

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

DEVIKA SEN, DANIEL TEPPER, RICK CHEN,
and JORDAN MENTER individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

VESYNC (US) CORPORATION,

Defendant.

Index No.: 510627/2026

**AMENDED CLASS ACTION
COMPLAINT AND DEMAND FOR JURY
TRIAL**

Plaintiffs Devika Sen, Daniel Tepper, Rick Chen, and Jordan Menter, bring this action on behalf of themselves and all others similarly situated against Defendant Vesync (US) Corporation (“Defendant” or “Vesync”). Plaintiffs make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to the allegations specifically pertaining to themselves, which are based on personal knowledge.

NATURE OF THE ACTION

1. This is an action arising from the false and misleading representations that Defendant made for years about its Levoit-brand Core 300, Core 300-RAC, Core P350, Core 300S, and EverestAir True HEPA air purifiers (the “Air Purifiers”), along with their respective replacement filters (collectively, the “Products”).¹

2. Specifically, Defendant represented that the Air Purifiers were equipped with High Efficiency Particulate Air (HEPA) and H13 filters when in fact they were not. Defendant also represented that the replacement filters it sells for the Air Purifiers were “H13 True HEPA” filters, when in fact they were not.

¹ The “Core Series” of air purifiers listed in Paragraph 1 all use the same type of filter and replacement filter.

3. Independent testing by Plaintiffs' counsel has shown that the replacement filters and the filters inside the Products do not meet HEPA standards, nor do they capture 99.97% of particles at 0.3 microns as promised in Defendant's advertising.²

4. Reasonable consumers have had no opportunity to find this out for themselves because they cannot conduct HEPA standard testing.

5. Defendant knew this but continued hocking its wares, making a killing selling the Air Purifiers *and* replacement filters since the outset of the COVID-19 pandemic. Defendant claims on its Products' packaging that it is the "#1 Best Selling Air Purifier Brand in the US." There is good reason to believe Defendant, as its Air Purifiers generate millions of dollars in monthly sales on Amazon.com alone.

6. Defendant has profited greatly from the explosion in the air-purifier market brought about by the ongoing COVID-19 pandemic and yearly "once-in-a-lifetime" wildfires that have ravaged the United States. Consumers are rightfully concerned about maintaining indoor spaces that are free of harmful pathogens and contaminants. As a result, a large portion of Defendant's gargantuan profits are attributable to the HEPA filtration claims that it falsely made about its Products.

7. But for Defendant's HEPA claims, the fair value of its Levoit Air Purifiers would have been substantially lower, *i.e.*, their market price would have been closer to non-HEPA filters, which sell at a discount compared to air purifiers with HEPA filters. Put differently, Defendant's HEPA misrepresentations allowed it to overcharge the class in the amount of the HEPA-related price premium—even assuming there would be a market for Defendant's non-HEPA filters at all.

8. Relatedly, Defendant's false and misleading representations induced reasonable consumers like Plaintiffs into purchasing the Products. Had Plaintiffs and all other similarly situated consumers known that—contrary to Defendant's knowing representations—the Products

² As explained further below, the particle sizes and ranges tested in Plaintiffs' reports conclusively prove that the Products do not capture 99.97% of particles at 0.3 microns.

did not have HEPA filters, they would have paid less for the Products or not purchased them at all.

9. Plaintiffs are now seeking a return of the HEPA-related premiums that Defendant charged for its Products, on behalf of herself and other similarly situated purchasers. Plaintiffs assert claims on behalf of themselves and all other similarly situated purchasers of Defendant's Products for: (i) fraud; and (ii) breach of express warranty.

FACTUAL BACKGROUND

A. Air Purifiers and the Air-Purifier Market

10. The Environmental Protection Agency estimates that “about 67 million tons of pollution were emitted into the atmosphere in the United States” in 2021 alone. This pollution comes at great cost to human health: “[p]oor air quality is responsible for an estimated 100,000 premature deaths in the United States each year.” Exposure to air particulates has also been linked to symptoms of depression, cognitive decline, and increased feelings of anxiety.

