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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**
11

12 THAYLIA DONNA QUINN, Individually,
13 Plaintiff,

14 v.

15 PROCTOR & GAMBLE CO.; WAL-MART
STORES, INC.; TARGET CORPORATION;
16 and DOES 1-100, Inclusive,
17 Defendants.
18

Case No.: 37-2023-00049034-CU-PO-CTL

COMPLAINT FOR:

1. **Negligence**
2. **Strict Liability–Failure To Warn**
3. **Strict Liability–Design Defect**
4. **Strict Liability–Manufacturing Defect**
5. **Breach of Implied Warranty of Merchantability**
6. **Fraudulent Concealment**

JURY TRIAL DEMANDED

1 **INTRODUCTION**

2 1. Dermal absorption occurs when a chemical penetrates through the skin and into the
3 body. Many chemicals damage organs and cause cancer if they penetrate the skin and enter the
4 bloodstream or lymphatic system. Benzene is one such chemical.

5 2. The rate of dermal absorption depends on the outermost layer of the skin called the
6 stratum corneum. The stratum corneum is the body's first line of defense. It provides a barrier that
7 protects against unwanted chemicals passing through the skin, into the bloodstream or lymphatic
8 system and, ultimately, the internal organs.

9 3. This outermost layer of the skin is thinner and less protective in the underarms and
10 scalp than many other body parts. In turn, the rate of dermal absorption in these areas is
11 significantly faster. These areas become even less protective when they are shaved and layers of
12 the stratum corneum are removed.

13 4. Despite these facts, widely accepted in the scientific community, the Proctor &
14 Gamble Company ("P&G") designed, manufactured, and sold personal care products for use on
15 the underarms and scalp that contained significant and unsafe levels of benzene—a known human
16 carcinogen. P&G knew or should have known that the products contained significant and unsafe
17 levels of benzene, yet they promoted frequent application to the areas of the body least protective
18 of this cancer-causing chemical.

19 5. Their dereliction of duty is compounded by their concealment of the dangerousness
20 of their products. Indeed, P&G have flouted the California Safe Cosmetics Act of 2005, which
21 requires them to report the presence of known human carcinogens, like benzene, in the personal
22 care products they sell in the state of California.

23 6. Plaintiff Thaylia Donna Quinn ("Plaintiff") used P&G's personal care products for
24 decades. She now suffers from leukemia and bone marrow cancer due to her prolonged exposure
25 to the benzene pervasive in P&G's personal care products. She seeks to hold P&G accountable for
26 her injuries and to require P&G to follow the practices of its competitors, whom are able to
27 produce personal care products without significant levels of benzene.
28

1 **NATURE OF THE ACTION**

2 7. Defendants, as defined below, manufacture, distribute, and sell personal care
3 products, including Herbal Essences dry shampoo and conditioner (the “Personal Injury
4 Product(s)”). Several of the Personal Injury Products were independently tested and shown to
5 contain dangerous levels of benzene, a known human carcinogen; the others have been recalled for
6 the same reason.

7 8. P&G knew or should have known about the presence of benzene in their Personal
8 Injury Products. P&G nevertheless failed to protect its customers from benzene exposure. The
9 company failed to warn Plaintiff about the fact or consequence of benzene exposure inherent in
10 the use of the Personal Injury Products by actively concealing the presence of benzene in the
11 Personal Injury Products from the California Department of Public Health (“CDPH”). P&G spent
12 tens of thousands lobbying against the California Safe Cosmetics Act of 2005 (the "Act"),¹ which
13 requires cosmetics manufacturers to disclose the presence of significant levels of cancer-causing
14 chemicals in cosmetics sold in California. When their efforts failed and the Act passed, P&G
15 concealed the presence of benzene in the Personal Injury Products by failing to fulfill its
16 mandatory reporting duty under the Act.²

17 9. P&G’s failure to disclose and/or warn Plaintiff that the Personal Injury Products
18 contain significant levels of the cancer-causing chemical benzene, was negligent.

19 10. P&G sold the Personal Injury Products despite its actual or constructive knowledge
20 of a material design and/or manufacturing defect. Further, based on defects in the design and
21 testing of the Personal Injury Products, P&G knew or should have known that Plaintiff would
22 suffer injuries caused by the inclusion of benzene in the Personal Injury Products. P&G concealed
23 these facts. Their failure to disclose this defect constitutes an actionable misrepresentation.

