

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**MARIANNE PINTO, on behalf of  
herself and all others similarly  
situated,**

**Plaintiffs**

**vs.**

**THE PROCTER & GAMBLE  
COMPANY,**

**Defendant**

**CIVIL ACTION NO.:** 1:24-cv-07700

**CLASS ACTION COMPLAINT  
JURY TRIAL DEMANDED**

Plaintiff Marianne Pinto, on behalf of herself and all others similarly situated, for her Complaint against the Defendant, The Procter & Gamble Company (“P&G”), state as follows:

**BACKGROUND**

1. This class action arises from the defective plug-in air fresheners (the “Plug In Air Fresheners”) under the Febreze brand that promises as prominently displayed on the front of the packaging that each oil refill provides “First day fresh for 50 days.” However, despite this specific promise that each oil refill air freshener will last 50 days, in actuality, the life of each oil refill air freshener is about 25 – 30 days (the “Freshness Misrepresentation”). These representations are consistent across its packaging and on its website and on TV commercials. If a package is sold with multiple refills, the representation on the packaging is a multiple of 50 equal to the number of refills in the packaging. For instance, if the package comes with two refills, the packaging will represent “100 days of freshness.” The following are examples of the packaging:



freshness you  
can rely on

lasts for 50 days  
without fading

fills any room with  
irresistible scent

fights  
lingering odors

febreze





2. Plaintiff brings this action for actual damages, equitable relief, including restitution, injunctive relief, and disgorgement of profits, and all other relief available on behalf of themselves and all similarly-situated individuals (the “Class” or “Class Members”) who have purchased Febreze Plug-In Air Fresheners that contained representations on the packaging that each oil refill air freshener would last 50 days, but lasted significantly less than 50 days.

3. P&G knew as early as August 2019 that its Freshness Misrepresentation was false when it started receiving complaints from consumers. *See infra*, at ¶¶ 43-45. Indeed, it is apparent that P&G monitors consumer reviews evidenced by its replies to consumer complaints. And despite the many, many complaints, P&G simply responds insisting that each oil replacement should last 50 days. In some instances, P&G responds stating that the freshness

might not last as long in larger rooms or if they are placed near air conditioning vents. None of these factors are disclosed on the packaging or in advertisements. In fact, as indicated in the examples of packaging above, P&G advertises not only that the air freshener will last 50 days “without fading,” but it will “fill any room with irresistible scent.”

4. P&G knew, or was reckless in not knowing, at or before the time it sold the first Plug In Air Freshener, that the Plug In Air Fresheners could not last 50 days. P&G had sole and exclusive possession of this knowledge.

5. Despite P&G’s knowledge that each oil refill of its Plug In Air Fresheners could not last close to 50 days per oil refill, it expressly advertised on packaging and in online ads that each oil refill will maintain “1<sup>st</sup> day freshness for 50 days.”

6. As a consequence of P&G’s false and misleading statements and active and ongoing concealment that its Plug In Air Fresheners could not last close to 50 days, Plaintiff and the Class Members purchased Plug In Air Fresheners and have incurred damages.

7. The value of the Plug In Air Fresheners that Plaintiff purchased was materially less than its value as represented by Defendant.

8. Defendant sold more of the Plug In Air Fresheners and at higher prices than it would have in the absence of the Freshness Misrepresentation, resulting in additional profits at the expense of consumers

9. Plaintiff paid more for the Plug In Air Fresheners than she otherwise would have paid had she known the truth, or would not have bought the Plug In Air Freshener.

10. Plaintiff asserts claims on behalf of herself and the Class and Sub class under the New York General Business Law, § 349 and § 350 (“NY GBL §§349-350”). Plaintiff also

asserts claims on behalf of herself and the Class for fraudulent concealment/nondisclosure, breach of implied and express warranties, negligent misrepresentation, and unjust enrichment

11. Plaintiff seeks actual damages, injunctive relief, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs, and all other relief available to the Class.

### **JURISDICTION AND VENUE**

12. This Court has original subject matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. §§ 1332(d)(2) because (i) the number of Class Members is 100 or more; (ii) the Class Members' damages, the aggregate amount in controversy exclusive of interest and costs, exceeds \$5,000,000; and (iii) minimal diversity exists because at least one of the Class Plaintiffs and one Defendant are citizens of different states.

13. This Court has supplemental and pendent jurisdiction over the Class Plaintiffs' state law claims under 28 U.S.C. § 1367.

14. Personal Jurisdiction is proper in this Court because of P&G's many and important contacts with the State of New York. P&G has a registered agent authorized to accept service of process in the State of New York. This Court's exercise of jurisdiction over P&G offends neither notions of fair play and substantial justice, nor any other due process principles. P&G reasonably could expect to be summoned before the courts of the State of New York. Indeed, here, Plaintiff is a citizen of New York, purchased the Plug In Air Freshener in New York and thus the damages to Plaintiff occurred in New York.

15. Venue is also proper in this judicial district under 28 U.S.C. § 1391(c), because a substantial part of the events or omissions giving rising to the Class Plaintiff's claims took place in this judicial district.

## **PARTIES**

### **Defendant**

16. P&G is incorporated and headquartered in the state of Ohio with its principal place of business in Cincinnati, Ohio. P&G is the world's largest consumer goods company, with hundreds of the most popular brands across categories, including cosmetics, cleaning, batteries, over-the-counter ("OTC") medications and shaving.

17. The Febreze brand is the category leader among a variety of air fresheners which work through different methods.

18. The Plug In Air Fresheners and oil refills are sold at tens of thousands of locations such as grocery stores, warehouse club stores, convenience stores, drug stores, big box stores, and online.

