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FILED DATE: 1/8/2025 4:58 PM 2025CH00186

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

LINDSEY MELLOR, individually and on behalf of similarly situated individuals, Plaintiff, v. GREEN THUMB INDUSTRIES, INC.; GTI ROCK ISLAND, LLC; GTI OGLESBY, LLC; GTI-CLINIC ILLINOIS HOLDINGS, LLC; GTI ROCK ISLAND PARTNERS, LLC; GTI MUNDELEIN PARTNERS, LLC; GTI MUNDELEIN, LLC; GTI-3C, LLC; GTI MUNDELEIN PARTNERS II, LLC; GTI OGLESBY PARTNERS II, LLC; VCP23, LLC; GTI23, INC., Defendants.	Case No. 2025CH00186

CLASS ACTION COMPLAINT

Plaintiff, Lindsey Mellor, individually and on behalf of others similarly situated, by and through her undersigned counsel, and for her Class Action Complaint against Defendants Green Thumb Industries, Inc., GTI Rock Island, LLC, GTI Oglesby, LLC, GTI-Clinic Illinois Holdings, LLC, GTI Rock Island Partners, LLC, GTI Mundelein Partners, LLC, GTI Mundelein, LLC, GTI-3C, LLC, GTI Mundelein Partners II, LLC, and GTI Oglesby Partners II, LLC (collectively "Defendants" or "GTI"), alleges as follows based upon personal knowledge with respect to herself and on information and belief derived from, among other things, investigation by counsel and review of public documents as to other matters.

NATURE OF THE ACTION

1. Plaintiff brings this action against Defendants for unlawfully manufacturing, marketing, and selling potent "cannabis-infused products" ("CIPs") with excessively high

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

tetrahydrocannabinol ("THC") content—well above the applicable legal limits imposed under Illinois law for consumers' health and safety. Defendants masquerade their CIPs as legal for purchase and consumption in Illinois; in actuality, however, the products vastly exceed the applicable THC limits for CIPs as well as the personal possession limits for those products. This subjects purchasers to risks of adverse effects associated with overconsumption of THC as well as legal risks for possession of illegal products.

2. The CIPs at issue are vapable products like cannabis oil vaporizer cartridges, disposable oil vaporizers, and others such as resin, rosin, budder, badder, crumble, and shatter (collectively referred to as "Vapable Oils").

3. Vapable Oils are used in conjunction with a device to vaporize their contents, which are then consumed via inhalation *i.e.* "vaping."

4. Consuming Vapable Oils does not utilize combustion, and their consumption is thus not considered smoking for purposes of the Illinois Cannabis Regulation and Tax Act (the "CRTA") or the Illinois Compassionate Use of Medical Cannabis Program Act ("Medicinal Act," collectively with the CRTA, the "Illinois Cannabis Acts"). Rather, Vapable Oils are a type of CIP, as they are intended to be consumed by vaporizing the contents and then inhaling them using a non-combustible heating device.

5. Nevertheless, Defendants manufacture, market, label, and package their Vapable Oil products as though they were smokeable concentrates, in 300-milligram, 500-milligram, 1-gram, and 2-gram quantities under the brand names &Shine, Beboe, and Rhythm.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

6. Under Illinois law, CIPs are not allowed to contain more than 100 milligrams of THC per package. Despite this, Defendants' Vapable Oils universally exceed this legal limit by three, five, ten, and a staggering twenty times by marketing and presenting their products as cannabis concentrate when, in fact, the Vapable Oils are CIPs.

7. Defendants do this because cannabis concentrates are not subject to any per package limits and have higher personal possession limits, at a 5-gram personal possession limit for Illinois residents and a 2.5-gram limit for out-of-state consumers, for example.

8. Accordingly, Defendants are selling improperly labeled Vapable Oils in single packages that universally exceed the legal THC limit imposed on individual packages of CIPs, as well as the personal possession limits imposed on Illinois residents and out-of-state consumers.

9. In doing so, Defendants intentionally or recklessly misrepresented that their Vapable Oils were cannabis concentrates when, in fact, they are CIPs.

10. On information and belief, Defendants made this misrepresentation to deceive regulators and consumers in order to allow Defendants to sell Vapable Oils using the 5-gram limit applied to concentrates, instead of the lower 500-milligram CIP limit imposed on Illinois residents, or the even lower limits imposed on out-of-state consumers.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

11. This misrepresentation enabled Defendants to sell up to 11 times the amount of CIP an adult-use consumer is allowed to lawfully possess at one time, thereby exceeding the limits which could be sold to a consumer in a single transaction, and generating significant profits for Defendants at the expense of Illinois consumers and in spite of Illinois law.

12. Plaintiff and other consumers who purchased Defendants' Vapable Oils were misled to believe that they were purchasing a legal cannabis product that complied with statutorily imposed limits, required labels, and packaging. This deception continues to this day, affecting and harming consumers throughout Illinois daily. By deceiving regulators and consumers about the legality and of their products, Defendants were able to take away market share from competing products and increase their own sales and profits, all while subjecting consumers to real risks to their health and safety.

13. As a result, consumers have been, and continue to be, overcharged, placed at risk of overconsuming Defendants' illegal products, and incurring other consequential damages and harm.

14. Accordingly, Plaintiff brings this action individually and on behalf of similarly situated individuals to seek redress for violations of the Illinois Uniform Deceptive Trade Practices (815 ILCS 510/1 *et seq.*) and Illinois Consumer Fraud Act (815 ILCS 505/1 *et seq.*), as well as common law torts of fraud and fraudulent concealment, declaratory judgment, and unjust enrichment, among others.

PARTIES

15. At all relevant times, Plaintiff Lindsey Mellor has been a citizen of the State of Illinois and resident of Cook County.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

16. Defendant GTI Rock Island, LLC is an Illinois limited liability company and is licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq*. GTI Rock Island, LLC is managed by GTI-Clinic Illinois Holdings, LLC.

17. Defendant GTI Oglesby, LLC is an Illinois limited liability company and is licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI Oglesby, LLC is managed by GTI-Clinic Illinois Holdings, LLC.

18. Defendant GTI-Clinic Illinois Holdings, LLC is an Illinois limited liability company and is an alter ego, parent company, and/or affiliate of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI-Clinic Illinois Holdings, LLC, is managed by GTI Core, LLC.

19. Defendant GTI Rock Island Partners, LLC is an Illinois limited liability company, and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI Rock Island Partners, LLC is managed by Benjamin Kovler.

20. Defendant GTI Mundelein Partners, LLC is an Illinois limited liability company and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI Mundelein Partners, LLC is managed by GTI-Clinic Illinois Holdings, LLC.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

21. Defendant GTI-3C, LLC is an Illinois limited liability company and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI-3C, LLC is managed by GTI-Clinic Illinois Holdings, LLC.

22. Defendant Green Thumb Industries, Inc. is a corporation incorporated in the Province of British Columbia, Canada. Green Thumb Industries, Inc. is the parent company of all other Defendants.

23. Defendant GTI Mundelein Partners II, LLC is an Illinois limited liability company and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.* GTI Mundelein Partners II, LLC is managed by VCP Real Estate Holdings, LLC.

24. Defendant GTI Oglesby Partners II, LLC is an Illinois limited liability company and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 I-LCS 130/1 *et seq.* GTI Oglesby Partners II, LLC is managed by VCP Real Estate Holdings, LLC.

25. Defendant GTI23, Inc. is a Delaware corporation and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/1 *et seq.*

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

26. Defendant VCP23, LLC is a Delaware limited liability company and is an affiliate, parent company, and/or alter ego of GTI's entities licensed as a Cultivator under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705/1 *et seq*. and/or Compassionate Use of Medical Cannabis Program Act, 410 I-LCS 130/1 *et seq.*

27. Defendants share and operate out of the same headquarters located at 325 W. Huron St., Suite 700, Chicago, IL 60654.

28. The aforementioned Defendant entities operate as one entity under the umbrella of the parent company referred to as "GTI" and publicly traded on Canada's Securities Exchange under "GTII.CN" and the U.S. OTCQX under "GTBIF."