24 11. Plaintiff has been damaged by P&G’s concealment and non-disclosure of the
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26 ¹ [https://safecosmetics.org/wp-content/uploads/2015/02/GOVERNOR-SIGNS-SAFE-](https://safecosmetics.org/wp-content/uploads/2015/02/GOVERNOR-SIGNS-SAFE-COSMETICS-BILL.pdf)
27 [COSMETICS-BILL.pdf](https://safecosmetics.org/wp-content/uploads/2015/02/GOVERNOR-SIGNS-SAFE-COSMETICS-BILL.pdf)

28 ² <https://cscpsearch.cdph.ca.gov/>

1 defective nature of the Personal Injury Products, because she was misled into purchasing products
2 of a quality and value different than she was promised. Had P&G informed Plaintiff about the
3 problems caused by the Personal Injury Products at the time of purchase, she would not have
4 bought them.

5 12. As a result of P&G's practices, Plaintiff has suffered injury in fact, including
6 economic damages. Plaintiff seeks injunctive relief and restitution for the full purchase price of the
7 Personal Injury Products she purchased.

8 13. Plaintiff brings personal injury claims against Defendants, as defined below, for the
9 manufacture and sale of defectively designed and/or manufactured personal care products
10 containing significant and unsafe levels of benzene, a known human carcinogen. The inclusion of
11 significant and unsafe levels of benzene in the Personal Injury Products is a design and/or
12 manufacturing defect. As a result of the defective nature of the Personal Injury Products they were
13 unfit for their intended use and purpose. Plaintiff was regularly exposed to significant and unsafe
14 benzene levels and consequently contracted bone marrow cancer and leukemia, respectively.
15 Plaintiff seeks noneconomic pain, suffering, and inconvenience damages, as well as economic
16 damages for past and future medical expenses.

17 14. Plaintiff alleges the following based on personal knowledge and the investigation
18 of her counsel, and, as to all other matters, upon information and belief. Plaintiff further believes
19 that substantial evidentiary support will exist for the allegations set forth herein after a reasonable
20 opportunity for discovery.

21 **JURISDICTION AND VENUE**

22 15. This is an unlimited civil case as defined in Code of Civil Procedure section 88.
23 The causes of action alleged arise under California law.

24 16. This Complaint is brought pursuant to California Code of Civil Procedure section
25 382.

26 17. The actions and/or omissions that give rise to this legal action occurred in San
27 Diego County, California.

28 18. This Court has jurisdiction over this action pursuant to Code of Civil Procedure

1 section 410.10. This Court has personal jurisdiction over Defendants, because these entities
2 conduct business within San Diego County, California, and because said business contacts were
3 instrumental in and gave rise to the allegations in this complaint.

4 19. Venue is proper in this judicial district pursuant to California Code of Civil
5 Procedure section 395(b) in that this action arises from an offer or provision of goods primarily for
6 personal use and Plaintiff purchased the goods at issue in San Diego County. The injuries that
7 have been sustained by Plaintiff as a result of Defendants' illegal conduct occurred in the San
8 Diego County. Moreover, at all relevant time, Defendants promoted, marketed and sold their
9 products, including the Personal Injury Products at issue, to purchasers in California, including
10 San Diego County.

11 **THE PARTIES**

12 20. Plaintiff Thaylia Donna Quinn resides in Murrieta, California, and at all times
13 relevant hereto has been a resident of Riverside County. Plaintiff habitually purchased Herbal
14 Essence-branded Personal Injury Products from Walmart and Target in San Diego County
15 throughout the past decade. When Plaintiff purchased the Herbal Essences-branded Personal
16 Injury Products, she had the reasonable belief that the Herbal Essences-branded Personal Injury
17 Products were safe and free of carcinogens. Plaintiff would not have purchased the products had
18 she known the products contained benzene, a known human carcinogen. As a result, Plaintiff
19 suffered injury when she purchased a product she would not otherwise have purchased absent
20 Defendants' misconduct, as alleged herein. In addition, Plaintiff was diagnosed with Chronic
21 Lymphocytic Leukemia on November 12, 2021. Chronic Lymphocytic Leukemia is a type of
22 cancer of the blood and bone marrow that is a known side effect of benzene exposure. Plaintiff
23 suffered injury in fact when benzene exposure caused her to contract Chronic Lymphocytic
24 Leukemia.

25 21. Defendant P&G is an Ohio corporation with its principal place of business located
26 in Cincinnati, Ohio. P&G distributes its products, including the Personal Injury Products
27 purchased by Plaintiff, throughout the United States. P&G's products, including the Personal
28 Injury Products purchased by Plaintiff, are available at retail stores throughout California and the

1 United States.

2 22. Defendant Wal-Mart Stores, Inc. ("Walmart") is a Delaware corporation with its
3 principal place of business at 702 SW 8th Street, Bentonville, Arkansas 72716. Walmart engaged
4 in the distribution and retail sales of the Personal Injury Products, which are sold in retail locations
5 and over the Internet to California consumers. Walmart was an integral part of the overall
6 marketing enterprise involving the Personal Injury Products.

