming from its design could have been reduced or avoided entirely had the Subject Battery not deviated from its design specifications, formulas, and/or performance standards.

45. The unreasonable dangers associated with the uses of the Subject Battery outweigh its utility, and the foreseeable risk of harm regarding its design could have been reduced or avoided entirely by the incorporation of feasible, alternative designs.

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46. The unreasonable dangers associated with the uses of the Subject Battery outweigh its utility, and the foreseeable risk of harm posed by it could have been reduced or avoided had adequate warnings, instructions for use and information been provided with the product.

47. As a direct and proximate result of the above-noted defect(s), the Subject Battery energized, exploded and/or caught fire while in Plaintiff's pocket.

48. As a direct and proximate result of the above-noted defect(s) of the Subject Battery, Plaintiff sustained debilitating injuries, permanent scarring, medical expenses, economic damages, loss of enjoyment of life, and past and future emotional and physical pain and suffering.

49. As a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff has suffered lost wages.

50. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has obtained medical services and treatment and may be required to obtain additional medical services and treatment in the future.

51. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has suffered and will continue to suffer from debilitating injuries, permanent scarring, as well as severe physical pain and suffering, loss of enjoyment of life, emotional distress, anxiety, fear, and mental anguish.

52. Plaintiff has been damaged by the acts and omissions of Defendants, and each of them in an amount in excess of \$75,000.00.

1 53. As a direct and proximate result of the acts or omissions of Defendants, Plaintiff
2 has had to retain the services of CHRISTIAN MORRIS TRIAL ATTORNEYS and
3 JOHNSON BECKER, PLLC to pursue this action and is entitled to recover costs of suit
4 and reasonable attorney's fees incurred herein.
5

6 **SECOND CLAIM FOR RELIEF**
7 **(Negligence)**
8 **Against All Defendants**

9 54. Plaintiff re-alleges and incorporates by reference each and every allegation
10 contained in preceding paragraphs as though fully set forth herein.

11 55. The Subject Battery was expected to and did reach Plaintiff without undergoing
12 any substantial changes or alterations.
13

14 56. From the time the Subject Battery left the control of Defendants until the time of
15 the Incident, it did not undergo any substantial changes or alterations.

16 57. Defendants owed a duty to Plaintiff and other users of its products to exercise due
17 care in the design, assembly, distribution, testing, inspection and sale of the Subject
18 Battery.
19

20 58. Defendants were negligent, careless, and reckless in the sale of the Subject Battery
21 and breached their duties owed to the Plaintiff for one or more of the following reasons:
22

- 23 a. Distributing, testing, inspecting, and/or selling the Subject Battery although
24 it deviated from its design specifications, formulas, and/or performance
25 standards;
- 26 b. Distributing, testing, inspecting, and/or selling the Subject Battery without
27 any form of internal temperature control or protection circuitry;
- 28 c. Distributing, testing, inspecting, and/or selling the Subject Battery although
it failed to incorporate protection circuitry or to integrate other safety

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devices to protect against overcurrent, overtemperature, short circuit, or overload;

- d. Designing, testing, inspecting, and/or selling the Subject Battery with materials that failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress;
- e. Designing, testing, inspecting, and/or selling the Subject Battery using material or materials that caused or contributed to cause excessive thermal and pressure build up;
- f. Designing, distributing, testing, inspecting, and/or selling the Subject Battery with inadequate ventilation which caused or contributed to unreasonable heat and pressure build up;
- g. Designing, distributing, testing, inspecting, and/or selling the Subject Battery with a package or container that failed prevent short circuiting leading to rapid discharge, overheating, and catastrophic failure;
- h. Designing, distributing, testing, inspecting, and/or selling the Subject Battery without conducting adequate testing, analysis, surveys or assessments to identify the unreasonable dangers described herein;
- i. Designing, manufacturing, assembling, distributing, testing, inspecting, and/or selling the Subject Battery in a manner such that it exposed individuals who purchased and used the product, including Plaintiff, to unreasonable risks of harm during foreseeable uses of the product, including the risks of fire, explosion, and/or burns from heat, fire or battery acid; and
- j. In such other particulars as the evidence may show.