19. The Plug In Air Freshener and one oil refill is sold for a price premium compared to other similar products, not less than \$5.94 for 1 Plug In Air Freshener and 1 oil refill, a higher price than they would otherwise be sold for, absent the misleading representations and omissions. Oil refills, usually sold in packs of two, sell for no less than \$9.99 for the pack of two, a higher price than they would otherwise be sold for, absent the misleading representations and omissions.

### **Plaintiff**

20. Plaintiff, Marianne Pinto, is an individual and citizen of the State of New York, County of Nassau, City of Westbury. She purchased for personal use a Febreze Plug In Air Freshener starter kit which included one oil refill, from Target in Westbury, NY on or about March 21, 2024.

21. Plaintiff paid \$5.99 plus tax for the Plug In Air Freshener and oil refill starter kit.



22. Plaintiff bought the Febreze Plug In Air Freshener and oil refill with the expectation that it would freshen the air with an appealing smell that would last for at least 50 days per oil refill as expressly stated on the packaging.

23. While at Target on April 26, 2024, Plaintiff purchased a pack of 3 oil refills for \$12.99 and a pack of 2 oil refills for \$9.99 so she would be prepared for when her first oil refill ran out.

24. As indicated above, the 3-pack advertised on its packaging “First Day Fresh for 150 days” or 50 days per refill.

25. Similarly, the 2-pack advertised on its packaging “First Day Fresh for 100 days” or 50 days per refill.

26. Plaintiff purchased the Febreze refills relying on the Freshness Misrepresentation and that combined, the 6 refills (1 with the starter pack, 2 with the two pack and 3 with the three pack) would provide first day freshness for 300 days.

27. Unfortunately, Plaintiff was surprised when the low level indicator light on the first oil refill she purchased on March 21 illuminated indicating it was time to be replaced after only 37 days on the low setting.

28. Plaintiff was disappointed because she relied on the representations on the packaging that the oil refill will provide 1<sup>st</sup> day freshness for 50 days.

29. The low level indicator light on next two oil refills she used illuminated after 46 days and then 44 days on the low setting respectively. A fourth oil refill only lasted 28 days on the low setting.

30. With all four oil refills, Plaintiff noticed the scent started fading days before the low level indicator light illuminated indicating it was time for a replacement. In other words,

“first day freshness” started fading well in advance of the low level indicator light illuminating indicating it was time for a replacement oil cartridge.

31. According to the Freshness Misrepresentation, Plaintiff should have experienced first day freshness for a total of 200 days. In reality, based on the low level indicator light, the scent lasted a total of 155 days. In other words, based on the low level indicator light, the oil refills lasted 23% fewer days than Defendants advertised they would last.

32. But first day freshness lasted even fewer days based on when the strength of the fragrance started fading. With each refill cartridge, Plaintiff noticed significant scent fading days before the low level indicator light illuminated.

33. Plaintiff would not have purchased the Febreze Plug In Air Freshener and oil refill if she knew the representations were false and misleading.

34. Plaintiff chose between Defendant’s Febreze Plug In Air Freshener and other similar products which were represented similarly, but which did not misrepresent their attributes and/or lower-priced products which did not make the claims made by Defendant.

35. Plaintiff paid more for the Febreze Plug in Air Freshener and oil refill than she otherwise would have, and the Febreze Plug in Air Freshener and oil refill were worth less than what she paid and she would not have paid as much absent Defendant’s false and misleading statements and omissions.

**Plaintiff’s and Class Members’ Reasonable Expectations**

36. In purchasing Febreze Plug in Air Freshener and oil refill, Plaintiff legitimately expected it to last 50 days as expressly stated on the packaging and online.

37. Plaintiff and the Class Members reasonably expected the Febreze Plug in Air Freshener and oil refill to last 50 days as expressly stated on the packaging and online.

38. Plaintiff and the Class Members reasonably expected P&G to disclose the existence of a defect that was known to P&G at the time of sale that would prevent the Febreze Plug in Air Freshener from providing first day freshness for at least 50 days, or to retract the claim and cease advertising the claim knowing it was false.

39. Because of P&G's misrepresentations, Plaintiff and the Class Members did not get what they paid for and have incurred actual damages.

### **P&G was Aware of the Misrepresentation**

40. Before it sold the Febreze Plug in Air Freshener and oil refill, P&G knew, or was reckless in not knowing, that the Febreze Plug in Air Freshener and oil refill could not provide first day freshness for at least 50 days.

41. P&G did not implement a plan to properly address the Freshness Misrepresentation and instead continued to manufacture, advertise and sell Febreze Plug in Air Freshener and oil refills with the Freshness Misrepresentation.

42. Upon information and belief, P&G has known about the Freshness Misrepresentation for at least over five years based on P&G representatives' responses to countless consumer complaints over the years.

43. The following is a small sample of consumer complaints raising the Freshness Misrepresentation and P&G's responses found on Target's website at <https://www.target.com/p/febreze-odor-fighting-fade-defy-plug-air-freshener-warmer-device/-/A-53216912>:

**Meh...**

**3 out of 5 stars**

Melbel - 1 year ago

I use the Bora Bora Waters smell, which smells amazing. But it doesn't last long, under 30 days on the lowest setting. The smell is real strong at first then pretty much dies down and it's barely noticeable, unless you turn it up, but then it lasts about 2-3 weeks tops. It's a little

pricey and the only reason I keep buying it is because it really helps eliminate odors where our pet tortoise is housed.