7 23. Defendant Target Corporation ("Target"; collectively, with Walmart and P&G, the
8 "Defendants") is a Minnesota Corporation with its principal place of business at 1000 Nicollet
9 Mall, Minneapolis, Minnesota 55403. Target engaged in the distribution and retail sales of the
10 Personal Injury Products, which are sold in retail locations and over the internet to California
11 consumers. Target was an integral part of the overall marketing enterprise involving the Personal
12 Injury Products.

13 24. Under California law, retail sellers of the Personal Injury Products, are liable in
14 strict liability to purchasers, including Plaintiff, for injuries caused by design and manufacturing
15 defects associated with the products.

16 **BACKGROUND**

17 ***Benzene Exposure***

18 25. Benzene is a chemical that is a colorless or light-yellow liquid at room temperature.
19 It has a sweet odor and is highly flammable. It can occur from natural processes such as forest
20 fires or volcanoes, or from artificial human manufacturing activities.³

21 26. Exposure to benzene is detrimental to human health.

22 27. The harmful effects of benzene exposure on human health are well-documented
23 and well-accepted. In the immediate term, exposure to benzene causes drowsiness, dizziness, rapid
24 or irregular heartbeat, headaches, tremors, confusion, unconsciousness, vomiting, irritation of the
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³ <https://www.cancer.org/cancer/cancer-causes/benzene.html>

1 stomach, sleepiness, convulsions, and, at significant levels, even death.⁴ In the long term, studies
2 have shown that rates of leukemia and other cancers are higher in humans exposed to high levels
3 of benzene.⁵ Prolonged exposure to benzene also causes harmful effects on the bone marrow and
4 can cause a decrease in red blood cells, leading to anemia.⁶ It can also cause excessive bleeding, a
5 weakened immune system, and an increased chance for infection.⁷ Some women exposed to
6 benzene had irregular menstrual periods and a decrease in the size of their ovaries.⁸ Studies have
7 shown low birth weights, delayed bone formation, and bone marrow damage when pregnant
8 animals are exposed to benzene.

9 28. The United States Department of Health and Human Services has determined that
10 benzene causes cancer in humans.⁹ Similarly, the World Health Organization and the International
11 Agency for Research on Cancer ("IARC") have classified benzene as a Group 1 compound that is
12 carcinogenic to humans. The IARC has linked benzene exposure with many types of leukemia,
13 including chronic lymphocytic leukemia.¹⁰

14 29. Benzene's carcinogenic effects are why the FDA classifies benzene as a "Class 1
15 solvent," meaning that benzene "should not be employed in the manufacture of drug substances,
16 excipients, and drug products because of their unacceptable toxicity ... However, if their use is
17 unavoidable in order to produce a drug product with a significant therapeutic advance, then their
18 levels should be restricted" to two parts per million ("ppm").

19 30. The National Institute for Occupational Safety and Health ("NIOSH") recommends
20

21 ⁴ *Id.*

22 ⁵ *Id.*

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

24 ⁷ *Id.*

25 ⁸ *Id.*

26 ⁹ <https://emergency.cdc.gov/agent/benzene/basics/facts.asp>

27 ¹⁰ <https://www.cancer.org/cancer/cancer-causes/benzene.html>
28

1 protective equipment be worn by workers exposed to benzene at concentrations of 0.1 ppm.

2 31. The detrimental effects of benzene exposure have been known for decades. In
3 1948, the American Petroleum Institute stated: "it is generally considered that the only absolutely
4 safe concentration for benzene is *zero*."¹¹ A study from 1939 on benzene stated that "exposure
5 over a long period of time to any concentration of benzene greater than zero is not safe."¹² This
6 comment was reiterated in a 2010 review of benzene research: "There is probably no safe level of
7 exposure to benzene, and all exposures constitute some risk[.]"¹³

8 32. Exposure to benzene occurs through inhalation, absorption, ingestion, and skin or
9 eye contact.¹⁴

10 33. The rate of benzene absorption is faster in the underarms and scalp than other parts
11 of the body, due to the relatively thinner stratum corneum in these areas.¹⁵

12 *The Personal Injury Products*

13 34. P&G is a global leader in the manufacturing, distributing, and sale of personal care
14 products, including deodorants, shampoos, and conditioners.

