

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

TRACY HALL, individually and on behalf of all  
others similarly situated,

*Plaintiff,*

vs.

WALGREENS BOOTS ALLIANCE, INC. and  
WALGREEN CO.,

*Defendants*

Case No. 1:22-cv-00024

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT**

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## **I. Introduction.**

1. Defendants make, sell, and market “Walgreens” over-the-counter cough medicine, including generic Walgreens versions of brands like Robitussin and DayQuil. Like the branded versions, many of these medicines contain the active ingredient Dextromethorphan Hydrobromide (“DXM”). Many such Walgreens products state prominently on the front of their label that they are “Non-Drowsy.”<sup>1</sup>

2. By prominently labeling these products as “Non-Drowsy,” Defendants led Plaintiff and other reasonable consumers to believe that the Non-Drowsy Walgreens Products do not cause drowsiness, and that drowsiness is not a side effect of those products. But the truth is that products containing DXM—and thus the Non-Drowsy Walgreens Products—do cause drowsiness, and that drowsiness is a common side effect of DXM.

3. In this way, Defendants misled Plaintiff and other reasonable consumers about the effects of the Non-Drowsy Walgreens Products.

4. Defendants’ misrepresentations allowed them to overcharge Plaintiff and other consumers for the Non-Drowsy Walgreens Products.

## **II. Parties.**

5. Plaintiff Tracy Hall is a citizen of Washington (domiciled in Blaine, Washington). The proposed class includes citizens of every state within the United States.

6. Defendant Walgreens Boots Alliance, Inc. is a citizen of Illinois and Delaware. Its principal place of business is at 108 Wilmot Road, Deerfield, Illinois, 60015. It is incorporated in Delaware.

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<sup>1</sup> Throughout this Complaint, Walgreens products containing DXM that state on their label that they are “Non-Drowsy” are called “Non-Drowsy Walgreens Products.”

7. Defendant Walgreen Co. is a citizen of Illinois. Its principal place of business is at 108 Wilmot Road, Deerfield, IL 60015. It is incorporated in Illinois.

### **III. Jurisdiction and Venue.**

8. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and the matter is a class action in which one or more members of the proposed class are citizens of a state different from the Defendants.

9. The Court has personal jurisdiction over Defendants because Defendants' principal place of business is in Illinois.

10. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d) because Defendants would be subject to personal jurisdiction in this District if this District were a separate state, given that Defendants' principal place of business is in this district.

### **IV. Facts.**

#### **A. Defendants make, market, and sell Walgreens products prominently labeled "Non-Drowsy."**

11. Walgreens Boots Alliance makes, markets and sells the Non-Drowsy Walgreens Products and is therefore liable for them. In its 10-K, Walgreens Boots Alliance states: "The Company provides customers with convenient, omni-channel access through its portfolio of retail and business brands, which includes Walgreens [brand] . . . . The Company's global brands portfolio is enhanced by its in-house product research and development capabilities . . . . Additionally, through its strategic partnerships, the Company will be able to dramatically enhance Walgreens Boots Alliance's marketing effectiveness."

12. In addition, or in the alternative, Walgreen Co. makes, markets and sells the Non-Drowsy Walgreens Products and is therefore liable for them. According to Walgreen Co.'s

representations in a recent lawsuit, Walgreen Co. is a wholly-owned subsidiary of Walgreens Boots Alliance that “owns and operates . . . licensed pharmacy locations.” Mot. to Dismiss, *J.R. v. Walgreens Boots Alliance, Inc.*, No. 2:19-cv-00446-DCN, Dkt. 117 at 6 (October 18, 2019).

13. The front label of each Non-Drowsy Walgreens Product prominently states that the product is “Non-Drowsy.” For example:



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