CANNABIS INDUSTRY CORPORATE STRUCTURING

29. Due to the federal illegality of cannabis and robust regulatory schemes at the state level, the cannabis industry maintains unique organizational designs.

30. Operationally, the unavailability of traditional financing and banking services poses certain challenges.

31. Of particular note is the unique nature of paying and filing taxes as a cannabis entity, where the federal tax code does not contemplate the sale of cannabis as a legal business. Specifically, IRS Code Section 280E prohibits a federally illegal business from claiming any deductions and credits thereunder.[1]

32. To account for the complexity of the situation, cannabis companies created complicated, but integrated, corporate structures.

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[1]https://www.irs.gov/about-irs/providing-resources-to-help-cannabis-business-owners-successfully-navigate-unique-tax-responsibilities (last visited Dec. 23, 2024); https://www.foxrothschild.com/publications/high-time-for-cannabis-businesses-to-start-tax-planning (last visited Dec. 23, 2024); https://greengrowthcpas.com/cannabis-business-tax-guide/#:~:text=One%20key%20strategy%20is%2 0to, water%2C%20and%20nutrients%20for%20cultivation (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

33. As a general practice, many cannabis companies may maintain separate entities to hire their employees, hold their equipment, contract with vendors, and a host of other functions.

34. While these entities may be separate on paper or in corporate filings, they are functionally one entity operating under a large umbrella of entities.

35. Defendants follow suit by selling products under one national portfolio of brands, including Rhythm, &Shine, Beboe, and other brand names.

36. On information and belief, Defendants also process, manufacture, and package Vapable Oils and other products for third-party brands.

37. The Defendant entities share such a unity of interest and ownership that the separate personalities of the corporations and/or individuals no longer exist.

38. Defendants share executive management and C-suite executives, policies and practices, payroll, internal support functions, and other resources.

39. Defendants operate as a single, vertically integrated, centralized entity through GTI's parent companies.

40. Defendants hold themselves out as one integrated system and operate as such, including by referencing all GTI products on a single website:

[2]

[2] See https://www.gtigrows.com/brands/overview/ (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

41. Such control and integration is admitted and discussed further in Defendants' own statements and reports, including those made by Defendants on GTI's website. Wherein Defendants state that:

> Green Thumb Industries Inc. ("Green Thumb"), a national cannabis consumer packaged goods company and retailer, promotes well-being through the power of cannabis while giving back to the communities in which it serves. Green Thumb manufactures and distributes a portfolio of branded cannabis products including &Shine, Beboe, Dogwalkers, Doctor Solomon's, Good Green, incredibles and RYTHM. The company also owns and operates rapidly growing national retail cannabis stores called RISE. Headquartered in Chicago, Illinois, Green Thumb has 20 manufacturing facilities, 99 open retail locations and operations across 14 U.S. markets. Established in 2014, Green Thumb employs approximately 4,800 employees and serves millions of patients and customers each year. [3]

42. GTI also owns and operates a national cannabis retail chain called RISE Dispensaries, which provides various educational resources to cannabis users.

JURISDICTION

43. The Court has personal jurisdiction over Defendants pursuant to 735 ILCS 5/2-209(a)(1) because Defendants transacted business in this State by selling Vapable Oils to consumers in Illinois, including Plaintiff. Defendants are registered to do business in Illinois and have been doing business in Illinois during all relevant times. Directly and through their agents, Defendants have substantial contacts with Illinois (including acquiring State of Illinois licensure to cultivate and dispense cannabis), have purposefully availed themselves of the Illinois market, and have received substantial benefits and income from Illinois.

44. Venue is proper in Cook County because Defendants have offices, dispensaries, or agents in Cook County and a substantial part of the acts or omissions giving rise to the claims asserted in this Complaint occurred in Cook County, including purchases of the Vapable Oils.

[3] https://investors.gtigrows.com/investors/overview/default.aspx (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

COMMON FACTS

VAPABLE OILS

45. Vapable Oils are one of the most common forms of CIP sold in the State of Illinois. They are ubiquitous, and are readily available at most dispensaries.

46. Vapable Oils are generally sold in three formats – (1) disposables; (2) cartridges; and (3) raw. The following is a representative sample of each of these types of products:

Disposables **Cartridges** **Raw**

47. Vapable Oil disposables come with a pre-charged battery and contain cannabis oil pre-loaded for immediate use. Vapable Oil disposables typically consist of a pre-charged battery, heating element, filled reservoir containing cannabis oil, and mouthpiece in one device.[4]

48. Vapable Oil disposables use the built-in battery to heat the oil in the tank until it vaporizes, then it is inhaled by the user. Once the user has finished with the product, they can dispose of the entire device.

49. Vapable Oil cartridges, on the other hand, are pre-filled glass or plastic cartridges that contain cannabis oil. They are generally used with a "vape pen," which is a "battery that works in conjunction with [the] cartridge." When activated, the "battery heats up an atomizer in the cartridge which in turn heats up and activates the various compounds in the cannabis oil."

[4] *See* https://www.leafly.com/news/cannabis-101/types-of-cannabis-vape-carts (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

50. Ultimately, each Vapable Oil cartridge, including Defendants,' operates in a functionally similar, if not identical, manner.

51. An atomizer is heated using a battery in order to heat and activate cannabis oil contained therein, which is then inhaled by the user.

52. Raw vaporizable cannabis products, such as resin, rosin, budder, badder, crumble, sugar, sauce, shatter, wax, bubble hash, and diamonds, are typically vaporized utilizing a device called a "rig." The process of vaping in this way is referred to as "dabbing."[5] As such, these products are not sold in prepackaged cartridges or disposables.

53. Traditional glass dab rigs are made out of a water pipe that features a "nail" or "banger," which is heated manually to vaporize the product.[6] The vapor flows into the rig and passes through the water, cooling and filtering it before inhalation.

54. Electric dab rigs, on the other hand, allow the user to select a heat setting without the need to manually heat anything. *Id.*

MEDICINAL AND ADULT USE CANNABIS IN THE STATE OF ILLINOIS

55. In 2013, finding that the adoption of rules to regulate cannabis use is necessary for the public interest, safety, and welfare of its citizens, the State of Illinois became the 20th state to authorize the cultivation, dispensing, and use of cannabis for medicinal purposes, passing the Medicinal Act. *See* 410 ILCS 130/115.5 ("The General Assembly finds that the adoption of rules to regulate cannabis use is deemed an emergency and necessary for the public interest, safety, and welfare.").

56. The Illinois Department of Public Health manages the registry of Patients and issues registry cards to Illinois residents meeting the program requirements.

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[5] https://grassrootscannabis.com/concentrates-glossary/ (last visited Dec. 23, 2024).
[6] https://curaleaf.com/blog/the-deal-with-710 (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

57. In 2018, the Alternative to Opioids Act of 2018 (the "Alternative to Opioids Act") was signed into law to expand access to medical cannabis. The Alternative to Opioids Act created the Opioid Alternative Pilot Program (the "OAPP"), which allowed individuals to access medical cannabis as an alternative to prescriptions for opioids as certified by licensed Illinois physicians.

58. Illinois adopted laws allowing medicinal cannabis use because of the therapeutic and beneficial value it could provide to Illinoisans suffering from debilitating illnesses and to protect "seriously ill patients who have a medical need to use cannabis" from legal prosecution and arrest. 410 ILCS 130/5(d).

59. Illinois passed the CRTA in 2019, legalizing the possession and use of recreational cannabis by persons over the age of 21 in the state of Illinois, subject to certain limitations on use and possession limits.

60. Incorporating lessons learned from the period of strictly medical use cannabis, the General Assembly, "[i]n the interest of the health and public safety of the residents of Illinois," found and declared that:

> [C]annabis should be regulated in a manner similar to alcohol so that . . . cannabis sold in this State will be tested, labeled, and subject to additional regulation to ensure that purchasers are informed and protected; and [that] purchasers will be informed of any known health risks associated with the use of cannabis, as concluded by evidence-based, peer reviewed research.