15 35. Due to their size and sterling reputation, the P&G brand instantly lends credibility
16 to their product line. Consumers trust that the P&G brand manufactures, distributes, and sells safe
17 personal care products.

18
19 ¹¹ American Petroleum Institute, API Toxicology Review, Benzene 1948

20 ¹² Hunter, F.T. (1939). Chronic Exposure to Benzene (Benzol). II. The Clinical Effects. Journal of
21 Industrial Hygiene and Toxicology. 1939 Vol.21 pp.331-54

22 (<https://www.cabdirect.org/cabdirect/abstract/19402700388>) 23 Smith, Martyn T. (2010).
24 Advances in Understanding Benzene Health Effects and Susceptibility. Annual Review of Public
25 Health. 2010 Vol. 31:133-148
26 (<https://www.annualreviews.org/doi/full/10.1146/annurev.publhealth.012809.103646>)

27 ¹³ Smith, Martyn T. (2010). Advances in Understanding Benzene Health Effects and
28 Susceptibility. Annual Review of Public Health. 2010 Vol. 31:133-148
(<https://www.annualreviews.org/doi/full/10.1146/annurev.publhealth.012809.103646>)

29 ¹⁴ *Id.*

30 ¹⁵ Baynes, RE and Hodgson E. Absorption and Distribution of Toxicants. in Chapter 6 of A
31 Textbook of modern toxicology. 3rd edition. 2004, John Wiley & Sons, Inc.

1 36. P&G has launched numerous aerosol spray personal care products over the past
2 several decades, including the Personal Injury Products complained of here.

3 37. The Personal Injury Products are intended to be applied to the underarms and scalp.

4 38. The Herbal Essences Brand was created in 1971 and acquired by P&G in 2001.
5 After its acquisition, P&G expanded the Herbal Essences Brand into aerosol spray shampoos and
6 conditioners.

7 39. The presence of benzene in Herbal Essences-branded Personal Injury Products
8 manufactured, distributed, and sold by P&G has *never* been disclosed to CDPH’s Division of
9 Environmental and Occupational Disease Control.

10 40. P&G *never* warned Plaintiff that Herbal Essences-branded Personal Injury Products
11 contain benzene, despite its actual or constructive knowledge thereof.

12 41. On December 17, 2021, P&G issued a recall of certain dry conditioner and
13 shampoo products "from Herbal Essences due to the presence of benzene."

14 42. The recall provided a Risk Statement: "Benzene is classified as a human
15 carcinogen. Exposure to benzene can occur by inhalation, orally, and through the skin and it can
16 result in cancers including leukemia and blood cancer of the bone marrow and blood disorders
17 which can be life-threatening."

18 ***Regulation of the Personal Injury Products***

19 43. The California Safe Cosmetics Act of 2005 was enacted in response to a gap in
20 federal oversight of cosmetics, which “are not required to be approved before they are sold to the
21 public and the FDA does not have the authority to require manufacturers to file health and safety
22 data on cosmetic ingredients or to order a recall of a dangerous cosmetic product.”

23 44. California law defines a “[c]osmetic” as “any article, or its components, intended to
24 be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to, the human
25 body, or any part of the human body, for cleansing, beautifying, promoting attractiveness, or
26 altering the appearance.” Cal. Health & Safety Code § 109900.

27 45. As described above, the Personal Injury Products at issue are shampoos and
28 conditioners that contain significant and unsafe levels of benzene.

1 46. The Personal Injury Products are cosmetics regulated under the Act.

2 47. The purpose behind the Act is to collect information regarding hazardous
3 ingredients in cosmetic products sold in California *and makes this information available to the*
4 *public*. The Act requires the manufacturer of any cosmetic that is sold in California to disclose the
5 following information for all cosmetic products sold in the state that contain any “chemical
6 identified as causing cancer or reproductive toxicity”: (1) the label name; (2)
7 company/manufacturer; (3) product brand; (4) product categories; (5) Chemical Abstracts Service
8 registry numbers (CAS#) of the reported chemical ingredients; (6) names of reported chemical
9 ingredients; (7) the number of reported chemicals for each product; and (8) the dates of reporting,
10 product discontinuation or reformulation, if applicable.

11 48. The CDPH maintains an online reporting system for companies to comply with
12 their mandatory reporting duties under the Act. The data is publicly available in a searchable
13 database.¹⁶

14 49. Benzene is a “chemical identified as causing cancer or reproductive toxicity” under
15 the Act by virtue of the International Agency for Research on Cancer (“IARC”) having classified
16 benzene as a Group 1 compound that is carcinogenic to humans. *See* Cal. Health & Safety Code §
17 111791.5(b)(2) (A “[c]hemical identified as causing cancer or reproductive toxicity,” includes,
18 among others, [a] substance given an overall carcinogenicity evaluation of Group 1, Group 2A, or
19 Group 2B by the [IARC].”).

