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[E-Cigarette Maker Hit with Class Action Lawsuit](http://www.topclassactions.com/lawsuit-settlements/lawsuit-news/20954-e-cigarette-maker-hit-class-action-lawsuit/)

By Christina Davis
March 21, 2014

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NJOY Inc., the maker of electronic cigarettes, and its parent company Sottera Inc. were hit with a class action lawsuit Wednesday alleging that e-cigarettes are “unreasonably dangerous, harmful and/or contain toxins, carcinogens or other harmful nicotine levels that vary from the labeled amounts,” and that “defendants failed to disclose and actively concealed this fact .”

E-cigarettes area relatively new product. They are battery-operated devices designed to look like cigarettes that use cartridges of nicotine to produce a vapor that users can inhale.



California resident Eric McGovern alleges in his class action lawsuit that he purchased NJOY’s e-cigarettes in December 2013 based on representations made by NJOY that e-cigarettes are safer than conventional cigarettes, including statements on NJOY’s website that their product “provides everything you like about smoking without the thing you don’t.” However, McGovern claims that he had to stop using the NJOY e-cigarette in January of this year after he experienced “various symptoms, including nausea, dizziness, and persistent pain in his chest resulting from his use of the e-cigarettes.”

McGovern alleges that he, and tens of thousands of other consumers, relied on NJOY’s representations that e-cigarettes are healthier than conventional cigarettes, including representations on NJOY’s website that the nicotine found in its e-cigarette cartridges is “found in certain plants, predominantly tobacco, and in lower quantities, tomatoes, potatoes, eggplants, cauliflower, bell peppers, and some teas.” McGovern argues that this statement “implies that defendants’ product is just as safe as vegetables that most consumers believe are healthy.”

McGovern also claims that NJOY misrepresents its product as a smoking cessation device, pointing out that over New Years, NJOY’s website stated “This New Year, return the favor, friends don’t let friends smoke,” which, McGovern argues, “refers smokers to New Year’s resolutions to quit smoking and implies that [NJOY’s] e-cigarettes are a smoking cessation product.” McGovern also points out that “in multiple places, including extremely small print on the back of [NJOY’s] container, [NJOY] states that is is not a smoking cessation product.” NJOY claims to have sold over 3 million e-cigarettes and controls approximately 40 percent of the U.S market for the device.

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In his class action lawsuit, McGovern also points out that Dr. Margaret A. Hamberg, Commissioner of the U.S. Food and Drug Administration (FDA), has expressed reservations about the health effects of e-cigarettes, stating, "The FDA is concerned about the safety of these products and how they are marketed to the public." McGovern alleges that in July 2009, "the FDA announced that test on e-cigarettes, including [NJOY's] product, found that they contain carcinogens and other toxic chemicals dangerous to humans."

McGovern alleges NJOY's representations violate California's consumer protection laws, and are deceptive, false and misleading, violating California's business code and constitute consumer fraud. McGovern seeks damages for unjust enrichment and conversion for himself and on behalf of a class of nationwide consumers of e-cigarettes.

Eric McGovern is represented by Brian D. Chase, Jerusalem F. Beligan and Travis K. Siegel at Bisnar Chase Personal Injury Attorneys LLP.

The **NJOY E-Cigarette Class Action Lawsuit** is *McGovern v. NJOY Inc., et al.*, Case No. 8:14-cv-00427, in U.S. District Court for the Central District of California.

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