410 ILCS 705/1-5(a).

61. The Illinois Cannabis Acts appointed various State agencies with rule-making power over the sale, use, and harvesting of cannabis products to regulate, among other items, the amount of THC that can be in a particular product and possessed by a person as well as dosages, labeling, and packaging requirements.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

LEGAL PRODUCTS UNDER ILLINOIS LAW

62. The production and manufacture of cannabis products is limited to appropriately licensed entities in the State of Illinois. With the appropriate licensing, entities can cultivate and grow cannabis flower and make cannabis concentrate from that flower, among other functions.

63. The Illinois Cannabis Acts regulates two general categories of cannabis products permitted to be manufactured, packaged, and sold to retail consumers in the State of Illinois: (1) smokeable products, including smokeable concentrates; and (2) CIPs, such as Vapable Oils, gummies, tinctures, and oils, among others, that are made by incorporating cannabis concentrate. *See* 410 ILCS 705/1-10.

64. These categories of products are defined as follows in the CRTA and Department of Agriculture Regulations:

> "**Cannabis concentrate**" means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), from the plant through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO2, ethanol, or isopropanol and ***with the intended use of smoking or making a cannabis-infused product.***
>
> "**Cannabis-infused product**" means a beverage, food, oil, ointment, tincture, topical formulation, ***or another product containing cannabis or cannabis concentrate that is not intended to be smoked***.
>
> "**Smoking**" means the inhalation of smoke caused by the ***combustion*** of cannabis.

410 ILCS 705/1-10 (emphases added); *see also* 8 Ill. Adm. Code 1000.10.

65. Pursuant to the above definitions, cannabis concentrate can only be incorporated into and sold to a retail consumer as a: (1) smokeable product; or (2) cannabis-infused product *i.e.* CIP.

66. The CRTA properly defines smoking as requiring combustion.

67. Distinct from smoking is the practice of "vaping," which does not require combustion.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

68. The Illinois Department of Agriculture reinforces in its Compliance Alert Notice that "vaping would not generally be considered 'smoking'" under the CRTA, "so long as combustion is not required to vaporize the 'cannabis-infused product'." Ill. Dept. Ag. CA-2022-09-INF Infusers and Vape Cartridges.

CANNABIS LABELING, PACKAGING, AND WARNING REQUIREMENTS

69. The Illinois General Assembly has declared cannabis should be regulated so that "cannabis sold in this State will be tested, labeled, and subject to additional regulation to ensure that purchasers are informed and protected; [] and purchasers will be informed of any known health risks associated with the use of cannabis, as concluded by evidence-based, peer-reviewed research." 410 ILCS 705/1-5(b)(5-6); 410 ILCS 130/5.

70. The most basic requirement is that the product package must define what the product is, whether that be an edible CIP, smokeable product, or other form of legal product, and labeled with the common name of the product. *See* 410 ILCS 705/55-21(e)(2); 8 ILAC 1300.930(b)(2); 77 ILAC 720.40(b); 410 ILCS 705/55-21(e); 410 ILCS 130/80; 77 ILAC 946.400.

71. The contents of the product must be listed, including ingredients, and the total of listed contents shall not be below 85% or above 115% of the labeled amount. 410 ILCS 705/55-21(e)(8)(B); 8 ILAC 1000.420(d)(8)(B).

72. Cannabis products produced by concentrating or extracting ingredients from a cannabis plant must identify the type of extraction method, solvents or gas used to create the concentrate or extract, and any other chemicals or compounds used to produce or that were added to the concentrate or extract, including when that concentrate or extract is utilized in either a CIP or smokeable product. 410 ILCS 705/55-21(g).

73. The Illinois Cannabis Acts require that CIPS "shall meet the packaging and labeling requirements contained [therein.]" 410 ILCS 705/55-5(a).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

74. With respect to CIPs intended for consumption, the maximum limit imposed by the Illinois Cannabis Acts for one package is no more than 100 milligrams. 8 ILAC 1000.420(f); 8 ILAC 1300.920(d); 410 ILCS 705/55-21(k).

75. Illinois imposed these limitations to protect the health and safety of the residents of Illinois and other cannabis purchasers, as demonstrated by the State's own warnings against overconsumption:

Are there added risks for regular cannabis use?

Routine and high-dose cannabis use may have more health consequences than occasional or low-dose cannabis use. Remember, some cannabis sold at Illinois dispensaries has higher amounts of THC than illegally grown and sold cannabis before legalization.

[7]

76. Even in the limited research conducted to date, high-potency cannabis products have been linked to significant risk of psychosis and other psychiatric-related illnesses. *See e.g.* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2801827/ (noting that the "most striking finding is that patients with a first episode of psychosis preferentially used high-potency cannabis preparations of the sinsemilla (skunk) variety" which was a potency level of 12-18% THC); https://www.hazeldenbettyford.org/research-studies/addictionresearch/highpotencymarijuana#:~:text=Individuals%20who%20used%20high%2Dpotency,psychotic%20disorder%20than%20non%2Dusers ("Individuals who used high-potency cannabis on a daily basis were found to be five times more likely to experience a psychotic disorder than non-users").

77. With recommendations from the Department of Public Health, the Illinois Cannabis Acts also mandate warnings for specific product types that "must" be present on labels when offered for sale to an end consumer:

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[7] Illinois Cannabis Regulation Oversight Office, https://cannabis.illinois.gov/about/faqs.html#faq-item-faq_copy-0-1 (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

> Cannabis that may be smoked must contain a statement that 'Smoking is hazardous to your health.'
>
> Cannabis-infused products (other than those intended for topical application) must contain a statement 'CAUTION: This product contains cannabis, and intoxication following use may be delayed 2 or more hours. This product was produced in a facility that cultivates cannabis, and that may also process common food allergens.'

410 ILCS 705/55-21(j).

78. Once *any* label has been affixed to the primary packaging of cannabis or a CIP, it may not be altered or destroyed by anyone other than the purchaser. 410 ILCS 705/55-21(l).

79. Cannabis business establishments, including cultivators and dispensaries, may not engage in, maintain, or place advertising that contains any statement or illustration that: (1) is false or misleading; or (2) promotes overconsumption of cannabis or cannabis products. 410 ILCS 705/55-20(a); 410 ILCS 705/55-20(b)(4); 410 ILCS 705/55-21(f); 8 ILAC 1300.930(c).

80. Likewise, cannabis product packaging may not include information that "(1) is false or misleading; [or] (2) promotes excessive consumption[.]" 410 ILCS 705/55-21(f); 8 ILAC 1300.930(c); 8 ILAC 1000.420(g).

CANNABIS QUANTITY LIMITS

81. To protect consumers in the State of Illinois, the Illinois Cannabis Acts impose limits on the amount of cannabis that can be possessed by an individual. *See e.g.* 410 ILCS 705/10-10(a)-(b).

82. An individual over the age of 21 purchasing for recreational purposes who is an Illinois State resident is permitted to cumulatively possess no more than 500 milligrams of THC contained in CIPs and 5 grams of cannabis concentrate. 410 ILCS 705/10-10(2).

83. The Illinois Cannabis Acts limits non-residents to cumulatively possessing no more than 250 milligrams of THC contained in a CIP and 2.5 grams of smokeable concentrate. *See* 410 ILCS 705/10-10(a)-(b).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

84. An individual purchasing for medicinal purposes cannot purchase more than an adequate supply for their medicinal needs, which the Medicinal Act limits to 2.5 ounces of cannabis in any 14-day period. 410 ILCS 130/130(i)(4); 410 ILCS 130/10(a).

DEFENDANTS' VAPABLE OILS

85. Defendants sell Vapable Oils in 300-milligram, 500-milligram, 1-gram, and 2-gram sizes under the brand names Rhythm, Beboe, and &Shine.

86. Defendants control the marketing, advertising, and packaging content of each of their brands. As Defendants themselves admit, they were entrusted with the responsibility to run their business legally and ethically, per state and local regulatory frameworks.[8] Specifically, Defendants' Code of Ethical Business Conduct states that the company has the responsibility to "comply with all applicable laws, rules, regulations and company policies, and exercise ethical business conduct," It goes on to state:

> The backbone to Green Thumb's operations are the numerous state and local medical and adult use licenses that permit us to operate in those jurisdictions. These permissions are dependent upon our stringent compliance with the laws governing these licenses to ensure that we can continue to provide high-quality cannabis products to our medical patients and our adult use customers. Green Thumb has established policies and standard operating procedures to help you satisfy our compliance obligations . . .