20 50. P&G’s competitors have reported the presence of benzene in their products to the
21 Division of Environmental and Occupational Disease Control.

22 51. P&G knew or should have known of the presence of significant and unsafe levels
23 of benzene in the Personal Injury Products, yet has *never* reported the significant and unsafe levels
24 of benzene in any of their cosmetic products, despite the chemical’s pervasiveness in their
25 products, including the Personal Injury Products.

26 52. In 2016, the California Safe Cosmetics Program, established by the Act, issued a
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28 ¹⁶ <https://cscpsearch.cdph.ca.gov/search/publicsearch>

1 report titled *Cosmetics Containing Ingredients Linked to Cancer or Reproductive Harm: Data*
2 *Reported to the California Safe Cosmetics Program, 2009-2015*. It noted that “[n]ot all companies
3 are complying with reporting requirements. The database may not contain all cosmetic products
4 that should be reported under the Safe Cosmetics Act." Chief among the unreported products are
5 the Personal Injury Products, which, per the Valisure Tests, contain some of the highest
6 concentrations of benzene in the cosmetics industry.

7 53. P&G lobbied against the Act because its products, including the Personal Injury
8 Products, contain benzene and other carcinogens.

9 54. Having failed in its efforts to defeat the Act, P&G opted instead to conceal the
10 carcinogenic properties of the Personal Injury Products by abdicating its duty to report under the
11 Act.

12 ***Proposition 65***

13 55. Furthermore, Defendants violated Proposition 65 by failing to warn Plaintiff that
14 she was being exposed to benzene, a chemical known to cause cancer, birth defects and other
15 reproductive harm.

16 56. Under California's Proposition 65, Health & Safety Code § 25249.5, *et seq.*, it is
17 unlawful for businesses to knowingly and intentionally expose individuals in California to
18 chemicals known to the State to cause cancer and/or birth defects or other reproductive harm
19 without providing clear and reasonable warnings to individuals prior to their exposure.

20 57. Despite the fact that Defendants exposed individuals who used the Personal Injury
21 Products, including Plaintiff, to benzene, a chemical known to the State of California to cause
22 cancer, birth defects and other reproductive harm, they provided no warnings to such individuals
23 whatsoever. In fact, rather than providing the clear and reasonable warnings required under
24 Proposition 65, P&G stated the exact opposite — that the Personal Injury Products did not require
25 a Proposition 65 warning and that the benzene exposures resulting from their conduct were all
26 within safe levels, when they published Risk Statements contradicting the Valisure Tests, stating
27 that "[b]ased on exposure modeling and the cancer risk assessments published by the
28 Environmental Protection Agency (EPA) (IRIS database), daily exposure to benzene in the

1 recalled products at the levels detected in our testing would not be expected to cause adverse
2 health consequences."

3 58. P&G was well aware that they were exposing individuals to benzene at levels
4 requiring a warning under Proposition 65, as evidenced by the recalls detailed above.

5 **PERSONAL INJURY ALLEGATIONS**

6 59. At all relevant times, the Defendants were and are engaged in the business of
7 developing, designing, manufacturing, marketing, selling, testing, and distributing into the stream
8 of commerce in California the Personal Injury Products used by Plaintiff in the decades leading up
9 to, and at the time of her diagnosis of leukemia (the "Personal Injuries"). The Personal Injury
10 Products were unfit and unsafe for their intended use and purpose because of design,
11 manufacturing, warning, and/or inspection defects that caused the Personal Injuries.

12 60. Defendants have known or should have known, based on pre-release formulation
13 and testing and on-going testing, that the Personal Injury Products, would contain benzene
14 sufficient to cause cancer and serious injuries, including the Personal Injuries, and that such
15 injuries could occur when Personal Injury Products were used as intended or in a reasonably
16 foreseeable manner.

17 61. P&G knowingly falsified their test results, ignored and suppressed data, abdicated
18 their responsibility to test, and/or further falsely mischaracterized adverse test data which
19 Defendants knew at the time tended to prove that the Personal Injury Products were defective and
20 unsafe for their intended use, and exposed consumers of the Personal Injury Products to the
21 injuries and other serious illnesses.