## I am disappointed!

1 out of 5 stars

Thumbs down graphic, would not recommend [Would not recommend](#)

Vick - 1 year ago

i have bought 4 of these plug ins and three 4 packs of scents. i have used one of each and all 4 lights have started blinking within 4 weeks! i thought these lasted a lot longer than that! i just spent a lot of money that should have lasted a long time and poof smells gone and moneys gone! what the heck! 😞

### 1 reply from TheFebrezeTeam team - 1 year ago

Please know, Vick, you'll get the best bang for your buck with your Febreze Odor-Fighting Fade Defy PLUG by keeping the device always plugged in, but set at its lowest setting. If they lose power, the lights can blink prematurely, and lose the accurate measure of how much fragrance is left. We hope you'll give us a call, so we can talk through this with you and help you get the full value of your money; our number is 1 (800) 308-3279. We're here Mondays through Fridays, from 9 AM to 6 PM, EST.

## Scent doesn't last long

2 out of 5 stars

Thumbs down graphic, would not recommend [Would not recommend](#)

nicoleneva - 2 years ago, [Verified purchaser](#)

While they smell good the scent definitely does not last as long as they claim it does.

### 1 reply from TheFebrezeTeam team - 2 years ago

Thanks for your review, Nicole. It may be helpful to know you'll get the longest use of your Febreze PLUG by making sure the adjusting lever is on low. Also, if your PLUG is located near a vent, more fragrance can be pushed or moved out of the PLUG than you intend. We want to help you get the full value of your purchase, please, call 1 (800) 308-3279 any Monday through Friday, from 9 AM to 6 PM, EST. We'd be happy to talk further with you about this.

## Waste of money

1 out of 5 stars

Thumbs down graphic, would not recommend [Would not recommend](#)

Kim - 2 years ago, [Verified purchaser](#)

Worked for a couple of weeks only, it was definitely over powering sent. The oil runs out to fast even on a low setting. I would rather recommend it

### 1 reply from TheFebrezeTeam team - 2 years ago

Your Febreze Oil Warmer PLUG should work for a long time, Kim, as long as you keep it plugged in and filled with oil refills that have oil. Because our Quality Team is so engaged, making sure only the best products are sent out to local stores, we're confident it's ready to help your home smell its best. Please, give us a call at 1 (800) 308-3279, we'd be happy to talk with you about this unit and be sure it's being correctly used. We're answering calls Mondays through Fridays, from 9 AM to 6 PM, EST; call today!

## Didnt Work :/

1 out of 5 stars

Thumbs down graphic, would not recommend **Would not recommend**

Selena W - 2 years ago

Stopped dispensing the smell after a week. I was so sad because it smelled sooo good and was pricey — afraid to try again dont want to waste my money

**1 reply from TheFebrezeTeam team - 2 years ago**

Your satisfaction is very important to us, that's why our Quality Team checks all our refill oils and Febreze Fade Defy PLUGS, making sure they're ready for your home. Our Febreze Fade Defy PLUGS are designed to provide a long-term, noticeable scent when set at low. If your device is on high, your scent will not last as long as the package indicates. We'd be happy to look further into this, when you have a moment, call us at 1 (800) 308-3279, Monday through Friday, from 9 AM to 6 PM, EST.

## Not good

1 out of 5 stars

Thumbs down graphic, would not recommend **Would not recommend**

Sparklesalot - 2 years ago, **Verified purchaser**

Really not good, only smelled for a day or two...

**1 reply from TheFebrezeTeam team - 2 years ago**

We expect your Febreze Fade Defy PLUG to last anywhere between 40 and 60 days, depending on the intensity you have yours set at. We have strict quality checks in place to be sure this happens for you, so we're sad to hear this feedback! Give us a call at (800) 308-3279, so that we can learn more about your purchase for our Quality Team and help you further.

## Stops Working after a While

1 out of 5 stars

Thumbs down graphic, would not recommend **Would not recommend**

Amberlee - 3 years ago

I noticed that about after 3 weeks they hardly work and I can't smell anything from them. I bought 2 for my basement and both had this issue. Way too pricy for it to not last.

**1 reply from TheFebrezeTeam team - 3 years ago**

This certainly isn't what we expect, so we hate to hear this, Amberlee! Our products have gone through lots of testing to make sure they're effective, so we'll be sure to share this with our Quality Team. If you want to chat more about this, just give us a call at: (800) 308-3279 - The Febreze Team

Thumbs down graphic, would not recommend **Would not recommend**

Opalhouse - 3 years ago, **Verified purchaser**

Easy to use but I notice after a few weeks I don't smell the scent anymore. I need to shake it for it to work again. I just buy the spray bottles now.

**1 reply from TheFebrezeTeam team - 3 years ago**

A lot of thought and research goes into our products, Opal, but we rely on feedback, like yours, to improve. And we've listened. Our new Febreze PLUG has built-in programming that works to provide the same amount of perfume delivery over the life of the refill. It also has a light that will flash when first plugged in to show it's working, and it will flash again when the perfume is almost used up. Give us a call at (800) 308-3279 so we can help you further with this.

44. The following are additional reviews raising the Freshness Misrepresentation and P&G's responses found on Target's website at:

<https://www.walmart.com/reviews/product/593352487> :

**1 out of 5 stars review**

**Verified Purchase**

4/20/2024

**junk**

This is a waste of money, only lasted 23 days and I had it on the low setting, too much money for it to only last that long. my Airwick worked just as good and was a lot cheaper.

Hal

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Febreze

We're sorry that the Febreze PLUG did not last as long as you expected, Hal. Our products are thoroughly tested to ensure they provide the best quality, and we are sad to hear that wasn't your experience. The Febreze PLUG is designed to provide a noticeable scent in the low setting; if set to high exclusively, the scent will probably not last as long. So we can help you get back to breathing happy, please call us at (800) 308-3279 Monday through Friday, from 9 AM to 6 PM EST.