87. Each of Defendants' Vapable Oils are marketed under the product categories of disposable vapes, vape pens, cartridges, or raw products at various dispensaries with no mention or clarification that they are, in fact, CIPs.

88. Defendants' Vapable Oils are CIPs because they are "products," which contain "cannabis concentrate that is not intended to be smoked." Ill. Dep. Ag. CA-2022-09-INF Infusers and Vape Cartridges.

[8] https://s23.q4cdn.com/166212319/files/doc_downloads/2023/08/GTI-Ethical-Code-of-Conduct-2023.pdf

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

89. Defendants' Dispensary website defines smoking as "inhaling the smoke from dried plant parts or concentrates."[9]

90. It notes that cannabis starts to vaporize at around 284 degrees Fahrenheit or lower and combustion starts at around 446 degrees Fahrenheit.

91. Defendants state that vaping, on the other hand, "refers to heating and inhaling concentrated extracts or heated ground dry herbs" and that "[v]aping is generally considered a much more potent method of administration than smoking."

92. The website goes on to state that vaping and "vape pens don't require combustion."

93. Defendants' dispensary website claims that vaping is a "healthier" alternative to smoking, which is false and misleading, in addition to a prohibited representation under the Illinois Cannabis Acts and another flagrant attempt to trick consumers about the nature of this product. *See* 410 ILCS 705/55-20(a)(5).

94. Despite Defendants' marketing materials expressly stating that the oil contained in their Vapable Oils are intended to be vaporized – not smoked – Defendants market, package, and sell their Vapable Oils as concentrates as opposed to CIPS.

95. All of Defendants' Vapable Oils exceed the 100-milligram per-product limit of THC imposed upon CIPs by the State of Illinois.

96. Defendants market and package their Vapable Oils as cannabis concentrates in a number of ways, including through marketing of the products as concentrates, packaging them in amounts which CIPs are prohibited from being sold in, and by omitting their status as CIPs and further concealing that status by marketing them simply as "vapes" without further description.

[9] https://risecannabis.com/blog/cannabis-101/marijuana-vaping-guide/ (last visited Dec. 23, 2024).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

97. All of this serves to deceive and confuse consumers into believing that the Vapable Oils are cannabis concentrates instead of CIPs, and, further, that Defendants' Vapable Oils are lawfully compliant products.

98. The Illinois Cannabis Acts limit a person to possessing only 500 milligrams of THC in CIPs at a time. However, a single purchaser is allowed to possess up to 5 grams of cannabis concentrate.

99. By misrepresenting their Vapable Oils as cannabis concentrate, Defendants are able to increase the sales of their CIPs by a factor of 11.

100. If Defendants had complied with the Illinois Cannabis Acts, Illinois consumers would be limited to purchasing up to five 100-milligram cartridges at a time (or any combination of compliant CIPs totaling 500 milligrams) and would be prevented from purchasing additional CIPs.

101. Under Defendants' current illegal scheme, however, consumers can purchase 10 times that amount (5 grams) as cannabis concentrate in 300-milligram, 500-milligram, 1-gram, and 2-gram increments, and still purchase an additional 500 milligrams of CIPs.

102. In total, this is 11 times the maximum possession limit of CIPs imposed by law.

103. As a result, consumers purchase Defendants' Vapable Oils reasonably believing they are perfectly legal and safe to use, and instead receive products that are illegal and cannot be lawfully sold or possessed in Illinois.

104. Further, Defendants' deceptive practices expose consumers to a risk of overconsumption. Users specifically seek out certain types of cannabis products based on their potential therapeutic benefits like anxiety relief or pain management. By selling their Vapable Oils

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

with THC content well above the legally allowed limit, Defendants put their customers at risk of adverse physical effects like psychoactive effects, anxiety attacks, or overwhelming intoxication.

105. One of the most important, material features of a cannabis product is the ability for a consumer to legally purchase, possess, and consume the product. Consumers lack the ability to test or independently ascertain the ingredients and legality of Defendants' Vapable Oils at the point of sale. Accordingly, reasonable consumers must and do rely on Defendants to honestly report the legality of their Vapable Oils and their contents when designing, manufacturing, distributing, and selling the Products.

106. Defendants' unlawful conduct is uniform across their Vapable Oils. They have made no attempt to clarify that their Vapable Oils are CIPs, despite the duties imposed upon them by the Illinois Cannabis Acts.

107. Defendants knew or should have known that their Vapable Oils were, in fact, CIPs; yet despite that knowledge, they continue to deceptively market and package them as cannabis concentrate, reaping the benefits of their deception.

108. These benefits have been substantial to date. As Defendants' corporate parent, Green Thumb Industries, Inc., reported in their Q3 2024 Earnings, GTI had $287 million in revenue and their cash at quarter end totaled $174 million.[10] The unlawful packaging, marketing, and sale of Vapable Oils at issue here is simply one part of Defendants' branded product playbook to maximize their available efficiencies and beat out their competitors.

ALLEGATIONS SPECIFIC TO LINDSEY MELLOR

109. Plaintiff Lindsey Mellor is an adult use cannabis purchaser.

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[10] https://investors.gtigrows.com/investors/news-and-events/press-releases/press-release-details/2024/Green-Thumb-Industries-Reports-Third-Quarter-2024-Results/default.aspx

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

110. Among other purchases, on or around November 25, 2023, Plaintiff purchased an &Shine Durban Poison 1-gram and Northern Lights 1-gram Vapable Oil cartridges from Sunnyside Dispensary in Chicago, Illinois.

111. Plaintiff's total for the &Shine Durban Poison and 1-gram Northern Lights cartridge on Plaintiff's receipt was $46.00 each before the application of any taxes or discounts.

112. Defendants' &Shine cartridges were, and still are, marketed as 1-gram vape cartridges. These products feature upwards of 89% THC each.

113. Among other purchases, on or around July 5, 2024, Plaintiff purchased a Rhythm Live Resin White Durban 500-milligram Vapable Oil from Beyond/Hello Dispensary in Normal, Illinois.

114. Defendants' Rhythm Live Resin White Durban cartridge was, and still is, marketed as a 500-milligram Vapable Oil cartridge, with Plaintiff's purchase featuring 78% or more of THC per product.

115. Plaintiff's total for the Rhythm Live Resin White Durban cartridge on Plaintiff's receipt was $38.00 before the application of any taxes or discounts.

116. However, at the time Plaintiff made these purchases, Plaintiff was not aware that the Vapable Oils had been improperly labelled and marketed, and were, in fact, unlawful CIPs containing up to nearly ten times the 100-milligram limit imposed by Illinois law upon each package of CIP.

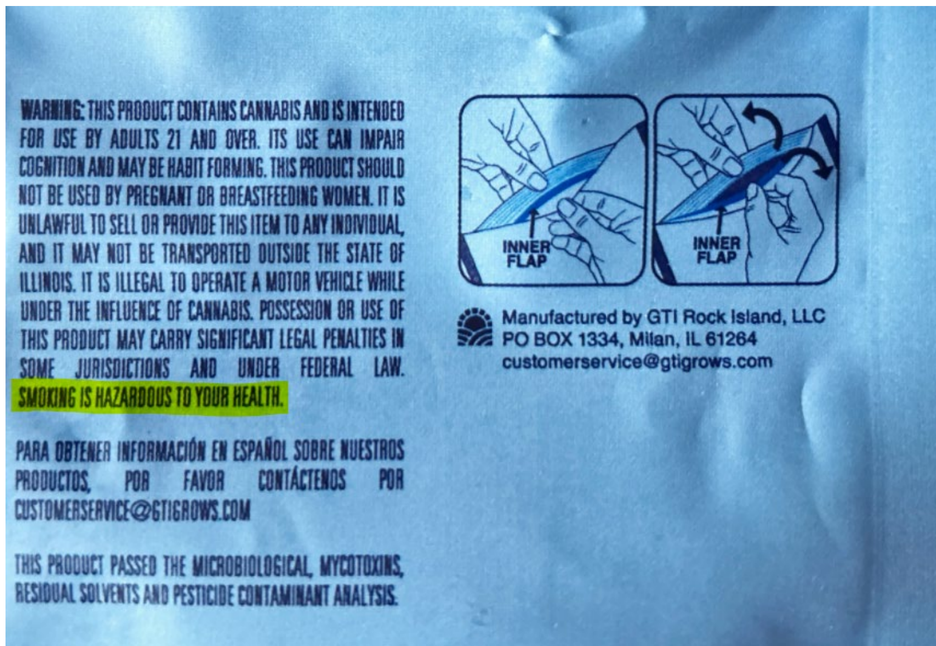
117. Making matters more confusing, the labels and packaging used by Defendants for their Vapable Oils generally included, and continue to include the warning for smokeable products, and failed to contain the required warning for CIPs.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