22 62. Despite their awareness of defects in the Personal Injury Products; of the
23 significant benzene presence and manufacturing and design defects in the Personal Injury
24 Products; and in spite of the longstanding recommendations of the scientific community extolling
25 the dangerousness of benzene exposure, Defendants chose to ignore the serious risk of cancer and
26 other serious personal injuries and took no action to prevent injuries and deaths, including
27 Plaintiff's injuries, because of concern about cost penalties. Defendants' failure to act is enhanced
28 by the similar, yet lesser, acts of their competitors, who, as detailed above, are able to produce

1 similar products without significant levels of benzene.

2 63. At all times herein mentioned, on information and belief, Defendants each of them,
3 knew and were aware that members of the public were suffering from cancer, death, and serious
4 injuries as a result of the failure to use ingredients and processes other than those resulting in
5 significant and unsafe levels of benzene in the Personal Injury Products. These Defendants, and
6 each of them, were further aware that such Personal Injuries could foreseeably result from
7 prolonged benzene exposure, as with the Personal Injuries.

8 64. Upon further information and belief, Defendants, were aware well in advance of
9 placing the Personal Injury Products into the stream of commerce that they were prone to
10 unreasonably high rates of benzene presence due to pre-release formulation and on-going testing.

11 65. Defendants and each of them, in order to advance their pecuniary gains, knowingly
12 failed to take any action to correct the defects in the Personal Injury Products, including failing to
13 warn or otherwise educate the public, including Plaintiff, about the serious risks associated with
14 the Personal Injury Products.

15 **FIRST CAUSE OF ACTION**
16 **NEGLIGENCE**
(By Plaintiff Against All Defendants)

17 66. Plaintiff incorporates the aforementioned allegations as though alleged herein.

18 67. Defendants knew or should have known of the presence of significant and unsafe
19 levels of benzene in the Personal Injury Products.

20 68. Defendants had a duty to exercise reasonable care when designing, formulating,
21 manufacturing, supplying, inspecting, testing, producing, and distributing the Personal Injury
22 Products.

23 69. Defendants had a duty to disclose the presence of benzene in the Personal Injury
24 Products.

25 70. Defendants had a duty to ensure that the Personal Injury Products did not pose an
26 unreasonable risk of harm to Plaintiff.

27 71. Defendants, and their agents, officers and/or employees, failed to exercise ordinary
28 care and failed to comply with existing standards of care, including, but not limited to (i)

1 negligently and recklessly designing, formulating, manufacturing, supplying, inspecting, testing,
2 producing, and distributing the Personal Injury Products, and (ii) concealing the significant and
3 unsafe levels of benzene in any of their cosmetic products, including the Personal Injury Products,
4 when disclosure to the public was necessary.

5 72. Plaintiff's habitual use of Personal Injury Products was a substantial factor in
6 causing her injuries.

7 73. As a direct and proximate result of Defendants' negligence, Plaintiff used the
8 Personal Injury Products, causing her to suffer serious injuries due to her prolonged exposure to
9 benzene. Specifically, Defendants' negligence was a direct and proximate cause of Plaintiff's
10 diagnosis with Chronic Lymphocytic Leukemia on November 12, 2021. Chronic Lymphocytic
11 Leukemia is a type of cancer of the blood and bone marrow that is a known side effect of benzene
12 exposure. Plaintiff suffered injuries when benzene exposure caused her to contract Chronic
13 Lymphocytic Leukemia.

14 **SECOND CAUSE OF ACTION**
15 **STRICT LIABILITY – FAILURE TO WARN**
16 **(By Plaintiff Against All Defendants)**

17 74. Plaintiff incorporates the aforementioned allegations as though alleged herein.

18 75. At all times referenced herein, Defendants were responsible for designing,
19 formulating, testing, manufacturing, inspecting, distributing, marketing, supplying and/or selling
20 the Personal Injury Products to Plaintiff.

21 76. At all times material hereto, the use of the Personal Injury Products in a manner
22 that was intended and/or reasonably foreseeable by Defendants involved substantial risk of the
23 injuries described above.

24 77. At all times the risk of the injuries described above were known or knowable by
25 Defendants, in light of the generally recognized and prevailing knowledge available at the time of
26 manufacture, marketing, labeling, sale, distribution and design, as described herein.

27 78. Defendants, as the manufacturers, distributors, and/or sellers of the Personal Injury
28 Products, had a duty to warn Plaintiff of all dangers associated with the intended use of the
products.

1 79. Defendants were negligent and breached their duties of care by negligently failing
2 to give adequate warnings to purchasers and users of the Personal Injury Products, including
3 Plaintiff, about the risks, potential dangers and defective condition of the Personal Injury Products.