**2 out of 5 stars review**

**Verified Purchase**

4/7/2024

**Not worth it**

even in a low setting, they went empty in under a month

Kelly

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Febreze

Your nose should be happy as long as is stated on the packaging when you're using Febreze PLUG Oil Refills, Kelly. It may help to know that, even if the oil appears gone, it may still be in the wick. The blue light on the PLUG will flash for 7 days, once the oil is completely gone, confirming what your nose may know, that it's time to replace the bottles. We've got your back, and happy to answer any question or help with any concern Mondays through Fridays, from 9 AM to 6 PM, EST. Our number is 1 (800) 308-3279.

**2 out of 5 stars review**

4/2/2024

**Very disappointing**

I had really hoped that it really lasted 45 days but the liquid only lasts about 3 weeks even set on low. The scent is very strong the first 2 weeks then after that

its faded to nothing. I have one on my stairs that I walk by everyday at head level and can barely smell it at all. So i wouldn't reccomend it over any other air freshners at all.

Mundae

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Febreze

We're sorry to hear you didn't have the experience we expect, and want to assure you that we have many quality checks to ensure the PLUG lasts 40 days on low. We'd like to help you get the most from your Febreze, so when you have a minute, please get in touch with us at (800) 308-3279.

### 3 out of 5 stars review

#### Verified Purchase

3/16/2024

#### Plug ins.

Not that thrilled with them or maybe just the fragrance. Doesn't last as long as says.

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Febreze

We're sorry to hear this, Valarie, and assure you that we have many quality checks to ensure the PLUG lasts 40 days when on low. We'd like to find a scent you enjoy, as well as help you get the most from your PLUG. When you have time, please get in touch with us at (800) 308-3279.

### 2 out of 5 stars review

12/10/2023

#### Doesn't last long

The smell container goes quickly even on slow mode and after like 2 changes the outlet plug in seems to not want to always work.

Brittany

00

Febreze

We're sorry to hear this, Brittany. If you aren't getting the full 50 days when on the low setting, please get in touch with us at (800) 308-3279, so we can help you get the most out of your Febreze.

### 2 out of 5 stars review

11/13/2023

#### Not impressed

The plug ins don't last as long as they say even on lowest setting. On low setting scent not strong but if you use the highest setting to intensify the smell the oil burns out quickly.

Andrea

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Febreze

We want to assure you that we have many quality checks to ensure the PLUG lasts 50 days when on the low setting and we're sorry to hear that hasn't been the case for you, Andrea. We'd like to help you get the most out of your Febreze, so when you have a chance, please get in touch with us at (800) 308-3279.

### 3 out of 5 stars review

#### Verified Purchase

11/8/2023

Great for the first day after that the smell is no longer that strong.

KC

00

Febreze

With the many quality checks we have in place you should get a wonderful lingering scent. If you haven't already, we recommend turning up the scent dial to make the smell stronger. If you'd like help finding a stronger scent, or need help getting the most out of your Febreze, please don't hesitate to get in touch with us at (800) 308-3279.

### 1 out of 5 stars review

10/20/2023

#### Very disappointing

The packaging stated that it would last for 50 days on the lowest setting. I have had it on the lowest setting and it only lasted 30 days. This is a rip off.

TucsonLynne

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Febreze

We're sorry that the Febreze PLUG did not last as long as you expected. Our products are thoroughly tested to ensure they provide the best quality, and we are sad to hear that wasn't your experience. The Febreze PLUG is designed to provide a noticeable scent in the low setting; if set to high exclusively, the scent will probably not last as long. So we can help you get back to breathing happy, please call us at (800) 308-3279 Monday through Friday, from 9 AM to 6 PM EST.

### 4 out of 5 stars review

#### Verified Purchase

8/30/2023

They work great seem to use up the scent kinda quickly but they smell good

Mark

00

Febreze

We are sorry you aren't getting the results you expected with your Febreze PLUG, Mark. Our products undergo many quality checks to ensure they get to



you with the best results, so we don't expect these things to happen. If you haven't already, we suggest trying a higher setting. The switch to control the new warmer can be adjusted while the warmer is plugged in. The Min to Max is still read left to right, with the setting to the right being Max. So we can get you back to breathing happy, please call us at (800) 308-3279 Monday through Friday, from 9 AM to 6 PM EST.

**1 out of 5 stars review**

**Verified Purchase**

8/13/2023

Burns up to easily. There will still be fragrance, but no smell coming out. I've purchased 10 of them.. and they all done the same thing

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Febreze

We appreciate you sharing your thoughts with us, Devyn. Please know that our products go through strict quality checks to ensure our Febreze PLUG provides you with only the best results to breathe happy. So we can learn more about your experience, please call us at (800) 308-3279, 9 AM — 6 PM EST, Monday – Friday.

**4 out of 5 stars review**

**Verified Purchase**

7/21/2023

**Disappointed**

The fragrance refills set on the lowest setting doesn't even last a month. I wish I hadn't purchased so many.

Somebodysnena

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Febreze

Your Febreze PLUG Oil Refills will last as long as is stated on the package when set on, "Low", as you've noted, Jocelyn. We're so sorry yours aren't making it that long. It may help to know the size of your room can be a factor, as bigger rooms tend to pull more fragrance, leading to less to be enjoyed. We're here to help as best we can with this, give us a call any Monday through Friday, from 9 AM to 6 PM, EST.

**1 out of 5 stars review**

**Verified Purchase**

7/29/2021

**Useless**

Like most of these plug in air fresheners they work for maybe a month then nothing

Nmanning

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Supplier Response

We're sorry to hear this, since our products go through many quality checks to ensure that you can enjoy the best results with them. Our Febreze PLUG is designed to provide noticeable scent for the number of days indicated on the package when adjusted to the low setting; if set to high exclusively, the scent will probably not last as long. If the device is on the low setting and the jars appear to be empty before the days indicated on pack, there's usually enough perfume left in the wicks to release scent into the room. We hope this helps. When you have a chance, please give us a call at (800) 308-3279 so that we can learn more about your experience.