11. Air pollution can also be a visceral reminder of human-driven climate change: the smoke from wildfires that have raged across both coasts of the United States since 2020 has quite literally blocked out the sun and forced millions of people indoors. For many, the smoke has exacerbated health conditions such as asthma or emphysema.

12. As a result, public concern about air pollution is high. In fact, one 2019 survey found that, of about 1000 responses, 43% of respondents indicated that they had a “great deal” of concern about air pollution in the United States and 31% indicated that they had a “fair amount” of concern about air pollution. Taken together, 74% of respondents expressed concern about air pollution. This is in line with the EPA's concerns—the agency places indoor air pollution among the top five environmental health risks.

13. Concern about air quality skyrocketed in 2020, however, as wildfires intensified and the airborne COVID-19 virus shut down the globe.

14. As expected, consumer concern over airborne contaminants has helped the air-purifier market explode, from \$8.05 billion in 2019 to \$16.83 billion in 2024:³ “the COVID-19 pandemic has increased the demand for air purifiers, with the growing awareness of COVID-19 associated respiratory ailments and the rising need to curb cross-contamination. Factors such as increasing airborne diseases and growing health consciousness among consumers are driving the market.”

15. Air purifiers come in various forms. Among the most effective purifiers are those with HEPA filters. HEPA is an acronym for “High Efficiency Particulate Air.” HEPA filters are strictly designed and must adhere to certain specifications to be designated as HEPA.

16. Specifically, a HEPA filter is a type of pleated mechanical filter that typically consists of sheets of randomly arranged fiberglass or plastic fibers held in an accordion shape by aluminum separators. The EPA states that a HEPA filter can “remove at least 99.97% of dust, pollen, mold, bacteria, and any airborne particles with a size of 0.3 microns (μm).”⁴ However, the EPA clarifies that “the diameter specification of 0.3 microns corresponds to the worst case; the most penetrating particle size (MPPS),” and that “[p]articles that are larger or smaller are trapped with even higher efficiency.”⁵ Accordingly, the EPA states that “[u]sing the worst case particle size results in the worst case efficiency rating (i.e. 99.97% or better for all particle sizes).”⁶ Manufacturers often define HEPA as “99.97% at 0.3 microns” in their advertising, but this is merely a shorthand for the true HEPA definition: “99.97% or better for all particle sizes.” For example, in the event a filter captures 99.97% of particles 0.3 microns, but *does not* reach 99.97% at 0.2 microns, the filter would not qualify as HEPA per the EPA’s definition.

³ Research and Markets, *Air Purifier Market – Growth, Trends, COVID-19 Impact, and Forecasts (2022–2027)*, WWW.RESEARCHANDMARKETS.COM, <https://www.researchandmarkets.com/reports/4987153/air-purifier-market-growth-trends-covid-19> (last visited September 3, 2024).