4 80. Defendants knew, or by the exercise of reasonable care, should have known of the
5 inherent design defects and resulting dangers associated with using the Personal Injury Products as
6 described herein, and knew that Plaintiff could not reasonably be aware of those risks. Defendants
7 failed to exercise reasonable care in providing Plaintiff with adequate warnings.

8 81. Plaintiff's habitual use of Personal Injury Products was a substantial factor in
9 causing her injuries.

10 82. As a direct and proximate result of Defendants' negligence, Plaintiff used the
11 Personal Injury Products, causing her to suffer serious injuries due to her prolonged exposure to
12 benzene. Specifically, Defendants' negligence was a direct and proximate cause of Plaintiff's
13 diagnosis with Chronic Lymphocytic Leukemia on November 12, 2021. Chronic Lymphocytic
14 Leukemia is a type of cancer of the blood and bone marrow that is a known side effect of benzene
15 exposure. Plaintiff suffered injuries when benzene exposure caused her to contract Chronic
16 Lymphocytic Leukemia.

17 **THIRD CAUSE OF ACTION**
18 **STRICT LIABILITY – DESIGN DEFECT**
19 **(By Plaintiff Against All Defendants)**

20 83. Plaintiff incorporates the aforementioned allegations as though alleged herein.

21 84. Defendants manufactured, designed, distributed, and sold the Personal Injury
22 Products.

23 85. At the time of their manufacture, design, distribution, and sale, the Personal Injury
24 Products possessed a design defect. The Personal Injury Products were defective because they
25 failed to perform as safely as an ordinary consumer would expect when used in an intended or
26 reasonably foreseeable manner.

27 86. The Personal Injury Products were also defective in design because a safer design
28 was available and feasible at the time of the products' design and manufacture prior to Plaintiff's
use of the products. The technology to implement such a design existed at the time of design and

1 manufacture of the Personal Injury Products and the cost of implementing the design would have
2 been minimal compared to the foreseeable risk of a consumer, such as Plaintiff, being exposed to
3 benzene.

4 87. As a direct and proximate result of the Personal Injury Products' design defects and
5 retail sale, Plaintiff contracted leukemia. She has incurred significant medical treatment expenses
6 from the time that they were diagnosed until the present, said expenses being caused by
7 Defendants' design defects.

8 88. Defendants' design defects and retail sale set forth in this complaint were a
9 substantial factor in causing Plaintiff's medical treatment and expenses from the time that she was
10 diagnosed until the present, because without the design defects in the Personal Injury Products
11 causing benzene exposure, ultimately resulting in Plaintiff's injuries, Plaintiff would not have
12 incurred the medical expenses related to her personal injuries.

13 **FOURTH CAUSE OF ACTION**
14 **STRICT LIABILITY – MANUFACTURING DEFECT**
15 **(By Plaintiff Against All Defendants)**

16 89. Plaintiff incorporates the aforementioned allegations as though alleged herein.

17 90. Defendants manufactured, designed, distributed, and sold the Personal Injury
18 Products.

19 91. The Personal Injury Products contained a manufacturing defect when they left
20 Defendant's possession because they differed from Defendants' intended end product result and/or
21 differed from other Personal Injury Products manufactured, designed, distributed, and sold by
22 Defendants.

23 92. This defect existed when the Personal Injury Products left Defendants' possession.

24 93. As a direct and proximate result of the Personal Injury Products' design defects and
25 retail sale, Plaintiff contracted leukemia. She has incurred significant medical treatment expenses
26 from the time that they were diagnosed until the present, said expenses being caused by
27 Defendants' design defects.

28 94. Defendants' design defects and retail sale set forth in this complaint were a
substantial factor in causing Plaintiff's medical treatment and expenses from the time that she was

1 diagnosed until the present, because without the design defects in the Personal Injury Products
2 causing benzene exposure, ultimately resulting in Plaintiff's injuries, Plaintiff would not have
3 incurred the medical expenses related to her personal injuries.

4 **FIFTH CAUSE OF ACTION**
5 **BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**
6 **(By Plaintiff Against All Defendants)**

7 95. Plaintiff incorporates the aforementioned allegations as though alleged herein.

8 96. Plaintiff bought the Personal Injury Products from Defendants.

9 97. At the time of the purchases, Defendants were in the business of selling the
10 Personal Injury Products.

11 98. The Personal Injury Products were not of the same quality as those generally
12 acceptable in the trade, were not fit for the ordinary purposes for which they were used, and did not
13 measure up to Defendants' promises.

14 99. Defendants' breaches of the implied warranty were a substantial factor in causing
15 Plaintiff's harm.