59. Defendants were also negligent, careless and/or reckless in the sale of the Subject Battery, and breached duties owed to the Plaintiff, as the product had inadequate warnings and/or instructions for use because, *inter alia*:

- a. Defendants knew, or in the exercise of reasonable care, should have known that there was a significant risk of energizing, explosion, fire, and burn injuries associated with the foreseeable use and/or storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk;

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- b. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress but failed to provide adequate warnings, labels or instructions related to that risk;
- c. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it could cause or contribute to cause excessive thermal and pressure build up but failed to provide adequate warnings, labels or instructions related to that risk;
- d. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner whereby heat and energy could rapidly escape from the battery but failed to provide adequate warnings, labels or instructions related to that risk;
- e. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it could cause or contribute breaching of the exterior of the battery due to unreasonable heat and pressure but failed to provide adequate warnings, labels or instructions related to that risk;
- f. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that it should not be stored in a pocket, and that short circuiting of the battery could lead to catastrophic failure but failed to provide adequate warnings, labels or instructions related to that risk;
- g. Defendants knew, or in the exercise of reasonable care, should have known that its own personnel, its distributors and the end users and consumers of its batteries would not be aware of industry standards, instructions on proper use, and instructions on proper storage of these batteries but failed to provide adequate warnings, labels or instructions related to that risk;
- h. Defendants knew, or in the exercise of reasonable care, should have known, that both its own personnel, its distributors and the end users and consumers of its batteries would not be aware of the dangers associated with the use and storage of these batteries but failed to provide adequate warnings, labels or instructions related to that risk;
- i. Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of

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energizing, explosion, fire, and burn injuries, in light of the anticipated, foreseeable and known uses and environments of use of these batteries but failed to provide adequate warnings, labels or instructions related to that risk;

- j. Defendants failed to provide adequate warnings that a manufacturer/distributor/seller exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries associated with the storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk;
- k. Upon information and belief, Defendants failed to provide warnings or instructions that a manufacturer/distributor/seller exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries, in light of incident reports that some people had suffered burn injuries during anticipated, foreseeable, known and/or ordinary use of these batteries;
- l. Upon information and belief, Defendants failed to provide warnings that a manufacturer /distributor/seller exercising reasonable care would have provided concerning the energizing, explosion, fire, and burn injuries associated with the use and/or storage of these batteries; and
- m. In such other particulars as the evidence may show.

60. Additionally, Defendants owed a duty to Plaintiff and other users of its products to exercise due care in the sale and distribution of the Subject Battery.

61. The risk of these batteries energizing, exploding and/or catching fire when being used and/or stored is not an open and obvious risk, nor is it a risk that is a matter of common knowledge.

62. Plaintiff did not know at the time of his use of the Subject Battery, nor at any time prior thereto, of the existence of the defects in the product.

63. The unreasonable dangers associated with the foreseeable uses of the Subject Battery exceed those that the ordinary user or consumer would anticipate, and the risk of

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harm stemming from manufacture could have been reduced or avoided entirely had the Subject Battery not deviated from its design specifications, formulas, and/or performance standards.

64. The unreasonable dangers associated with the uses of the Subject Battery outweigh its utility, and the foreseeable risk of harm regarding its design could have been reduced or avoided entirely by the incorporation of feasible, alternative designs.

65. The unreasonable dangers associated with the uses of the Subject Battery outweigh its utility, and the foreseeable risk of harm posed by it could have been reduced or avoided had adequate warnings, instructions for use and information been provided with the product.

66. As a direct and proximate result of the above-noted defect(s), the Subject Battery energized, exploded and/or caught fire while in Plaintiff's pocket.

67. As a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff has suffered lost wages.

68. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has obtained medical services and treatment and may be required to obtain additional medical services and treatment in the future.

69. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has suffered and will continue to suffer from debilitating injuries, permanent scarring, as well as severe physical pain and suffering, loss of enjoyment of life, emotional distress, anxiety, fear, and mental anguish.

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70. Plaintiff has been damaged by the acts and omissions of Defendants, and each of them in an amount in excess of \$75,000.00.

71. As a direct and proximate result of the acts or omissions of Defendants, Plaintiff has had to retain the services of CHRISTIAN MORRIS TRIAL ATTORNEYS and JOHNSON BECKER, PLLC to pursue this action and is entitled to recover costs of suit and reasonable attorney's fees incurred herein.

THIRD CAUSE OF ACTION
(Breach of Implied Warranty of Fitness for a Particular Purpose)
Against All Defendants

72. Plaintiff re-alleges and incorporates by reference each and every allegation contained in preceding paragraphs as though fully set forth herein.

73. Defendants breached implied warranties, as the Subject Battery was not safe, merchantable, or fit for the particular purpose in which it was intended to be used for.

74. Defendants designed, manufactured, marketed, and sold the Subject Battery with an implied warranty that they were fit for the particular purpose of being used to power and heat an E-Cigarette or similar device.

75. Members of the consuming public, including Plaintiff, were the intended third-party beneficiaries of the warranty.

76. Contrary to that implied warranty, at the time it was distributed and/or sold by the Defendants the Subject Battery was not fit for the particular purpose for which they were purported to be sold, and was defective and unreasonably dangerous for one or more of the following reasons:

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Henderson, NV 89074
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- a. The Subject Battery was manufactured such that they deviated from their design specifications, formulas, and/or performance standards;
- b. The Subject Battery was designed and manufactured without any form of internal temperature control or protection circuitry;
- c. The Subject Battery failed to incorporate protection circuitry or to integrate other safety devices to protect against overcurrent, overtemperature, short circuit, or overload;
- d. The Subject Battery were designed, manufactured and/or fabricated with materials that failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress;
- e. The Subject Battery were designed, manufactured and/or fabricated using material or materials that caused or contributed to cause excessive thermal and pressure build up;
- f. The Subject Battery were designed, manufactured and/or fabricated with inadequate ventilation which caused or contributed to unreasonable heat and pressure build up;
- g. The Subject Battery were designed, manufactured and/or fabricated with a package or container that failed prevent short circuiting leading to rapid discharge, overheating, and catastrophic failure;
- h. The Subject Battery were designed and sold without underdoing adequate testing, analysis, surveys or assessments to identify the unreasonable dangers described herein;
- i. The Subject Battery were designed in a manner such that it exposed individuals who purchased and used the product, including Plaintiff, to unreasonable risks of harm during foreseeable uses of the product, including the risks of fire, explosion, and/or burns from heat, fire or battery acid; and
- j. In such other particulars as the evidence may show.

77. Likewise, at the time it was distributed and/or sold by the Defendants, the Subject Battery was not fit for the particular purpose for which it was purported to be sold because, *inter alia*:

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- a. Defendants knew, or in the exercise of reasonable care, should have known that there was a significant risk of energizing, explosion, fire, and burn injuries associated with the foreseeable use and/or storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk;
- b. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress but failed to provide adequate warnings, labels or instructions related to that risk;
- c. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they could cause or contribute to cause excessive thermal and pressure build up but failed to provide adequate warnings, labels or instructions related to that risk;
- d. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner whereby heat and energy could rapidly escape from the battery but failed to provide adequate warnings, labels or instructions related to that risk;
- e. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they could cause or contribute breaching of the exterior of the battery due to unreasonable heat and pressure but failed to provide adequate warnings, labels or instructions related to that risk;
- f. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they should not be stored in a pocket, and that short circuiting of the battery could lead to catastrophic failure but failed to provide adequate warnings, labels or instructions related to that risk;
- g. Defendants knew, or in the exercise of reasonable care, should have known that its own personnel, its distributors and the end users and consumers of its lithium ion batteries would not be aware of industry standards, instructions on proper use, and instructions on proper storage of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;