1 out of 5 stars review

**Verified Purchase**

7/27/2021

Smell doesnt last Only good in a very small space

patricia

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Supplier Response

We're sorry to hear this, Patricia, since our products do go through many quality checks. While our small SPACES are designed to last up to the number of days noted on the package in average conditions, if it's placed in a highly ventilated area, it'll use up more perfume faster. We'd be happy to answer any questions you may have, so please know that you're welcome to give us a call at (800) 308-3279.

3 out of 5 stars review

8/21/2019

**Great scent but does NOT last long!**

[This review was collected as part of a promotion.] As a busy working Mama, I am always on the go and when it comes time to clean my house, I go all in! I spend entire weekends making sure my house is neat and clean for my family to enjoy! Once everything is neat and orderly, I will grab few scented plug in deodorizers to enhance the sense of cleanliness and calm. I recently chose to use a few Hawaiian Aloha scented double Febreze plug-in warmers throughout my house and while I love the fruity fresh ocean breeze scent, the oil evaporated in just 11 days, at the 2nd lowest setting. This is not economically sound for me to use as it does not even last 2 weeks and costs so much more than I can afford to spend weekly, to keep my house smelling ultra fresh.

HoneyB22

00

Originally posted on

**febreze.com**

Supplier Response

We understand your frustration, and it can be helpful to know that if the PLUGS are placed near heavy air flow (air conditioners, open windows, ect.) they'll be used up much more quickly. If this doesn't seem to be the problem, please give us a call at (800) 308-3279 so we can help further.

<https://www.walmart.com/reviews/product/16817826?filter=3>

45 The following are additional reviews raising the Freshness Misrepresentation found on Target's website at: [https://www.amazon.com/product-reviews/B08492F6Y9/ref=acr\\_dp\\_hist\\_1?ie=UTF8&filterByStar=one\\_star&reviewerType=all\\_reviews#reviews-filter-bar](https://www.amazon.com/product-reviews/B08492F6Y9/ref=acr_dp_hist_1?ie=UTF8&filterByStar=one_star&reviewerType=all_reviews#reviews-filter-bar) :

**1.0 out of 5 stars Doesn't last**

Reviewed in the United States on January 26, 2024

[Scent: OriginalSize: 1.74 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

This scent only lasted about a week to 10 days.. Disappointing!

**2.0 out of 5 stars Does not last. Not a good buy.**

Reviewed in the United States on December 26, 2023

[Scent: OriginalSize: 1.74 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

I put the air freshener in a rarely-used bathroom. The bathroom door has been either closed or cracked open.

After the initial overpowering scent for a large area outside of the bathroom lasted for less than a week, the scent remained noticeable only in the bathroom and for no more than two full weeks. Then the scent became undetectable.

**1.0 out of 5 stars Don't last 50 days**

Reviewed in the United States on December 1, 2023

[Scent: Gain OriginalSize: 2.61 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

These do not last 50 days at all I purchased these on November 6th and I've had to replace it today on December 1st ! It lasted 24 days 🙄

**2.0 out of 5 stars Doesn't last**

Reviewed in the United States on September 2, 2023

[Scent: OriginalSize: 1.74 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

These do not last anywhere near 50 days. I just put a new one in last week and it's already almost empty

**2.0 out of 5 stars Doesn't last long**

Reviewed in the United States on July 22, 2023

[Scent: OriginalSize: 1.74 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

Maybe two weeks of scent. Doesn't last as long as advertised.

**1.0 out of 5 stars Expensive and short lived**

Reviewed in the United States on July 13, 2023

[Scent: Gain OriginalSize: 2.61 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

This has a great scent and the light let's you know it is ptu and time to refill. However, the fragrance is very light and the liquid only lasts a couple of weeks. Not a bargain

**2.0 out of 5 stars doesn't long, light doesn't work**

Reviewed in the United States on July 11, 2023

[Scent: OriginalSize: 0.87 Fl Oz \(Pack of 4\)](#) **Verified Purchase**

i got less than a month set middle intensity. the replacement light didn't even turn on.

**2.0 out of 5 stars 150 days huh?**

Reviewed in the United States on December 1, 2022

[Scent: Gain OriginalSize: 2.61 Fl Oz \(Pack of 1\)](#) **Verified Purchase**

I see the claim of over a 150 days or something and I've bought it multiple times, the three pack at minimum setting on a single plug in or whatever lasts an average of 60-90 days.

**2.0 out of 5 stars Smells good, but a couple problems**

Reviewed in the United States on April 27, 2021

[Scent: Gain OriginalSize: 1 Count \(Pack of 1\)](#) **Verified Purchase**

The scent is pretty good. I like the smell, but it doesn't spread that far. One of our bathrooms is very small. Probably a 1/3 bathroom, we had to put it on the highest setting to smell it in there. The bedroom needed 2 and it smelt great. But the biggest issue I have is ours only lasted 15 days, or 1/3 of the time the packaging says. Maybe the 3 settings are 15,30, and 45 days but I'm telling you, you will not smell this unless it's on the highest setting. If you do buy these, expect to buy 2 per room every 15 days if you want them to be effective.. does start to get pricey compared to other methods. The smell was amazing that's the only reason it gets 2 stars, everything else, I'll pass.

**2.0 out of 5 stars Doesn't last long or smell great.**

Reviewed in the United States on April 10, 2021

[Scent: Gain OriginalSize: 1 Count \(Pack of 1\)](#) **Verified Purchase**

The package specifically says it'll last 45 days on low. I bought 3 and they have all been on low. In under a month they're all empty.