16 100. As a direct and proximate result of Defendants' negligence, Plaintiff used the
17 Personal Injury Products, causing her to suffer serious injuries due to her prolonged exposure to
18 benzene. Specifically, Defendants' negligence was a direct and proximate cause of Plaintiff's
19 diagnosis with Chronic Lymphocytic Leukemia on November 12, 2021. Chronic Lymphocytic
20 Leukemia is a type of cancer of the blood and bone marrow that is a known side effect of benzene
21 exposure. Plaintiff suffered injuries when benzene exposure caused her to contract Chronic
22 Lymphocytic Leukemia.

23 **SIXTH CAUSE OF ACTION**
24 **FRAUDULENT CONCEALMENT**
25 **(By Plaintiff Against All Defendants)**

26 101. Plaintiff incorporates paragraphs 1 through 65 as though alleged herein.

27 102. The Personal Injury Products (i) have not been proven safe, particularly as they are
28 intended and directed to be used, and (ii) contain significant, unsafe levels of benzene, a known
carcinogen.

1 103. Defendants had a duty to disclose the presence of benzene in their products because
2 (i) the chemicals created an unreasonable safety risk and/or (ii) the state rules and regulations
3 described above created such a duty.

4 104. Defendants failure to disclose the presence of benzene was intentional and reflects
5 a reckless disregard for the truth. Defendants knew that the products contained benzene, but
6 intentionally failed to disclose that material fact to consumers.

7 105. Plaintiff was induced to act by Defendants' fraudulent concealment of material
8 facts regarding the presence of benzene in the products. Had Plaintiff been informed of the
9 presence of benzene in the products in question, she would not have purchased such products.

10 106. Plaintiff had a reasonable expectation that the Personal Injury Products she was
11 purchasing would not contain benzene. Likewise, Plaintiff can reasonably be presumed to have
12 believed that the Personal Injury Products did not contain hazardous chemicals that Defendants
13 were obligated to disclose, such as benzene. Defendants reasonably could have anticipated and
14 intended that Plaintiff purchased such products in part based upon such expectations and
15 assumptions, and intended her to do so.

16 107. Defendants' suppression and omission of material facts associated with their failure
17 to disclose the presence of hazardous chemicals in the Personal Injury Products occurred
18 repeatedly in their trade or business, were capable of deceiving a substantial portion of the
19 purchasing public, and imposed a serious safety risk on the public.

20 108. In failing to disclose the presence of benzene in the Personal Injury Products, that
21 Defendants knew were in such Personal Injury Products, they concealed material facts and
22 breached their duty to Plaintiff.

23 109. Plaintiff's habitual use of Personal Injury Products was a substantial factor in
24 causing her injuries.

25 110. As a direct and proximate result of Defendants' conduct, Plaintiff used the Personal
26 Injury Products, causing her to suffer serious injuries due to her prolonged exposure to benzene.
27 Specifically, Defendants' conduct was a direct and proximate cause of Plaintiff's diagnosis with
28 Chronic Lymphocytic Leukemia on November 12, 2021. Chronic Lymphocytic Leukemia is a

1 type of cancer of the blood and bone marrow that is a known side effect of benzene exposure.
2 Plaintiff suffered injuries when benzene exposure caused her to contract Chronic Lymphocytic
3 Leukemia.

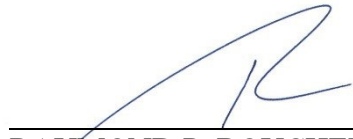
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff Thaylia Donna Quinn prays for judgment against all Defendants
6 as follows:

- 7 a. For noneconomic pain, suffering, and inconvenience damages past, present and
8 future in an amount according to proof at trial, and beyond the jurisdictional
9 minimum of this Court;
- 10 b. For economic damages for past and future medical expenses, in an amount
11 according to proof at trial;
- 12 c. For interest upon any judgment entered as provided by law;
- 13 d. For costs of suit incurred herein; and
- 14 e. For such other and further relief as this Court may deem just and proper.

15
16 DATED: November 9, 2023

BOUCHER LLP

17
18 By: 
19 _____
20 RAYMOND P. BOUCHER
21 ALEXANDER GAMEZ
22 MICHAEL GORELIK
23 Attorneys for Plaintiff
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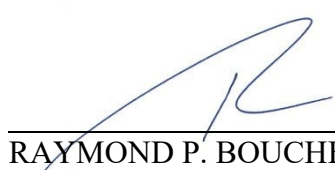
DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims, causes of action, and issues so triable.

DATED: November 9, 2023

BOUCHER LLP

By:



RAYMOND P. BOUCHER
ALEXANDER GAMEZ
MICHAEL GORELIK
Attorneys for Plaintiff