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**FILED**

JUN 23 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: C. Lucchesi, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF MARIN

10 UNLIMITED CIVIL JURISDICTION

11  
12 PAUL WOZNAK,

13 Plaintiff,

14 v.

15 NORDSTROM, INC.; and DOES 1-150,  
16 inclusive,

17 Defendants.

Case No. CW 15 02330

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Health & Safety Code § 25249.6 *et seq.*)

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff PAUL WOZNIAK  
3 in the public interest of the citizens of the State of California to enforce the People’s right to be  
4 informed about exposures to lead, a toxic chemical that is found in the exterior designs of  
5 drinking glasses sold in California.

6 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failure to  
7 warn California citizens about the risks of exposures to lead present in and on the exterior  
8 designs of drinking glasses manufactured, distributed, and offered for sale or use to consumers  
9 throughout the State of California.

10 3. Detectable levels of lead are commonly found in and on the exterior designs of  
11 drinking glasses that defendants import, manufacture, distribute, ship, sell and offer for sale to  
12 consumers throughout the State of California.

13 4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at  
14 Health and Safety Code section 25249.6 *et seq.* (“Proposition 65”), “[n]o person in the course of  
15 doing business shall knowingly and intentionally expose any individual to a chemical known to  
16 the state to cause cancer or reproductive toxicity without first giving clear and reasonable  
17 warning to such individual . . . .” Health & Safety Code § 25249.6.

18 5. On February 27, 1987, pursuant to Proposition 65, California identified and listed  
19 lead as a chemical known to cause birth defects or other reproductive harm. Lead became  
20 subject to the “clear and reasonable warning” requirements of the act one year later on February  
21 27, 1988. (Cal. Code Regs., Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 &  
22 25249.10(b).) Lead is referred to hereinafter as the (“LISTED CHEMICAL”).

23 6. Defendants manufacture, distribute, import, sell, and offer for sale without  
24 warning in California, drinking glasses with exterior designs containing the LISTED  
25 CHEMICAL, including, but not limited to, the *Good Ole Fire Water Drinking Glass, #0732*  
26 *0564 1191, G9-03, UPC No. 4 29584 61951 2*. All such drinking glasses with exterior designs  
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1 containing the LISTED CHEMICAL are referred to collectively hereinafter as the  
2 (“PRODUCTS”).

3 7. Defendants’ failure to warn workers, consumers and other individuals in  
4 California of the harms associated with exposures to the LISTED CHEMICAL in conjunction  
5 with defendants’ sales of the PRODUCTS containing the LISTED CHEMICAL are violations  
6 of Proposition 65, and subject defendants to enjoinder of such conduct, as well as civil  
7 penalties for each violation. Health & Safety Code § 25249.7(a) & (b)(1).

8 8. For defendants’ violations of Proposition 65, plaintiff seeks preliminary and  
9 permanent injunctive relief to compel defendants to provide purchasers or users of the  
10 PRODUCTS with the required warning regarding the health hazards associated with exposures  
11 to the LISTED CHEMICAL. Health & Safety Code § 25249.7(a).

12 9. Pursuant to Health and Safety Code section 25249.7(b), plaintiff also seeks civil  
13 penalties against defendants, and each of them, for each violation of Proposition 65.

14 **PARTIES**

15 10. Plaintiff PAUL WOZNIAK is a citizen of the State of California who is dedicated  
16 to protecting the health of California citizens through the elimination or reduction of harmful  
17 exposures to toxic chemicals from consumer products. He brings this action in the public  
18 interest pursuant to Health and Safety Code section 25249.7(d).

19 11. Defendant Nordstrom, Inc. (“NORDSTROM”) is a person in the course of doing  
20 business within the meaning of Health and Safety Code sections 25249.6 and 25249.11.

21 12. NORDSTROM manufactures, imports, distributes, sells, and/or offers the  
22 PRODUCTS for sale or use in the State of California, or it implies by its conduct that it  
23 manufactures, imports, distributes, sells, and/or offers the PRODUCTS for sale or use in the  
24 State of California.

25 13. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each a  
26 person in the course of doing business within the meaning of Health and Safety Code sections  
27 25249.6 and 25249.11.

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1 wrongful conduct occurred, and continue to occur, in this county, and/or because  
2 DEFENDANTS conducted, and continue to conduct, business in Marin with respect to the  
3 PRODUCTS.