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- h. Defendants knew, or in the exercise of reasonable care, should have known, that both its own personnel, its distributors and the end users and consumers of its lithium ion batteries would not be aware of the dangers associated with the use and storage of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;
 - i. Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of vendor, explosion, fire, and burn injuries, in light of the anticipated, foreseeable and known uses and environments of use of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;
 - j. Defendants failed to provide adequate warnings that a vendor exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries associated with the storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk.
 - k. Upon information and belief, after receiving post-marketing incident reports or testing data, Defendants knew, or in the exercise of reasonable care, should have known that there was a significant risk of energizing, explosion, fire, and burn injuries associated with the use and/or storage of lithium ion batteries, including the Subject Battery.
 - l. Upon information and belief, Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries, in light of incident reports that some people had suffered burn injuries during anticipated, foreseeable, known and/or ordinary use of lithium ion batteries;
 - m. Upon information and belief, Defendants failed to provide warnings that a manufacturer exercising reasonable care would have provided concerning the energizing, explosion, fire, and burn injuries associated with the use and/or storage of lithium ion batteries; and
 - n. In such other particulars as the evidence may show.
78. Plaintiff did not know at the time of his use of the Subject Battery, nor at any time prior thereto, of the existence of the defects in the product.

1 79. The unreasonable dangers associated with the foreseeable uses of the Subject
2 Battery exceed those that the ordinary user or consumer would anticipate, and the risk of
3 harm stemming from their manufacture could have been reduced or avoided entirely had
4 the Subject Battery not deviated from their design specifications, formulas, and/or
5 performance standards.
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7 80. The unreasonable dangers associated with the uses of the Subject Battery
8 outweighs their utility, and the foreseeable risk of harm regarding their design could have
9 been reduced or avoided entirely by the incorporation of feasible, alternative designs.
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11 81. The unreasonable dangers associated with the uses of the Subject Battery
12 outweigh their utility, and the foreseeable risk of harm posed by them could have been
13 reduced or avoided had adequate warnings, instructions for use and information been
14 provided with the product.
15

16 82. As a direct and proximate result of the above-noted defect(s), the Subject Battery
17 energized, exploded and/or caught fire while in Plaintiff's pocket.
18

19 83. As a direct and proximate result of the above-noted defect(s) of the Subject
20 Battery, Plaintiff sustained debilitating injuries, permanent scarring, lost wages, medical
21 expenses, loss of enjoyment of life, and past and future emotional and physical pain and
22 suffering.
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24 84. Plaintiff's injuries and the manner in which they occurred were reasonably
25 foreseeable to Defendants.
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27 85. As a direct and proximate result of the acts and omissions of Defendants, and each
28 of them, Plaintiff has suffered lost wages.

1 86. As a direct and proximate result of the acts and omissions of Defendants and each
2 of them, Plaintiff has obtained medical services and treatment and may be required to
3 obtain additional medical services and treatment in the future.

4 87. As a direct and proximate result of the acts and omissions of Defendants and each
5 of them, Plaintiff has suffered and will continue to suffer from debilitating injuries,
6 permanent scaring, as well as severe physical pain and suffering, loss of enjoyment of
7 life, emotional distress, anxiety, fear, and mental anguish.

8 88. Plaintiff has been damaged by the acts and omissions of Defendants, and each of
9 them in an amount in excess of \$75,000.00.

10 89. As a direct and proximate result of the acts or omissions of Defendants, Plaintiff
11 has had to retain the services of CHRISTIAN MORRIS TRIAL ATTORNEYS and
12 JOHNSON BECKER, PLLC to pursue this action and is entitled to recover costs of suit
13 and reasonable attorney's fees incurred herein.

14 **FOURTH CAUSE OF ACTION**
15 **(Breach of Implied Warranty of Merchantability)**
16 **Against All Defendants**

17 90. Plaintiff re-alleges and incorporates by reference each and every allegation
18 contained in preceding paragraphs as though fully set forth herein.