The scent also isn't great. It's not horrible but not something I'd buy again

## **P&G's Misrepresentations and Omissions**

46 P&G knew, had reason to know, or was reckless in not knowing of the Freshness Misrepresentation when it uniformly advertised, marketed and sold the Plug In Air Fresheners and oil refills to Plaintiffs and the Class.

47 P&G did not disclose to its customers the fact that, despite it expressly advertising on packaging and in online ads and TV commercials that each oil refill will maintain "1<sup>st</sup> day freshness for 50 days," the Plug In Air Fresheners could not last 50 days per oil refill.

48 Indeed, despite this specific promise that each oil refill air freshener will last 50 days, in actuality, the life of each oil refill air freshener is as short as 25 – 30 days. If a package is sold with multiple refills, the representation on the packaging is a multiple of 50 equal to the

number of refills in the packaging. For instance, if the package comes with two refills, the packaging will represent “First Day freshness for 100 days” or “100 days of freshness.”

49 P&G knew that consumers were unaware that the Plug In Air Fresheners could not last 50 days per oil refill. P&G knew and intended for consumers to rely on its material misrepresentations and omissions with regard to the Freshness Misrepresentation.

50 As a result of P&G’s uniform omissions and misrepresentations in its marketing and advertising, Plaintiffs believed that the Plug In Air Fresheners and oil refills would provide 1<sup>st</sup> day freshness for 50 days in reliance on that belief.

51 To this day, P&G continues to misrepresent and/or conceal material information from Plaintiff, the Class and the public by way of the Freshness Misrepresentation.

#### **TOLLING OF STATUTES OF LIMITATION**

52 P&G’s active Freshness Misrepresentation since at least 2019 results in the tolling of any applicable statute(s) of limitation.

53 Plaintiffs and Class and Subclass Members could not have reasonably discovered Defendant’s advertisements that oil refill provides “First day fresh for 50 days” were false until just before this Complaint was filed.

54 P&G had and still has a continuing duty to inform Class and Subclass Members of the truth that the Plug In Air Fresheners and oil refills do not provide first day freshness for 50 days; in actuality, the life of each oil refill air freshener is as short as 25 – 30 days.

55 P&G’s misrepresentations and active concealment of, and breach of its duty to disclose the truth about the life of Plug In Air Fresheners and oil refills tolls any applicable statute(s) of limitations.

**CLASS ACTION ALLEGATIONS**

56 The Plaintiffs bring this action under Fed. R. Civ. P. 23(a), (b)(2) and (b)(3) and seek certification of a Class and Subclass initially defined as follows:

**Class (the “Nationwide Class”)**

All persons who have purchased a Febreze Plug-In Air Freshener that contained representations on the packaging that each oil refill air freshener would last 50 days.

57 Alternatively, Plaintiff proposes the following state specific subclasses:

**Subclass (the “New York Class”)**

All persons in the state of New York who have purchased a Febreze Plug-In Air Freshener that contained representations on the packaging that each oil refill air freshener would last 50 days.

58 Excluded from the Class and Subclass are: P&G and all of its affiliated companies, directors, officers, and employees; all persons or entities who purchased their washing machines, respectively; and the Judge(s) assigned to this case.

59 All Plaintiffs are members of the Class and at least one Subclass.

60 The Plaintiff reserve the right to modify or expand the Class and Subclass if discovery and/or further investigation shows that the definitions should be modified.

61 Questions of law and fact exist common to the members of the Class and Subclass and predominate over any questions that affect only individuals.

62 Principal and predominant common questions of law and fact include, for example:

- a. Did P&G breach its express warranties to the Class and Subclass Members?
- b. Did P&G negligently misrepresent that its Febreze Plug-In Air Freshener would last 50 days?

- c. Did P&G's acts and omissions violate the New York's General Business Law § 349 , et seq?
- d. Would P&G's retention of payment for the Febreze Plug-In Air Freshener constitute the knowing receipt, acceptance and retention of a benefit from the Class and Subclass Members in circumstances in which such receipt, acceptance and retention of that benefit is unjust?
- e. As a result of P&G's actions and failures to act, are the Class and Subclass Members entitled to compensatory, restitutionary, statutory or other damages against P&G?

63 Plaintiff's claims are typical of the claims of all of the members of the Class and Subclass because they are based on the same facts.

64 Plaintiff's claims are typical of the claims of all of the members of the Class and Subclass because they are based on the same legal theories.

65 Plaintiff's claims are typical of the claims of all of the members of the Class and Subclass because the respective claims are based on the same remedial theories and requests for redress as those of all the Class and Subclass Members.

66 Each Class is so numerous that joining all of the Class and Subclass Members as plaintiffs in this action is impracticable. Upon information and belief, to be supported as required by Rule 11(b)(3), during the Class Periods, P&G has sold at least hundreds of thousands of Febreze Plug-In Air Freshener and oil refills. Based on a conservative failure rate of just ten percent (10%), and assuming that each Class Member bought only one Febreze Plug-In Air Freshener during the Class Period, the class would consist of thousands of consumers.

67 The Plaintiff is not adverse to those of the Class and Subclass.

68 The Plaintiff has no interests that conflict with the interests of the Class and Subclass.

69 The Plaintiff is similarly situated with, and has suffered similar injuries, losses and other damages as the Class and Subclass members.

70 The Plaintiff will fairly and adequately protect the interests of all the Class and Subclass members in further investigating, developing and litigating this action, and in all related administrative and other matters concerning this action.

71 The Plaintiff has retained counsel experienced in complex and class action litigation, in matters involving consumer products, commercial and contractual claims, and common law and statutory claims.