WARNING: THIS PRODUCT CONTAINS CANNABIS AND IS INTENDED FOR USE BY ADULTS 21 AND OVER. ITS USE CAN IMPAIR COGNITION AND MAY BE HABIT FORMING. THIS PRODUCT SHOULD NOT BE USED BY PREGNANT OR BREASTFEEDING WOMEN. IT IS UNLAWFUL TO SELL OR PROVIDE THIS ITEM TO ANY INDIVIDUAL, AND IT MAY NOT BE TRANSPORTED OUTSIDE THE STATE OF ILLINOIS. IT IS ILLEGAL TO OPERATE A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF CANNABIS. POSSESSION OR USE OF THIS PRODUCT MAY CARRY SIGNIFICANT LEGAL PENALTIES IN SOME JURISDICTIONS AND UNDER FEDERAL LAW. THIS PRODUCT PASSED THE MICROBIOLOGICAL, MYCOTOXINS, RESIDUAL SOLVENTS AND PESTICIDE CONTAMINANT ANALYSIS. SMOKING IS HAZARDOUS TO YOUR HEALTH.

PARA OBTENER INFORMACIÓN EN ESPAÑOL VISÍTANOS EN GTIGROWS.COM/ESPANOL

MFG BY GTI ROCK ISLAND, LLC PO BOX 1334, MILAN, IL 61264



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FILED DATE: 1/8/2025 4:58 PM 2025CH00186

118. Plaintiff relied on Defendants' representations that the sale of their products was compliant and safe, based on their status and holding themselves out as licensed cannabis companies under the State's robust regulatory structure, and reasonably assumed compliance with same in purchasing the Vapable Oils.

119. Plaintiff relied on Defendants' representations, and the information and warning labels on the Vapable Oils, in deciding to purchase the Vapable Oils. Plaintiff did not know that the Vapable Oils she was purchasing were actually CIPs that were not compliant with the Illinois Cannabis Acts.

120. Plaintiff would not have purchased these Vapable Oils had she known that it was not legal, did not have appropriate warnings and information on the packaging and product, and did not have any dosing instructions.

121. Moreover, Plaintiff would not have been able to purchase the Vapable Oils, as the sales were prohibited by the Illinois Cannabis Acts.

122. The Vapable Oils are substantially less valuable (and in fact are worthless as a legal alternative to illicit cannabis) because they do not comply with the cannabis standards set out by the State of Illinois. The Vapable Oils should not, and legally could not, have been sold or possessed by consumers.

123. Plaintiff was misled and harmed as a proximate result of Defendants' conduct.

CLASS ACTION ALLEGATIONS

124. Plaintiff brings her claims individually and on behalf of the following class pursuant to 735 ILCS 5/2-801:

> All persons who, within the applicable limitations period, purchased within the State of Illinois any Vapable Oils manufactured, processed, made, labeled, or packaged by Defendants.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

125. Excluded from the Class are: (1) Defendants; (2) Defendants' officers and directors, those persons' immediate families, and the successors and predecessors of any such excluded person or entity; (3) any Judge or Magistrate Judge presiding over this action, their staff, and the members of their family; (4) persons who properly and timely request exclusion; (5) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; and (6) Plaintiff's counsel and Defendants' counsel, and their experts and consultants.

126. **Numerosity**. The proposed class contains members so numerous that separate joinder of each member of the class is impracticable. The total sales of Vapable Oils during the applicable statutory period are in the tens of millions and there are thousands of proposed class members. The individuals who purchased Vapable Oils can be ascertained through records in the possession, custody, or control of Defendants.

127. **Commonality and Predominance**. There are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members, including but not limited to the following:

- Whether Defendants misled consumers into purchasing Vapable Oils;
- Whether Defendants misrepresented or concealed material facts about the Vapable Oils, including the nature of the products and safety of using them;
- Whether Defendants improperly labeled and advertised the Vapable Oils;
- Whether the Vapable Oils constitute an unreasonable safety risk;
- Whether Plaintiff is entitled to equitable relief, including but not limited to a preliminary and/or permanent injunction;
- Whether Defendants violated the Illinois Consumer Fraud and Deceptive Business Practices Acts when it sold to consumers the Vapable Oils; and
- Whether Defendants acted with deliberate indifference to the safety risks posed by the Vapable Oils.

128. **Adequacy of Representation**. Plaintiff will fairly and adequately protect the interests of all Class Members. Plaintiff understands the obligations inherent in representing a

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

putative class, and the corresponding duties. Plaintiff has retained counsel competent and experienced in complex and class action litigation. Plaintiff has no interests antagonistic to the Class's interests, and Defendants have no defenses unique to Plaintiff.

129. **Appropriateness:** This class action is appropriate for certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy and because joinder of all members of the Class is impracticable. The damages suffered by the individual members of the Class are likely to have been small relative to the burden and expense of individual prosecution of the complex litigation necessitated by Defendants' wrongful conduct. Thus, it would be virtually impossible for the individual members of the Class to obtain effective relief from Defendants' misconduct. Even if members of the Class could sustain such individual litigation, it would not be preferable to a class action because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single Court. Economies of time, effort and expense will be fostered and uniformity of decisions ensured.

CLAIMS FOR RELIEF

COUNT I

Violation of Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.* on behalf of Plaintiff and the Class

130. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

131. Defendant, Plaintiff, and Class Members are "persons" within the meaning of the Uniform Deceptive Trade Practices Act (the "UDTPA") 815 ILCS 510/1(5).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

132. The UDTPA declares that any 'person,' such as Defendants, engages in a deceptive trade practice when, in the course of their business, they "represent[] that goods . . . have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have[.]" 815 ILCS 510/2(a)(5).

133. It is also a deceptive practice for a person to represent "that goods . . . are of a particular standard[] or quality[,]" to "advertise[] goods . . . with the intent not to sell them as advertised[,]" or to "engage in any other conduct which similarly creates a likelihood of confusion or misunderstanding." 815 ILCS 510/2(a)(7),(a)(9),(a)(12).

134. As alleged above, Defendants knowingly and/or recklessly misrepresented that the Vapable Oils they produced, distributed, marketed, and advertised were legally compliant cannabis concentrate, by, among other ways, introducing these products into the stream of commerce as licensed Cultivators in the State of Illinois, when in fact and as Defendants actually knew, they were CIPs.

135. Defendants knowingly misrepresented and advertised the goods as having a "quality," "sponsorship," "approval," "characteristics," "quantities," or "ingredients" that they did not have – namely, that they were cannabis concentrates.

136. Each of the Vapable Oils that Defendants produced were non-compliant with the Illinois Cannabis Acts, and thus unlawful to sell, due to, in addition to other factors, the quantity and contents (ingredients) of each product failing to comply with the legal restrictions imposed by the Illinois Cannabis Acts.

137. Moreover, Defendants expressly marketed the Vapable Oils as cannabis concentrate, not CIPs, which at its core, is a misrepresentation of material fact to any transaction regarding the quality and characteristics of the products at issue.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

138. Defendants' misrepresentations through their marketing and advertising led to the deception and confusion of consumers, including Plaintiff and the Class, regarding the nature and legal status of the Vapable Oils and their proper use.

139. Defendants' acts and practices were likely to, and did, in fact, deceive and mislead members of the public, including consumers acting and relying reasonably under the circumstances, to their detriment, including Plaintiff and members of the Class.