19 91. Defendants breached implied warranties, as the Subject Battery was not safe,
20 merchantable, or fit for the ordinary purpose in which it was intended to be used for.

21 92. Defendants designed, manufactured, marketed, and sold the Subject Battery with
22 an implied warranty that they were merchantable and fit for their ordinary and
23 foreseeable use.
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93. Members of the consuming public, including Plaintiff, were the intended third-party beneficiaries of the warranty.

94. Contrary to that implied warranty, at the time it was distributed and/or sold by the Defendants the Subject Battery was not fit for its ordinary and foreseeable purpose and was defective and unreasonably dangerous for one or more of the following reasons:

- a. The Subject Battery was manufactured such that they deviated from their design specifications, formulas, and/or performance standards;
- b. The Subject Battery was designed and manufactured without any form of internal temperature control or protection circuitry;
- c. The Subject Battery failed to incorporate protection circuitry or to integrate other safety devices to protect against overcurrent, overtemperature, short circuit, or overload;
- d. The Subject Battery were designed, manufactured and/or fabricated with materials that failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress;
- e. The Subject Battery were designed, manufactured and/or fabricated using material or materials that caused or contributed to cause excessive thermal and pressure build up;
- f. The Subject Battery were designed, manufactured and/or fabricated with inadequate ventilation which caused or contributed to unreasonable heat and pressure build up;
- g. The Subject Battery were designed, manufactured and/or fabricated with a package or container that failed prevent short circuiting leading to rapid discharge, overheating, and catastrophic failure;
- h. The Subject Battery were designed and sold without underdoing adequate testing, analysis, surveys or assessments to identify the unreasonable dangers described herein;
- i. The Subject Battery were designed in a manner such that it exposed individuals who purchased and used the product, including Plaintiff, to unreasonable risks of harm during foreseeable uses of the product,

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including the risks of fire, explosion, and/or burns from heat, fire or battery acid; and

j. In such other particulars as the evidence may show.

95. Likewise, at the time it was distributed and/or sold by the Defendants, the Subject Battery was not fit for its ordinary and foreseeable purpose because, *inter alia*:

- a. Defendants knew, or in the exercise of reasonable care, should have known that there was a significant risk of energizing, explosion, fire, and burn injuries associated with the foreseeable use and/or storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk;
- b. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they failed to resist and/or magnified the ordinary pressures stress, thermal stress, and fatigue stress but failed to provide adequate warnings, labels or instructions related to that risk;
- c. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they could cause or contribute to cause excessive thermal and pressure build up but failed to provide adequate warnings, labels or instructions related to that risk;
- d. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner whereby heat and energy could rapidly escape from the battery but failed to provide adequate warnings, labels or instructions related to that risk;
- e. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they could cause or contribute breaching of the exterior of the battery due to unreasonable heat and pressure but failed to provide adequate warnings, labels or instructions related to that risk;
- f. Defendants knew, or in the exercise of reasonable care, should have known that the Subject Battery was designed in a manner such that they should not be stored in a pocket, and that short circuiting of the battery could lead to catastrophic failure but failed to provide adequate warnings, labels or instructions related to that risk;

