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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

10 APS&EE, LLC, a limited liability company, )  
11 Plaintiff, )  
12 v. )  
13 NORDSTROM, INC., a corporation, and )  
14 DOES 1 through 100, inclusive, )  
15 Defendants. )  
16 )

CASE NO. 22STCV13794  
**PLAINTIFF'S COMPLAINT FOR  
CIVIL PENALTIES AND INJUNCTIVE  
RELIEF**

Judge:  
Dept.:  
Compl. Filed:

Unlimited Jurisdiction

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**INTRODUCTION**

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2           1. This Complaint is brought by Plaintiff, APS&EE, LLC (“Plaintiff”) in the public  
3 interest of the citizens of the State of California, a representative action to enforce the People’s  
4 right to be informed of the presence of Di (2-ethylhexyl) Phthalate (“DEHP” or “Listed  
5 Chemical”), a chemical known to the State of California to cause cancer and reproductive  
6 toxicity found in “BP” brand of handbags, including pewter 3-piece crossbody bag, item  
7 #6162194, FL\_12, 4-39113-77455-1 sold by Defendants.

8           2. The purpose of this Complaint is to remedy Defendants’ continuing failure to  
9 warn California residents about the risk of exposure to the Listed Chemical in the handbags  
10 manufactured, distributed, sold, and/or offered for sale to consumers in California.

11           3. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell  
12 the “BP” brand of handbags, including pewter 3-piece crossbody bag, item #6162194, FL\_12, 4-  
13 39113-77455-1. The products described in this paragraph shall hereinafter be referred to as the  
14 “Products”.

15           4. Children and adults are exposed to the Listed Chemical when they use, touch,  
16 handle, play with, repair, maintain, or install the Products.

17           5. Hazardous levels of the Listed Chemical are found in the accessible surface areas  
18 of the Products manufactured, distributed, sold, and/or offered for sale by Defendants to  
19 consumers in California.

20           6. California Health and Safety Code section 25249.6 et seq. (“Proposition 65”)  
21 provides in pertinent part: “[n]o person in the course of doing business shall knowingly and  
22 intentionally expose any individual to a chemical known to the state to cause cancer or  
23 reproductive toxicity without first giving clear and reasonable warning to such individual...”

24           7. Studies repeatedly conclude that exposure to the Listed Chemical is hazardous to  
25 the health of children and adults. Accordingly, California has listed DEHP as a chemical known  
26 to the state to cause cancer and reproductive toxicity and therefore subject to Proposition 65  
27 warning requirements.

28           8. Defendants have and continue to manufacture, distribute, sell, and/or offer to sell

1 the Products without the required warnings. Defendants' conduct violates the warning  
2 requirements of Proposition 65.

3 **PARTIES**

4 9. Plaintiff is an organization based in California acting in the public interest.  
5 Plaintiff brings this action in the public interest pursuant to California Health and Safety Code  
6 section 25249.7(d).

7 10. Defendant, NORDSTROM, INC. is a person in the course of doing business  
8 within the meaning of California Health and Safety Code section 25249.11. NORDSTROM,  
9 INC. manufactures, distributes, and/or sells the Products for sale and use in California.

10 11. DOES 1 through 100 are each a person in the course of doing business within the  
11 meaning of California Health and Safety Code section 25249.11. DOES 1 through 100  
12 manufacture, distribute, and/or sell the Products for sale and use in California. The true names of  
13 DOES 1 through 100 are unknown to Plaintiff at this time. When their identities are discovered,  
14 Plaintiff's Complaint shall be amended to reflect their true names.

15 12. The defendants identified in paragraphs 10-11 shall collectively be referred to  
16 herein as "Defendants".

17 **JURISDICTION AND VENUE**

18 13. This Court has jurisdiction over this action pursuant to California Health and  
19 Safety Code section 25249.7, which allows enforcement in any court of competent jurisdiction,  
20 and pursuant to California Constitution Article VI, Section 10, because this lawsuit is based on a  
21 cause not given by statute to other trial courts. Moreover, this action belongs in unlimited  
22 jurisdiction since the amount in controversy exceeds \$25,000 and Plaintiff seeks permanent  
23 injunctive relief.

24 14. This Court has jurisdiction over Defendants because each is a person, firm,  
25 corporation, or association with sufficient minimum contacts in the State of California, or  
26 otherwise purposefully avails itself to the California market as to render jurisdiction by the  
27 California courts consistent with traditional notions of fair play and substantial justice.

28 15. Venue is proper in Los Angeles County Superior Court because one or more

1 occurrences of the wrongful conduct occurred, and continues to occur, in Los Angeles County,  
2 and/or because Defendants conducted, and continue to conduct, business in this County with  
3 respect to the Products.