72 Neither the Plaintiff, nor their retained counsel, have any interest that might lead them not to vigorously pursue this action.

73 A Class Action is superior to other potentially available methods for resolving the Plaintiffs' claims, because:

- a. The individual Class and Subclass Members' damages are almost certainly too small to justify the expense and effort of individual lawsuits brought by counsel working for an hourly fee. P&G's misconduct would go unaddressed and unremedied absent class action treatment. Aggregating these fundamentally similar claims, however, makes this action financially feasible.
- b. Even if the individual Class and Subclass Members were wealthy enough to afford to bring such individual cases, the judicial system would be ill served and its scarce resources badly misspent by a myriad of small and fundamentally



identical cases involving the same basic allegations, the same discovery and the same proofs, clogging dockets across the country.

- c. Individual litigation is not just supremely impractical and tremendously inefficient, but also poses the risk of inconsistent or contradictory judgments.
- d. Concentration of the action concerning false advertising of Febreze Plug-In Air Fresheners in this Court will: save judicial resources by, among other things, obviating the need for coordination of motion practice and discovery across numerous courts and jurisdictions; conserve the parties' resources by permitting the well-focused litigation of the many common issues through representative plaintiffs; produce enormous economies of scale by developing the many common issues through just a few representative plaintiffs; and result in consistent judicial findings, promoting respect for the judiciary and judicial system, through comprehensive supervision and administration of the case by a single court well versed in the issues.
- e. Justice will not be served, but will fail, in the absence of a class action of the Plaintiff's claims. Among other things, many if not all Plaintiffs lack the resources to properly litigate their claims. Expert witnesses are necessary, the cost of which would alone be prohibitive for many if not all Plaintiffs.
- f. The difficulties inherent in and likely to arise in managing this Class Action are neither novel nor substantial. Common issues predominate over individual issues, are readily identifiable, as described above, and will be efficiently developed through litigation of representative Class Members' cases.

**CLAIMS FOR RELIEF**

**FIRST CAUSE OF ACTION (On Behalf of Plaintiff, Class and Subclass Members)  
Breach of Express Warranty**

74 Each of the above allegations are incorporated herein.

75 Defendant breached its express warranty by expressly advertising on the front of the Plug In Air Fresheners packaging, as well as on its website, online adds and via TV commercials that each oil refill provides “First day fresh for 50 days.” However, despite this specific promise that each oil refill air freshener will last 50 days, in actuality, the life of each oil refill air freshener is as short as 25 – 30 days. These representations are consistent across its packaging and on its website and on TV commercials. If a package is sold with multiple refills, the representation on the packaging is a multiple of 50 equal to the number of refills in the packaging. For instance, if the package comes with two refills, the packaging will represent “First Day fresh for 100 days” or “100 days of freshness.”

76 Defendant’s representations affirmed and promised that each oil refill would last for 50 days, providing the same degree of scent and odor elimination on the 50<sup>th</sup> day as it does on the first day of use

77 Plaintiff understood that the representations meant that each oil refill would last for 50 days, providing the same degree of scent and odor elimination on the 50<sup>th</sup> day as it does on the first day of use.

78 Defendant had a duty to disclose and/or provide non-deceptive descriptions and marketing.

79 This duty is based on Defendant’s outsized role in the market for this type of product, the leading brand of air freshener in the world, marketed to consumers.

80 Plaintiff recently became aware of Defendant's breach of the Product's warranties.

81 Defendant has received sufficient and timely notice of the breaches of warranty alleged herein due to complaints by third-parties and consumers, to its main offices, and by consumers through online forums.

82 The Plug In Air Fresheners did not conform to its affirmations of fact and promises due to Defendant's actions because, despite the specific promise that each oil refill air freshener will last 50 days, in actuality, the life of each oil refill air freshener is as short as 25 – 30 days.

83 Plaintiff would not have purchased the Plug In Air Freshener and oil refills or paid as much if the true facts had been known.

**SECOND CAUSE OF ACTION (On Behalf of Plaintiffs, Class and Subclass Members)  
Injunctive and Equitable Relief**

84 Each of the above allegations are incorporated herein.

85 Injunctive and equitable relief is appropriate and proper to remedy P&G's past misconduct and prevent such misconduct from continuing to occur.

86 Appropriate and proper injunctive and equitable relief includes a Judicial Order compelling P&G cease the Freshness Misrepresentation and to pay for a notice process in which P&G notifies the Class and Subclass Members about the Freshness Misrepresentation.

**THIRD CAUSE OF ACTION (On Behalf of Plaintiffs, Class and Subclass Members)  
Unjust Enrichment**

87 Each of the above allegations are incorporated herein.

88 Defendant P&G has been unjustly enriched and received an economic benefit by the sale of the Plug In Air Fresheners and oil refills herein to Plaintiffs and the Class and Subclass Members.

89 Plaintiffs seek to recover for Defendant P&G's unjust enrichment.

90 Plaintiffs and the Class and Subclass Members conferred a benefit on Defendant P&G, but Defendant P&G failed to disclose its knowledge that Plaintiffs did not receive what they paid for and misled Plaintiffs and the Class and Subclass Members regarding the misstatements of their Plug In Air Fresheners while profiting from this deception.

91 The circumstances are such that it would be inequitable, unconscionable, and unjust to permit Defendant P&G to retain the benefit of these profits that it has unfairly obtained from Plaintiffs and the Class and Subclass Members.

92 Plaintiffs and the Class and Subclass Members, having been injured by Defendant P&G's conduct, are entitled to restitution or disgorgement of profits as a result of the unjust enrichment of Defendant P&G to their detriment.