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- g. Defendants knew, or in the exercise of reasonable care, should have known that its own personnel, its distributors and the end users and consumers of its lithium ion batteries would not be aware of industry standards, instructions on proper use, and instructions on proper storage of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;
- h. Defendants knew, or in the exercise of reasonable care, should have known, that both its own personnel, its distributors and the end users and consumers of its lithium ion batteries would not be aware of the dangers associated with the use and storage of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;
- i. Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of vendor, explosion, fire, and burn injuries, in light of the anticipated, foreseeable and known uses and environments of use of lithium ion batteries but failed to provide adequate warnings, labels or instructions related to that risk;
- j. Defendants failed to provide adequate warnings that a vendor exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries associated with the storage of the Subject Battery but failed to provide adequate warnings, labels or instructions related to that risk.
- k. Upon information and belief, after receiving post-marketing incident reports or testing data, Defendants knew, or in the exercise of reasonable care, should have known that the there was a significant risk of energizing, explosion, fire, and burn injuries associated with the use and/or storage of lithium ion batteries, including the Subject Battery.
- l. Upon information and belief, Defendants failed to provide warnings or instructions that a manufacturer exercising reasonable care would have provided concerning the risk of energizing, explosion, fire, and burn injuries, in light of incident reports that some people had suffered burn injuries during anticipated, foreseeable, known and/or ordinary use of lithium ion batteries;
- m. Upon information and belief, Defendants failed to provide warnings that a manufacturer exercising reasonable care would have provided concerning the energizing, explosion, fire, and burn injuries associated with the use and/or storage of lithium ion batteries; and

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n. In such other particulars as the evidence may show.

96. Plaintiff did not know at the time of his use of the Subject Battery, nor at any time prior thereto, of the existence of the defects in the product.

97. The unreasonable dangers associated with the foreseeable uses of the Subject Battery exceed those that the ordinary user or consumer would anticipate, and the risk of harm stemming from their manufacture could have been reduced or avoided entirely had the Subject Battery not deviated from their design specifications, formulas, and/or performance standards.

98. The unreasonable dangers associated with the uses of the Subject Battery outweighs their utility, and the foreseeable risk of harm regarding their design could have been reduced or avoided entirely by the incorporation of feasible, alternative designs.

99. The unreasonable dangers associated with the uses of the Subject Battery outweigh their utility, and the foreseeable risk of harm posed by them could have been reduced or avoided had adequate warnings, instructions for use and information been provided with the product.

100. As a direct and proximate result of the above-noted defect(s), the Subject Battery energized, exploded and/or caught fire while in Plaintiff's pocket.

101. As a direct and proximate result of the above-noted defect(s) of the Subject Battery, Plaintiff sustained debilitating injuries, permanent scarring, lost wages, medical expenses, loss of enjoyment of life, and past and future emotional and physical pain and suffering.

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102. Plaintiff's injuries and the manner in which they occurred were reasonably foreseeable to Defendants.

103. As a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff has suffered lost wages.

104. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has obtained medical services and treatment and may be required to obtain additional medical services and treatment in the future.

105. As a direct and proximate result of the acts and omissions of Defendants and each of them, Plaintiff has suffered and will continue to suffer from debilitating injuries, permanent scarring, as well as severe physical pain and suffering, loss of enjoyment of life, emotional distress, anxiety, fear, and mental anguish.

106. Plaintiff has been damaged by the acts and omissions of Defendants, and each of them in an amount in excess of \$75,000.00.

107. As a direct and proximate result of the acts or omissions of Defendants, Plaintiff has had to retain the services of CHRISTIAN MORRIS TRIAL ATTORNEYS and JOHNSON BECKER, PLLC to pursue this action and is entitled to recover costs of suit and reasonable attorney's fees incurred herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

- a. For general damages and special damages in excess of \$75,000.00 for medical expenses, pain and suffering, permanent injury, disfigurement, emotional distress, mental anguish, fear, anxiety, loss of enjoyment of life, and lost wages;
- b. For any and all pre- and post-judgment interest as permitted by law;

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- c. For reasonable attorney’s fees and costs; and
- d. For such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a jury trial on all issues raised in this Complaint.

DATED this 12th day of March, 2026

CHRISTIAN MORRIS TRIAL ATTORNEYS

/s/ Lindsay N. Roginski, Esq.

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Nevada Bar No. 11218
LINDSAY N. ROGINSKI, ESQ.
Nevada Bar No. 16616
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-and-

JOHNSON BECKER, PLLC

Adam J. Kress, Esq. (MN Bar #0397289)
Pro Hac Vice to be filed
444 Cedar Street, Suite 1800
St. Paul, MN 55101

Attorneys for Plaintiff