4 **FIRST CAUSE OF ACTION**

5 **(Violations of Health & Safety Code Section 25249.6 et seq.)**

6 16. Plaintiff re-alleges and incorporates by reference, as if fully set forth herein,  
7 Paragraphs 1 through 15, inclusive.

8 17. On February 8, 2022, Plaintiff served a sixty-day notice of violation (the  
9 “Notice”), along with a Certificate of Merit, to NORDSTROM, INC. and the various public  
10 enforcement agencies with respect to the Proposition 65 violations related to Listed Chemical in  
11 the Products. In addition, on said date, in compliance with Health & Safety Code section  
12 25249.7(d), confidential factual information sufficient to establish the basis for the Certificate of  
13 Merit was provided to the California Attorney General.

14 18. None of the public prosecutors with the authority to prosecute Proposition 65  
15 violations has commenced and/or is diligently prosecuting the causes of action against  
16 Defendants based on the claims asserted in Plaintiff’s Notices.

17 19. By placing the Products into the stream of commerce, each Defendant is a person  
18 in the course of doing business within the meaning of Health & Safety Code section 25249.11.

19 20. Defendants knew and intended that consumers, including children, will use,  
20 touch, handle, play with, repair, maintain, or install the Products.

21 21. Defendants knew that the Products contain the Listed Chemical. Defendants, who  
22 are in the business of marketing consumer goods such as handbags, also should have known or  
23 have constructive knowledge that the Products contain the Listed Chemical from widespread  
24 media coverage and/or other channels of information concerning the presence of the Listed  
25 Chemical in similar materials.

26 22. DEHP is a chemical listed by the State of California as known to cause cancer and  
27 reproductive toxicity.

28 23. Defendants’ Products contain sufficient quantities of the Listed Chemical such

1 that consumers, including children, who use, touch, handle, play with, repair, maintain, or install  
2 the Products are exposed to unsafe levels of Listed Chemical. Listed Chemical is present in the  
3 Products in such a way as to expose individuals to Listed Chemical, as exposure is defined by 27  
4 CCR section 25600.1(e): "...that results from a person's acquisition, purchase, storage,  
5 consumption, or any reasonably foreseeable use of a consumer good..." Exposure occurs  
6 through inhalation, ingestion and/or dermal contact during the reasonably foreseeable use of the  
7 Products.

8 24. Defendants knew or should have known that the reasonably foreseeable use of the  
9 Products exposes individuals to the Listed Chemical through inhalation, ingestion and/or dermal  
10 contact.

11 25. Defendants failed to provide a "clear and reasonable warning" to individuals in  
12 the State of California who were or could become exposed to Listed Chemical during the  
13 reasonably foreseeable use of the Products.

14 26. By committing the acts alleged in this Complaint, Defendants have violated  
15 California Health & Safety Code section 25249.6 et seq. by knowingly and intentionally  
16 exposing individuals to the Listed Chemical without first giving clear and reasonable warnings to  
17 such individuals regarding the toxicity of the Listed Chemical.

18 27. As a result of Defendants' wrongful conduct, individuals in the State of California  
19 have been exposed to the Listed Chemical through the inhalation, ingestion and/or dermal  
20 contact during the reasonably foreseeable use of the Products without a "clear and reasonable  
21 warning", and have suffered and continue to suffer harm, each and every day since at least  
22 February 8, 2021.

### 23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

25 1. That the Court, pursuant to California Health & Safety Code section 25249.7(b),  
26 assess civil penalties against Defendants in the amount of \$2,500 per day for each violation  
27 alleged herein;

28 2. That the Court, pursuant to California Health & Safety Code section 25249.7(a),

1 preliminarily and permanently enjoin Defendants from manufacturing, distributing, or offering  
2 the Products for sale in California without providing “clear and reasonable warnings” as defined  
3 by 27 CCR section 25601;


4 3. That the Court, pursuant to California Health & Safety Code section 25249.7(a),  
5 order Defendants to take action to stop ongoing unwarned exposures to the Listed Chemical  
6 resulting from use of Products sold by Defendants;

7 4. That the Court, pursuant to California Code of Civil Procedure section 1021.5, or  
8 any other applicable theory, grant Plaintiff’s reasonable attorneys’ fees and costs of suit; and

9 5. Such other and further relief as may be just and proper.

10  
11 Dated: April 26, 2022

LAW OFFICES OF LUCAS T. NOVAK

12  
13 By:   
14 LUCAS T. NOVAK  
Attorney for Plaintiff, APS&EE, LLC