**FOURTH CAUSE OF ACTION (On Behalf of Plaintiffs, Class and Subclass Members)**  
**Common Law Fraud**

93 Each of the above allegations are incorporated herein.

94 The above-described conduct and actions constitute common law fraud by way of misrepresentations, concealment and omissions of material facts made by Defendant in inducing Plaintiff and the Class and Subclass to purchase Plug In Air Fresheners.

95 Defendant, upon information and belief, made the above-described misrepresentations, concealment and omissions of material facts to all Class and Subclass Members. Indeed, Defendant displayed on the front of the packaging that each oil refill provides "First day fresh for 50 days." However, despite this specific promise that each oil refill air freshener will last 50 days, in actuality, the life of each oil refill air freshener is as short as 25-30 days. These representations are consistent across its packaging and on its website and on TV commercials. If a package is sold with multiple refills, the representation on the packaging is a

multiple of 50 equal to the number of refills in the packaging. For instance, if the package comes with two refills, the packaging will represent “First Day fresh for 100 days” or “100 days of freshness.”

96 Defendant intended that the Plaintiff and the other members of the Class and Subclass rely upon the above-described uniform misrepresentations, concealment and omissions.

97 Defendant’s misrepresentations, concealments and omissions concerning how long the degree of scent and odor elimination would last were material to Plaintiff’s and other Class Members’ and Subclass Members’ decisions to purchase the Plug In Air Fresheners and oil refills. In fact, the representations and omissions regarding the lasting effect of the scent and odor elimination were so fundamental to Plaintiff’s and Class Members’ and Subclass Members’ decision making process that they would not have purchased the Plug In Air Fresheners and oil refills had they known that the Plug In Air Fresheners and oil refills would last significantly fewer days than advertised.

98 Plaintiff and other Class and Subclass Members justifiably relied upon Defendant’s misrepresentations, concealment and omissions to their damage and detriment.

99 Plaintiff and the Class and Subclass suffered the damage described in this complaint as a proximate result thereof.

100 Defendant’s conduct was willful, wanton, and reckless. Based on the intentionally dishonest nature of Defendant’s conduct, which was directed at the Class and Subclass, Defendant should also be held liable to the Class and Subclass for compensatory and punitive damages in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION (On Behalf of Plaintiffs and Class and Subclass Members)  
Violation of New York’s General Business Law § 349, et seq.**

101 Each of the above allegations are incorporated herein.

102 Plaintiff and Class and Subclass members are consumers who purchased Plug In Air Fresheners and oil refills for personal use. Plaintiff brings this action pursuant to New York General Business Law §§ 349 and 350.

103 New York’s Deceptive Practices Act (“NYDPA”) provides that “[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful.” New York General Business Law § 349.

104 The NYDPA provides a private cause of action to persons such as Plaintiff that have been injured as a result of deceptive acts or practices and provides for recovery of actual damages and statutory attorneys’ fees.

105 Defendant engaged in consumer-oriented, commercial conduct by selling and advertising the subject product.

106 Defendant misrepresented and omitted material information regarding the subject product and/or its packaging by failing to disclose known defects.

107 Defendant’s misrepresentations and concealment of material facts constitute unconscionable commercial practices, deception, fraud, false pretenses, misrepresentation, and/or the knowing concealment, suppression, or omission of materials facts with the intent that others rely on such concealment, suppression, or omission in connection with the sale and advertisement of the subject product, in violation of New York General Business Law (“GBL”) §§ 349 and 350.

108 New York has enacted these statutes to protect consumers from deceptive, fraudulent, and unconscionable trade and business practices. Defendant violated these statutes by

knowingly and falsely representing that the Plug In Air Fresheners and oil refills will last 50 days, when in actuality, the life of each oil refill air freshener is as short as 25-30 days.

109 Defendant engaged in the deceptive acts and practices alleged herein in order to sell the subject product to the public, including Plaintiff and class members.

110 As a direct and proximate result of Defendants' violations of GBL §§ 349 and 350, Plaintiff and Class and Subclass Members have suffered damages, for which they are entitled to compensatory damages, equitable and declaratory relief, punitive damages, costs and reasonable attorneys' fees.

111 That by reason of the foregoing, Plaintiff and the Class and Subclass Members have been damaged by way of compensatory and punitive damages in an amount to be determined at trial which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiffs request that the Court issue an Order and grant Judgment to the Class Plaintiffs as follows:

- A. Certifying this action as a Class Action;
- B. Naming the Plaintiff as the representatives of the Named Class and Subclass Plaintiff on behalf of the absent Class and Subclass Members;
- C. Appointing Poulos LoPiccolo PC and Jones, Wolf & Kapisi, LLC as Class Counsel for all purposes in this action;
- D. Granting the Class Plaintiff contractual, restitutionary and statutory, common law and punitive damages in full recompense for their damages including and not limited to damages relating to the following:

1. All recoverable compensatory and other damages sustained by Plaintiff and the Class and Subclass;
2. Restitution and disgorgement of all amounts obtained by P&G as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations
3. Inconvenience

E. Granting the Class Plaintiff such other and further relief, including, without limitation, injunctive and equitable relief, as the Court deems just in all the circumstances; and

F. Granting Class Counsel an award of their attorneys' fees and costs of suit, reflective of the work done in prosecuting this action, the time spent, the effort and hard costs invested, and results obtained, in light of the Court's judgment informed by awards in other similar cases of comparable difficulty and complexity

### **JURY DEMAND**

Plaintiffs demand a jury trial on all issues so triable.

Dated: November 4, 2024

**POULOS LOPICCOLO PC**

**/s/ Joseph LaPiccola**

Joseph LoPiccolo

John N. Poulos

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Lawsuit Challenges Febreze Plug-In Air Fresheners '50 Days' of Freshness Claim](#)

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