140. The unlawful Vapable Oils marketed and sold by Defendants were also likely to be confused with products that did conform to the legal requirements imposed by the Illinois Cannabis Acts, as they were sold and marketed as lawful goods and were not distinguished from lawful goods when marketed or sold in any way.

141. Defendants' deceptive conduct continues, and they continue to produce, market, and sell these unlawful Vapable Oils across a number of jurisdictions. Putting unknowing consumers at risk for their joint financial benefit.

142. With the dynamic and opaque nature of the cannabis industry, consumers, including Plaintiff and other members of the Class will not reasonably be able to avoid Defendants' products in the future, as Defendants continue to merge, acquire, create, and exchange various brands and manufacturers with other industry competitors.

143. Plaintiff, on behalf of herself and the putative Class Members, requests that the Court enter an order for a Declaratory Judgement declaring that Defendants' manufacture, marketing, and sale of Vapable Oils as described is a deceptive trade practice in violation of the UDTPA.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

COUNT II

Violation of the Illinois Consumer Fraud Act 815 ILCS 505/1 *et seq.*
on behalf of Plaintiff and the Class

144. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

145. Plaintiff, Members of the Class, and Defendants are "persons" within the meaning of 815 ILCS 505/1(c) and 510/1(5).

146. At all times mentioned herein, Defendants engaged in "trade" or "commerce" in Illinois as defined by 815 ILCS 505/1(f), by engaging in the offering and sale of things of value in Illinois.

147. The Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA") provides that ". . . [u]nfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in . . . the 'Uniform Deceptive Trade Practices Act'… in the conduct of any trade or commerce are . . . unlawful whether any person has in fact been misled, deceived or damaged thereby." 815 ILCS 505/2. The ICFA further makes unlawful deceptive trade practices undertaken in the course of business. 815 ILCS 510/2.

148. Plaintiff and Class Members purchased Vapable Oils manufactured and marketed by Defendants.

149. Defendants misrepresented the Vapable Oils through statements, omissions, ambiguities, half-truths, and/or actions and engaged in unfair or deceptive acts or practices prohibited by the ICFA by engaging in the following, among other conduct.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

150. In violation of the Illinois Cannabis Acts, Defendants manufactured, marketed, and advertised unlawful and dangerous Vapable Oils in volumes of up to 2 grams (2,000 milligrams), containing per package amounts of THC in excess of those allowed by law, the production, sale, and marketing of which is expressly prohibited by the Illinois Cannabis Acts.

151. To make matters worse, many of the 500-milligram,1-gram, and 2-gram Vapable Oils purchased contain more THC in a single CIP than an out-of-state consumer, or adult-use Illinois resident, respectively, are even allowed to possess.

152. Defendants accomplished this through a number of deceptions, misrepresentations, omissions, concealments, and other unfair conduct.

153. Defendants undertook this conduct with the intent that consumers and others would rely on their deceptive and unfair schemes, so they could unlawfully market, sell, and profit off of various CIPs being sold as cannabis concentrate.

154. As alleged, Defendants' marketing, packaging, advertising, and business practices were rife with deception.

155. Specifically, Defendants each systematically misrepresented that the Vapable Oils at issue were cannabis concentrate by ensuring that they were labelled and sold as such on their own websites as well as those of other retailers, with the intent that their CIPs, the Vapable Oils, would be sold as cannabis concentrate, resulting in the sale of CIPs to consumers in quantities and concentrations which were unsafe and unlawful.

156. Defendants controlled the marketing of the products at issue, guaranteeing the Vapable Oils were marketed as "cannabis concentrate" or "vapes" in their own advertising and educational materials, as well as those which they imposed upon other retailers. Defendants also governed the representations made at related and third-party retailers.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

157. Defendants undertook the marketing, advertising, labelling, and packaging of Vapable Oils with the intent that consumers rely on the representations made therein.

158. Defendants omitted and actively concealed information from Plaintiff, the Class, and other consumers, that was not only material to each transaction, but that Defendants were duty bound to provide under the Illinois Cannabis Acts.

159. Defendants concealed the fact that the products they were selling were being sold unlawfully, and that the products did not comply with Illinois law.

160. Defendants did so by consistently representing their unlawful products were other categories of products that could potentially be lawful, like cannabis concentrate, or categories that were intentionally ambiguous, like “vapes”, in order to conceal their true nature.

161. Moreover, all CIPs are required to be labelled and packaged at the point of preparation, where each product shall be labelled with “the common or usual name of the item and the registered name.” 410 ILCS 705/55-21(e)(2).

162. However, here, Defendants failed at any time to properly classify their Vapable Oils, omitting their status as CIPs.

163. Defendants failed to include necessary warnings and safety information regarding overconsumption, while including inappropriate and incorrect warnings. Specifically, Defendants applied the warning “Smoking is hazardous to your health,” a required warning for “[c]annabis that may be smoked.” In doing so, Defendants concealed the true nature of the product despite their duty to provide the accurate warning for CIPs, a warning which they ultimately omit.

164. This has a likelihood to, and did, result in confusion among Plaintiff and the Class as to what Defendants’ Vapable Oils actually were, and whether they were CIPs, which are vaped and cannot be smoked, or cannabis concentrate, which is intended to be smoked.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

165. Defendants knowingly and/or recklessly did so in order to avoid the regulations associated with CIPs, allowing Defendants to sell more product on a per transaction basis, subject to the higher recreational purchasing limits allowed for cannabis concentrates as opposed to CIPs.

166. Defendants knew their Vapable Oils were legally defined as CIPs, meaning they were capped at lesser per transaction sales limits than cannabis concentrates.

167. By selling CIPs as cannabis concentrate, Defendants were able to sell much larger quantities of THC by volume through the increased sales limits – quantities that violated Illinois law.

168. This conduct, and the conduct generally alleged herein constitutes deceptive practices under the ICFA.

169. Defendants undertook this scheme of conduct in an intentional, systematic, and knowing manner.

170. The deceptive conduct pervades Defendants' product descriptions, packaging, marketing, and public statements.

171. Defendants made the deceptive representations and omissions or concealment of material facts discussed above with the intent that Plaintiff and other consumers rely upon them in determining that their Vapable Oils were lawful and whether to purchase them or a competing product.

172. Defendants' improper conduct is misleading in a material way in that it induced Plaintiff and the Class Members to purchase Defendants' Vapable Oils when they otherwise would not have. Defendants made their untrue and/or misleading statements and representations willfully, wantonly, and with a reckless disregard for the truth.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

173. Plaintiff and other members of the Class were exposed to, and reasonably relied upon, Defendants' deceptive representations when they purchased Defendants' Vapable Oils from various dispensaries across the State of Illinois, believing they had purchased lawful, safe products, in compliance with the Illinois Cannabis Acts.

174. Plaintiff and other members of the Class were harmed in the full amount of the monies paid for the Vapable Oils purchased, as they were not lawfully placed into commerce by Defendants, and were willfully, wantonly, and/or with reckless disregard for the truth, marketed by Defendants as being compliant with the Illinois Cannabis Acts (they are not), lawful for an individual to possess in many instances (they are not), and not unnecessarily dangerous (they are), in contravention of the Illinois Cannabis Acts.

175. Defendants' conduct also amounts to a series of unfair practices.

176. A plaintiff may recover against a defendant for undertaking an unfair practice where that practice (1) offends public policy; (2) is immoral, unethical, oppressive, or unscrupulous; and (3) causes substantial injury to consumers. *Aliano v. Ferriss*, 2013 IL App (1st) 120242, ¶ 25 (2013).

177. As discussed at length, Defendants' conduct offends the public policy of the State of Illinois, including, at a minimum, the Illinois Cannabis Acts, Department of Agriculture, Department of Public Health, and related governmental regulations, and basic public policies aimed at protecting consumers and ensuring that cannabis products are offered safely and legally in Illinois.

178. Defendants' mischaracterization of certain of their products as cannabis concentrate instead of CIPs resulted in the increase of their per unit sales and acquiring significant market control of the cannabis industry in the State of Illinois.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

179. As discussed, Defendants' conduct violates the strict requirements of the Illinois Cannabis Acts which define cannabis concentrate, CIPs, and their packaging, labelling, and similar restrictions.

