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Nordstrom Rack Hit With Suit Over False Outlet Prices

By **Lisa Ryan**

Law360, New York (September 03, 2014, 6:04 PM ET) -- A putative class on Tuesday slapped Nordstrom Inc. with a suit in California federal court, accusing the retailer of tricking consumers into believing they are purchasing heavily discounted goods at its Nordstrom Rack stores, when in fact the products were exclusively manufactured for the outlet stores.

The suit alleges that Nordstrom purports to offer discounts on fabricated former prices at its Nordstrom Rack outlet stores by representing "compare at" prices on its price tags that overstate and do not represent a bona fide price at which Nordstrom formerly sold the products, deceiving consumers into buying products they otherwise would not have purchased.

"But the 'compare at' prices used by Nordstrom were a sham. In fact, Nordstrom sells certain goods manufactured by third-party designers for exclusive sale at its Nordstrom Rack stores and other outlet stores, which means that such items were never sold — or even intended to be sold — at the 'compare at' prices advertised on the price tags," the complaint says.

Lead plaintiff Kevin Branca says he purchased three items from a Nordstrom Rack location in San Marcos, California, in July 2013, after observing that the merchandise was advertised with price tags that represented "compare at" prices that were directly on top of prices drastically reduced by a percentage amount.

Branca was "enticed by the idea of paying significantly less" than the prices charged outside of Nordstrom Rack and ended up buying, for instance, a pair of cargo shorts with a "compare at" price of \$49.50 and an actual price of \$29.97, according to the suit.

"In reality, Nordstrom never intended, nor did it ever, sell the cargo shorts at the represented 'compare at' price. Thus, plaintiff was deceived by the false price comparison into making a full retail purchase with no discount," the complaint said.

The suit says that, though such retail stores were "traditionally" used to maintain an inventory of defective and excess merchandise, major retailers like Nordstrom Rack have begun using company-owned outlet stores to sell made-for-outlet goods that were never intended to be sold at nonoutlet stores, in an effort to increase profits.

The retailers create the "illusion" of traditional outlet discounts and bargains by offering the made-for-outlet products at prices reduced from "fabricated, arbitrary and false" prices, the suit claims.

Hassan A. Zavareei of Tycko & Zavareei LLP, one of the attorneys for the lead plaintiff, told Law360 on Wednesday that there is an "epidemic" of like-minded outlet stores deceiving bargain-hunting, cost-conscious consumers into purchasing low quality goods.

"Instead of being able to find year-old clothes or clothes with slight imperfections for significant discounts, what you're finding are knockoff clothes that are manufactured and sold specifically for the outlet stores with false and misleading price tags that suggest that they were offered for sale previously in the retail stores," Zavareei said.

The attorney and his team have also **filed similar suits** against Levi Strauss & Co., Ralph Lauren Corp. and Michael Kors LLC over the same deceptive practices, he said.

Nordstrom didn't respond to a request for comment Wednesday.

The plaintiff is represented by Wayne S. Kreger of the Law Offices of Wayne S. Kreger, by Hassan A. Zavareei of Tycko & Zavareei LLP and by Jeffrey M. Ostrow of Kopelowitz Ostrow PA.

Counsel information for Nordstrom wasn't available Wednesday.

The suit is *Branca v. Nordstrom, Inc.*, case number 3:14-cv-02062, in the U.S. District Court for the Southern District of California.

--Editing by Rebecca Flanagan.

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