4 22. The California Superior Court has jurisdiction over this action pursuant to  
5 California Constitution Article VI, section 10, which grants the Superior Court “original  
6 jurisdiction in all causes except those given by statute to other trial courts.” The statute under  
7 which this action is brought does not specify any other basis of subject matter jurisdiction.

8 23. The California Superior Court has jurisdiction over DEFENDANTS based on  
9 plaintiff’s information and good faith belief that each defendant is a person, firm, corporation or  
10 association that is a citizen of the State of California, has sufficient minimum contacts in the  
11 State of California, and/or otherwise purposefully avails itself of the California market.  
12 DEFENDANTS’ purposeful availment renders the exercise of personal jurisdiction by  
13 California courts consistent with traditional notions of fair play and substantial justice.

14 **FIRST CAUSE OF ACTION**

15 **(Violation of Proposition 65 - Against All Defendants)**

16 24. Plaintiff realleges and incorporates by reference, as if fully set forth herein,  
17 Paragraphs 1 through 23, inclusive.

18 25. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic  
19 Enforcement Act of 1986, the People of California expressly declared their right “[t]o be  
20 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive  
21 harm.”

22 26. Proposition 65 states, “[n]o person in the course of doing business shall  
23 knowingly and intentionally expose any individual to a chemical known to the state to cause  
24 cancer or reproductive toxicity without first giving clear and reasonable warning to such  
25 individual . . . .” Health & Safety Code § 25249.6.

26 27. On December 22, 2014, plaintiff’s sixty-day notice of violation, together with the  
27 requisite certificate of merit, was provided to NORDSTROM, and the requisite public  
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1 enforcement agencies stating that, as a result of DEFENDANTS' sales of the PRODUCTS  
2 containing the LISTED CHEMICAL, workers, consumers and other individuals in the State of  
3 California are being exposed to the LISTED CHEMICAL resulting from their reasonably  
4 foreseeable use of the PRODUCTS, without the individual purchasers and users first having  
5 received a "clear and reasonable warning" regarding such toxic exposures, as required by  
6 Proposition 65.

7 28. DEFENDANTS have engaged in the manufacture, importation, distribution, sale,  
8 and offering of the PRODUCTS for sale or use in violation of Health and Safety Code section  
9 25249.6, and DEFENDANTS' violations have continued to occur beyond their receipt of  
10 plaintiff's sixty-day notice of violation. As such, DEFENDANTS' violations are ongoing and  
11 continuous in nature, and, unless enjoined, will continue to occur in the future.

12 29. After receiving plaintiff's sixty-day notice of violation, the appropriate public  
13 enforcement agencies have failed to commence and diligently prosecute a cause of action  
14 against DEFENDANTS under Proposition 65.

15 30. The PRODUCTS manufactured, imported, distributed, sold, and offered for sale  
16 or use in California by DEFENDANTS contain the LISTED CHEMICAL in such a way that the  
17 reasonably foreseeable uses of these products result in exposures that require a "clear and  
18 reasonable" warning under Proposition 65.

19 31. DEFENDANTS knew or should have known that the PRODUCTS they  
20 manufacture, import, distribute, sell, and offer for sale or use in California contain the LISTED  
21 CHEMICAL.

22 32. The LISTED CHEMICAL is present in or on the PRODUCTS in such a way as to  
23 expose individuals through dermal contact and/or ingestion during reasonably foreseeable use.

24 33. The normal and reasonably foreseeable use of the PRODUCTS has caused, and  
25 continues to cause, consumer exposures to the LISTED CHEMICAL, as such exposures are  
26 defined by title 27 of the California Code of Regulations, section 25602(b).

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2. That the Court, pursuant to Health and Safety Code section 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing, or offering the PRODUCTS for sale or use in California without first providing a “clear and reasonable warning” as defined by title 27 of the California Code of Regulations, section 25601 *et seq.*, as to the harms associated with exposures to the LISTED CHEMICAL;

3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and

4. That the Court grant such other and further relief as may be just and proper.

Dated: June 23, 2015

Respectfully Submitted,  
THE CHANLER GROUP

By:   
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Josh Voorhees  
Attorneys for Plaintiff  
PAUL WOZNIAK