180. Defendants categorized their Vapable Oils (CIPs) as cannabis concentrate, or confusingly as "vapes," with no further information, in order to sell greater volumes of the product by capitalizing on the State of Illinois's higher daily limit on sales of cannabis concentrate, namely, the possession limits imposed upon the purchaser.

181. In doing so, Defendants unlawfully promoted the unregulated overconsumption of cannabis by marketing, promoting, and selling improperly labeled and packaged cannabis products that fail to feature or conform to the safeguards against overconsumption imposed by the Illinois Cannabis Acts. Specifically, safety labels, serving size limits, serving size identification, and legal quantity limits.

182. Defendants' conduct foils the purpose and intent of the Illinois Cannabis Acts by undermining Illinois residents' right to access safe and legal cannabis in a regulated and controlled market.

183. Defendants' pursuit of profit in disregard of the Illinois Cannabis Acts and their safety requirements is not only unethical and unscrupulous, it is immoral and oppressive.

184. These are dangers sought to be mitigated by the Illinois Cannabis Acts through their dosing, labelling, and packaging requirements which expressly require that "[p]ackaging must not contain information that: (1) is false or misleading; [or] (2) promotes excessive consumption[.]" 410 ILCS 705/55-21(f).

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

185. As such, Defendants conduct amounts to a pervasive and systemic series of acts done in violation of the requirements of the Illinois Cannabis Acts and their enabling regulation in order to advance Defendants' own interests and increase Defendants' profits.

186. The requirements imposed upon Defendants by the Illinois Cannabis Acts serve the public policy of the State of Illinois by promoting and preserving the health and safety of its residents in the face of a dangerous industry.

187. To further this, the Illinois Cannabis Acts recognize the lack of consumer and purchaser knowledge regarding cannabis in all its forms, as well as the laws and regulations that govern its purchase and consumption.

188. The Illinois Cannabis Acts imposed the regulations, which were ignored and violated by Defendants, in order to remedy the potential harms caused by this lack of knowledge, and shifts the duty of education and legal compliance to cannabis companies like Defendants – a duty that Defendants failed to uphold here.

189. As such, Defendants' conduct is wholly unfair to the people of the State of Illinois, as well as those visiting Illinois and consuming cannabis in reliance on the public policies and laws of the State, and in contravention of the public policy goals of the general assembly in passing the Illinois Cannabis Acts.

190. There is no benefit to consumers from Defendants' conduct. The only parties who benefit are Defendants, who enjoy reduced compliance costs and increased profits as a result of their conduct.

191. Plaintiff and Class Members would not have purchased Defendants' Vapable Oils but for Defendants' deceptive and unfair conduct described herein. As Plaintiff and the Class

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

Members could not and would not have purchased an unlawful product, and would have purchased a legally compliant alternative instead.

192. For the reasons discussed herein, Defendants violated and continue to violate ICFA by engaging in the deceptive or unfair acts or practices prohibited by 815 ILCS 505/2 and 510/2.

193. Plaintiff and Class Members are entitled to damages in an amount to be proven at trial, reasonable attorneys' fees, and any other penalties or awards that may be appropriate under the law.

COUNT III
Common Law Fraud
on behalf of Plaintiff and the Class

194. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

195. Defendants made continuous representations through their marketing materials and packaging labels that their Vapable Oils were cannabis concentrates that complied with the Illinois Cannabis Acts.

196. These representations were false and material.

197. The Vapable Oils are CIPs that do not comply with the Illinois Cannabis Acts.

198. Defendants know that the Vapable Oils they produce are actually CIPs that did not comply with the requirements of the Illinois Cannabis Acts, and that were prohibited from being sold to Plaintiff and the Class.

199. Defendants' material misrepresentations operated as an inducement to Plaintiff and the Class to purchase Vapable Oils that, except for such inducement, they would not have purchased. It was Defendants' intent that their inducement would lead to consumers like Plaintiff and the Class purchasing Vapable Oils thinking that they were cannabis concentrates.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

200. Plaintiff and the Class trusted and relied upon Defendants' marketing materials and package labels to be truthful, and did not know that these materials were false.

201. Plaintiff and the Class were reasonable in, and had a right to, their reliance on Defendants' omissions and misrepresentations due to the imposition of a strict regulatory regime on Defendants and other cultivators to ensure their knowledge of the laws and products they produce, market, and sell as a matter of public policy.

202. Defendants' material misrepresentations are intentional. Defendants' intent is that consumers like Plaintiff and the Class purchase Vapable Oils, regardless of the Vapable Oils' illegal nature.

203. Defendants' material misrepresentation categorizing their Vapable Oils as cannabis concentrates was also intentional conduct aimed at selling greater volumes of the product by capitalizing on the State of Illinois's higher per transaction limit on sales of cannabis concentrate compared to CIPs (which their Vapable Oils actually are).

204. Plaintiff and the Class suffered harm as a result of Defendants' misrepresentations and omissions.

205. Plaintiff and the Class would not have purchased Defendants' Vapable Oils had Defendants not omitted or concealed their unlawful nature, as they would not and could not have purchased an unlawful product, and would have purchased a legally compliant alternative instead.

206. As a direct and proximate cause of Defendants' conduct, Plaintiff and the Class are entitled to damages in an amount to be proven at trial, reasonable attorneys' fees, and any other penalties or awards that may be appropriate under applicable law.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

COUNT IV
Fraudulent Concealment
on behalf of Plaintiff and the Class

207. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

208. Defendants knew that the Vapable Oils they produced did not comply with the requirements of the Illinois Cannabis Acts, and were prohibited from being sold to Plaintiff and the Class.

209. Defendants' marketing omitted or concealed the fact that their Vapable Oils were unlawful, and unable to be sold by Defendants, any dispensary, or purchased or possessed by consumers. Defendants' marketing further omitted or concealed the fact that their Vapable Oils were CIPs, not cannabis concentrate.

210. As Defendants were required by the Illinois Cannabis Acts to know the regulations and requirements of the law, they had knowledge that their Vapable Oils were CIPs and were not in compliance with the Illinois Cannabis Acts.

211. It was not within reasonably diligent attention, observation, and judgement of Plaintiff and the Putative Class that Defendants' Vapable Oils were not only CIPs, but noncompliant with the Illinois Cannabis Acts. That Defendants were actually concealing or suppressing these material facts was not reasonably known to Plaintiff and the Class given the complex and highly-regulated nature of the cannabis industry.

212. Defendants concealed and omitted the fact that their Vapable Oils were actually CIPs with the intention that Plaintiff and the Class be misled as to the true condition of the Vapable Oils – that they do not comply with Illinois's cannabis laws.

213. Plaintiff and the Class were reasonably misled by Defendants' omissions and concealment of the true nature of their Vapable Oils.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

214. Plaintiff and the Class suffered harm as a result of Defendants' omissions and concealment. Plaintiff and the Class would not have purchased Defendants' Vapable Oils had Defendants not omitted or concealed their unlawful nature, as they would not and could not have purchased an unlawful product, and would have purchased a legally compliant alternative instead. As a direct and proximate cause of Defendants' conduct, Plaintiff and the Class are entitled to damages in an amount to be proven at trial, reasonable attorneys' fees, and any other penalties or awards that may be appropriate under applicable law.

COUNT V
Breach of Express Warranty
on behalf of Plaintiff and the Class

215. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

216. Plaintiff and each other Class Member formed a contract with Defendant at the time they purchased Vapable Oils. The terms of the contract include the promises and affirmations of fact made by Defendants on the Vapable Oil packaging, labeling and instructions, and through marketing and advertising, including that the Vapable Oils would be of the quality and character as represented including but not limited to statements about the legality, safety, dosage, and efficacy of the product, in addition to the lack of disclosure regarding possession limitations. This marketing, packaging, labeling and instructions constitute express warranties and became part of the basis of the bargain, and are part of the standardized expectation between Class Members and Defendants.

