

4. Benzene has been recognized, acknowledged, and accepted as a well-known health hazard and human carcinogen for approximately a century.¹

5. For example, benzene is known to harm the bone marrow and long exposure can lead to blood cancer, such as leukemia.²

6. Consumers like the Plaintiff trust manufacturers such as Defendant to sell Products that are safe and free from harmful known toxins, including benzene.

7. Plaintiff and those similarly situated (hereinafter “Class Members”) certainly expect that the body spray they purchase will comply with its labeling and not contain any knowingly harmful substance like benzene.

8. Defendant specifically manufactures, sells, and distributes the Products using a marketing and advertising campaign centered around claims that appeal to health-conscious consumers.

9. Defendant’s marketing and advertising campaign includes the one place that every consumer looks when purchasing a product—the packaging and labels themselves. Consumers expect the ingredient listing on the packaging and labels to accurately disclose the ingredients within the Products.

10. However, Defendant’s advertising and marketing campaign is false, deceptive, and misleading because the Products contain benzene, which Defendant does not list or mention anywhere on the Products’ packaging or labeling.

11. Plaintiff and Class Members relied on Defendant’s misrepresentations and omissions of what is in the Products when they purchased it.

¹ <https://pubmed.ncbi.nlm.nih.gov/17718179/>

² <https://emergency.cdc.gov/agent/benzene/basics/facts.asp>

12. Consequently, Plaintiff and Class Members lost the entire benefit of their bargain when what they received was a body spray product contaminated with a known carcinogen.

13. That is because Defendant's Products containing a known human carcinogen has no value.

14. As set forth below, body spray products that contain benzene are in no way safe for humans and are entirely worthless.

15. Accordingly, Defendant's conduct violated and continues to violate, *inter alia*, New York General Business Law §§ 349 and 350. Defendant also breached and continues to breach its warranties regarding the Products and have been and continues to be unjustly enriched. Lastly, Plaintiff brings a claim for medical monitoring costs associated with testing, monitoring, and remediating the effects of their benzene exposure.

16. Plaintiff brings this action against Defendant on behalf of herself and Class Members who purchased the Products during the applicable statute of limitations period (the "Class Period").

FACTUAL BACKGROUND

17. Consumers have become increasingly concerned about the effects of synthetic and chemical ingredients in products that they and their family members put on and/or into their bodies. Companies such as Defendant have capitalized on consumers' desire for healthy and safe products, and indeed consumers are willing to pay, and have paid, a premium for these products.

18. Consumers lack the meaningful ability to test or independently ascertain or verify whether a product contains unsafe substances, such as benzene, especially at the point of sale, and therefore must and do rely on Defendant to truthfully and honestly report what the Products contains on the Products' packaging or labels.

19. When consumers look at the Products' packaging there is no mention of benzene. Benzene is not listed in the ingredients section, nor is there any warning about the inclusion (or even potential inclusion) of benzene in the Products. This leads reasonable consumers to believe the Products do not contain dangerous chemicals like benzene.

20. However, despite this, the Products contains benzene.

21. 21st century research has confirmed that there is no safe level of benzene exposure.³

22. Benzene has been recognized, acknowledged, and accepted as a well-known health hazard and human carcinogen for approximately a century.⁴

23. The National Toxicology Program (hereinafter "NTP") has regarded benzene as "known to be a human carcinogen based on sufficient evidence of carcinogenicity from studies in humans."⁵ Benzene has also been "found to be carcinogenic to humans" by the International Agency for Research on Cancer (hereinafter "IARC").

24. According to the Center for Disease Control ("CDC"), benzene can cause severe health issues such as anemia, immune system damage, and cancer.⁶

25. Direct benzene exposure through the skin is particularly concerning. For example, "[d]irect exposure of the eyes, skin, or lungs to benzene can cause tissue injury and irritation."⁷

26. The National Institute for Occupational Safety and Health ("NIOSH") recommends protective equipment be worn by workers expecting to be exposed (by either "inhalation, skin absorption, ingestion, skin and/or eye contact") to benzene at concentrations of 0.1 ppm.⁸

³ <https://www.annualreviews.org/doi/full/10.1146/annurev.publhealth.012809.103646>

⁴ <https://pubmed.ncbi.nlm.nih.gov/17718179/>

⁵ <https://ntp.niehs.nih.gov/ntp/roc/content/profiles/benzene.pdf>

⁶ <https://emergency.cdc.gov/agent/benzene/basics/facts.asp>

⁷ *Id.*

⁸ CDC, *The National Institute for Occupational Safety and Health (NIOSH), Benzene* (October 30, 2019), <https://www.cdc.gov/niosh/npg/npgd0049.html>

27. Research has revealed that benzene can be absorbed into the body through the lungs and across the skin.⁹ This makes benzene exposure from body sprays especially troubling because the spray is put directly onto the skin, with the remnants flying through the air likely to be at least partially breathed in by the user and absorbed into their lungs. Thus, even a relatively low concentration limit can result in very high total benzene exposure.

28. This is why recent research revealing benzene in Defendant's Products is particularly concerning.

29. Valisure LLC recently published a study ("Study") that found that benzene has been found in many body sprays.¹⁰

30. In addition to Plaintiff's own independent research, Valisure also found that Defendant's Products contained benzene.¹¹

31. The concerning part is that benzene exposure in the manufacturing process can be specifically avoided so that the Products could have absolutely no benzene in them.¹²

32. Therefore, Defendant's false, misleading, omissions, and deceptive misrepresentations regarding the ingredients of the Products is likely to continue to deceive and mislead reasonable consumers and the public, as it has already deceived and misled Plaintiff and the Class Members.

33. Defendant's concealment was material and intentional because people are concerned with what is in the products that they are putting onto and into their bodies. Consumers such as Plaintiff and the Class Members are influenced by the ingredients listed. Defendant knows

⁹ <https://www.atsdr.cdc.gov/toxprofiles/tp3-c1.pdf>

¹⁰ <https://www.valisure.com/wp-content/uploads/Valisure-FDA-Citizen-Petition-on-Body-Spray-v4.0-3.pdf>

¹¹ *Id.*

¹² *Id.* at 1.

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