217. Defendants expressly warranted that their Vapable Oils were legal, safe, effective, and appropriately dosed, and did not contain any undisclosed risks.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

218. Defendants made these misrepresentations, or omitted material information, in their marketing (including their website and the websites of their affiliate dispensaries) for the Vapable Oils, and the Vapable Oil packaging, labeling, and instructions.

219. Defendants sold Vapable Oils that they expressly warranted were legal, safe, effective, and appropriately dosed cannabis products that did not contain any undisclosed risks.

220. Defendants' Vapable Oils did not conform to their express representations and warranties because the products contained undisclosed risks.

221. At all relevant times, Illinois and all other states had codified and adopted the provisions of the Uniform Commercial Code governing the warranty of merchantability and fitness for ordinary purpose.

222. At the time Defendants marketed and sold their Vapable Oils, it recognized the purposes for which the products would be used, and expressly warranted the products were legal, safe, effective and appropriately dosed for intended use, and did not contain any undisclosed risk. These affirmative representations became part of the basis of the bargain in every purchase.

223. Defendants breached their express warranties with respect to their Vapable Oils as they were not of merchantable quality and were not fit for their ordinary purpose. Defendants promised legal, safe, effective, and appropriately dosed products, but the Vapable Oils were not as promised because their actual legal and safety profile was not the same as that represented and bargained for.

224. Plaintiff and each other Class Member would not and could not have purchased the Vapable Oils had they known these products carried undisclosed risks and were unlawful.

225. To the extent applicable, direct privity is not required between Defendants and Plaintiff or each other Class Member because among other things, Defendants made direct

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

statements about the safety of their products, and intended their statements and affirmations to flow to Plaintiff and each of the other Class Members.

226. Defendants maintained a strict list of authorized dispensaries that they contract with. Defendants directly sold the Vapable Oils themselves or through authorized dispensaries operating under strict direction from Defendants.

227. As a direct and proximate result of Defendants' breach of warranty, Plaintiff and each other Class Member have been injured and suffered damages in the amount of the purchase price of the Vapable Oils, in that the Vapable Oils they purchased were so inherently flawed, unfit, or unmerchantable as to have no market value.

228. Although Plaintiff does not seek to recover for physical injuries, Defendants' Vapable Oils carried undisclosed risks to Plaintiff and other Class Members.

COUNT VI
Breach of Implied Warranty
on behalf of Plaintiff and the Class

229. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

230. Plaintiff and each other Class Member formed an agreement with Defendants at the time they purchased Vapable Oils. The terms of the agreement include the promises and affirmations of fact made by Defendants in their marketing, packaging, labeling and instructions for the Vapable Oils, including that the Vapable Oils would be of the quality and character as represented including but not limited to statements about the legality, safety, efficacy, and dosages of the Vapable Oils, in addition to the lack of disclosure regarding possession limitations.

231. The foregoing constitute implied warranties and became part of the basis of the bargain, and are part of the standardized expectation between Class Members and Defendants.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

232. Defendants impliedly warranted that their Vapable Oils were legal, safe, effective, and appropriately dosed for intended use, and did not contain any undisclosed risks.

233. Defendants made these misrepresentations, or omitted material information, in their marketing (including their website and the websites of their authorized dispensaries) for the Vapable Oils, and the Vapable Oils' packaging, labeling, and instructions.

234. Defendants sold Vapable Oils that they impliedly warranted were legal, safe and effective cannabis products that did not contain any undisclosed risks.

235. Defendants' Vapable Oils did not conform to their implied representations and warranties because the products contained undisclosed risks.

236. At all relevant times, Illinois and all other states had codified and adopted the provisions of the Uniform Commercial Code governing the warranty of merchantability and fitness for ordinary purpose.

237. At the time Defendants marketed and sold their Vapable Oils, Defendants recognized the purposes for which the products would be used, and impliedly warranted the products were legal, safe, effective, and appropriately dosed for intended use, and did not contain any undisclosed risk. These representations became part of the basis of the bargain in every purchase.

238. Defendants breached their implied warranties with respect to their Vapable Oils as they were not of merchantable quality, and were not fit for their ordinary purpose. Defendants promised a legal, safe, effective, and appropriately dosed product, but the Vapable Oils were not as promised because their actual safety profile was not the same as that represented and bargained for.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

239. Plaintiff and each other Class Member would not and could not have purchased the Vapable Oils had they known these products carried undisclosed risks and were unlawful.

240. To the extent applicable, direct privity is not required between Defendants and Plaintiff or each other Class Member because among other things, Defendants are a manufacturer and made direct statements about the safety of their products, and intended their statements and affirmations to flow to Plaintiff and each other Class Member. Further, Plaintiff and each other Class Members were intended third-party beneficiaries to the extent Defendant made any warranty or representation to a dispensary who in turn resold Vapable Oils to consumers.

241. Defendants maintained a strict list of authorized dispensaries. Defendants directly sold the Vapable Oils themselves through their own dispensaries or through authorized dispensaries operating under strict direction from Defendants.

242. As a direct and proximate result of Defendants' breach of warranty, Plaintiff and each other Class Members have been injured and suffered damages in the amount of the purchase price of the Vapable Oils, in that the Vapable Oils they purchased were so inherently flawed, unfit, or unmerchantable as to have no market value.

243. Pre-suit notice is not required, but even if it is, such notice was provided to Defendants.

COUNT VII
Unjust Enrichment on behalf of Plaintiff and the Class
(*Pled in the alternative*)

244. Plaintiff incorporates the foregoing allegations in Paragraphs 1 – 129 as if fully stated herein.

245. To the extent that the Court finds that the transactions to sell Vapable Oils as alleged herein constitute a contract, such contract is *void ab initio* as a contract for the sale of unlawful

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

goods, with non-compliant Vapable Oils and unlawful cannabis products as the subject of each transaction.

246. By manufacturing, advertising, marketing, selling, and profiting off of the sale of unlawful products to Plaintiff and the Class, Defendants were unjustly enriched by their unlawful conduct.

247. Defendants' unjust enrichment occurred to the detriment of Plaintiff and members of the Class.

248. The benefit retained by Defendants is far greater than the monies paid by Plaintiff and members of the Class, as Defendants are not only enriched by the funds which they have received from Plaintiff and members of the Classes in exchange for Defendants' unlawful products, but Defendants also benefit by reducing what would ordinarily be necessary compliance expenses to ensure their Vapable Oils are safe and compliant or properly labelled and packaged, further enriching them to the detriment of consumers, including Plaintiff and the Classes.

249. Defendants have thus been unjustly enriched by at least the amount that Plaintiff and each member of the Class spent on their Vapable Oils and any associated interest. It would be unjust to allow Defendants to retain this enrichment.

250. Defendants' retention of these monetary benefits violates fundamental principles of justice, equity, and good conscience.

251. Plaintiff and the other members of the Class are entitled to restitution in the amount by which Defendants have been unjustly enriched to Plaintiff and the members of the Class's detriment, and an order requiring Defendants to disgorge any additional profits or other benefit they have retained as a result of their unjust and unlawful conduct.

FILED DATE: 1/8/2025 4:58 PM 2025CH00186

JURY DEMAND

Plaintiff demands a trial by jury of all claims in this Complaint so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Lindsey Mellor, on behalf of herself and all others similarly situated, respectfully requests that the Court enter an order awarding the following relief as pled in the foregoing and judgment against Defendants as follows:

a. An Order certifying the Class, defining the Class as requested herein, appointing Plaintiff as class representative, and appointing her counsel as class counsel;

b. An award of any actual, compensatory, and enhanced damages permitted to Plaintiff and other Class Members, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including prejudgment interest thereon;

c. An award of punitive damages for Defendants' misconduct and deliberate indifference;

d. An award of reasonable attorneys' fees, costs, and other litigation expenses;

e. An award of pre- and post-judgment interest as available under law;

f. The disgorgement of any funds in the amount Defendants were unjustly enriched by their conduct; and

g. Such further and other relief as the Court deems just, reasonable, and equitable.

Dated: January 8, 2025

Respectfully submitted,

LINDSEY MELLOR, on behalf of herself and others similarly situated

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FILED DATE: 1/8/2025 4:58 PM 2025CH00186

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