⁴ <https://www.epa.gov/indoor-air-quality-iaq/what-hepa-filter>

⁵ *Id.*

⁶ *Id.*

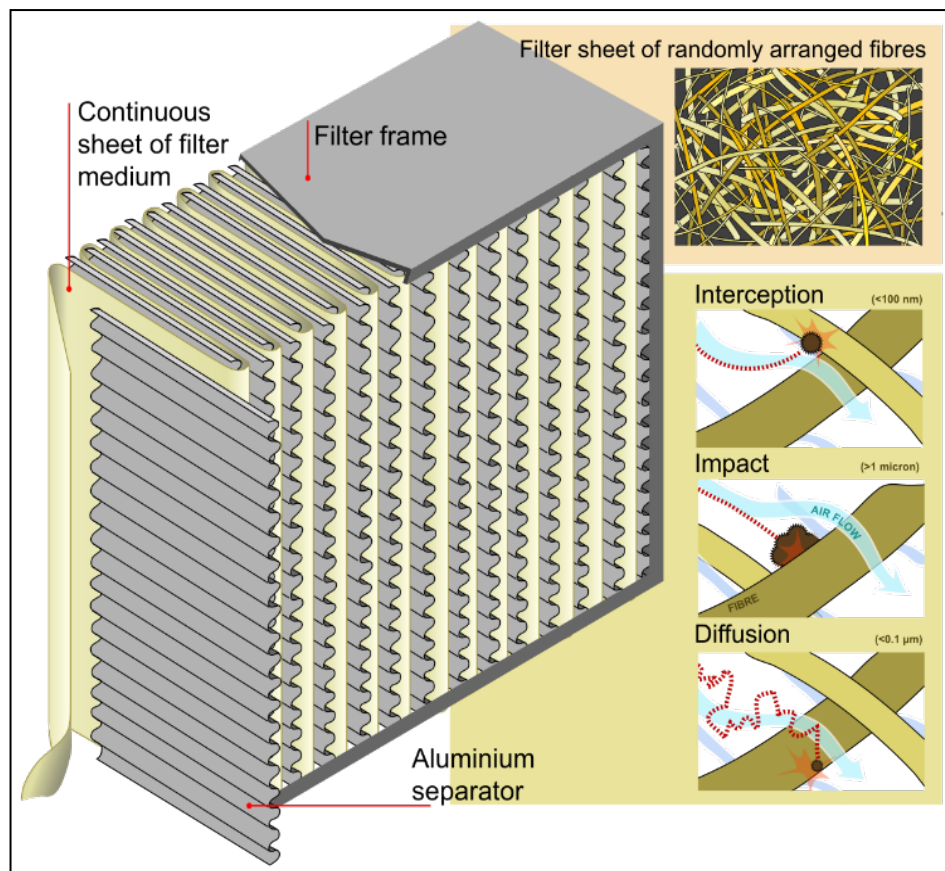


Figure 1: A Graphic Example of a HEPA Filter

17. According to the Centers for Disease Control and Prevention (CDC), HEPA filters “are the most efficient filters on the market for trapping particles that people exhale when breathing, talking, singing, coughing, and sneezing.”⁷

18. For example, even though the SARS-CoV-2 virus is about 0.125 microns in diameter, the CDC has stated that “air purifiers can help reduce airborne contaminants, including viruses, in a home or confined space.”⁸

19. The reason why consumers may care that the air purifier they purchase meets the HEPA standard is self-evident. It offers near certain protection against the transmission of

⁷ CENTER FOR DISEASE CONTROL AND PREVENTION, Improving Ventilation in Your Home, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/improving-ventilationhome> (last accessed September 3, 2024).

⁸ *Id.*

airborne pathogens in the home (if the purifier is given enough time to circulate the air), and it can also filter out pollution caused from events like wildfires, which are growing ever more frequent.

20. Consumers want the assurance that the HEPA standard provides, and they are willing to pay more for HEPA filters, i.e., consumers are willing to pay a premium for filters that meet the HEPA standard.

21. Being able to make a 99.97% “HEPA-filtration” claim is thus a huge boon for manufacturers, and they know it. The HEPA standard claim is a signal to consumers that the product they are purchasing has been constructed to exacting standards and is able to provide superlative levels of filtration.

22. Accordingly, the phrase “True HEPA” is now ubiquitous in air purifier marketing, including Defendant’s. The reason for this is that the phrase carries weight. It is a signal of quality to consumers—that the air purifier they are buying is of a high grade and worth more than purifiers that do not have a HEPA filter. Though consumers may not know the filtration efficiency requirements of the HEPA standard, or the technicalities of the various HEPA-standard testing protocols, they recognize the HEPA acronym and are willing to pay more for air purifiers that have it in their marketing and labeling. If having a HEPA filter was not material to consumers, then manufacturers like Defendant would not advertise the feature so heavily. In fact, given consumer preference for HEPA filters, there are few, if any, non-HEPA filters left on the market, i.e., there is little to no demand for filters that do not bear the HEPA designation.

23. The materiality to consumers of HEPA representations is further confirmed by enforcement actions taken by regulators including the Federal Trade Commission, which has, among other things, entered into Consent Decrees with manufacturers of air purifiers for claims made about the efficacy of their HEPA purifiers and filters. *See, e.g., In the Matter of Honeywell*, FTC File No. 962-3154.⁹

⁹ Available at <https://www.ftc.gov/legal-library/browse/cases-proceedings/962-3154-honeywell-inc-matter>.

24. The representation used by Defendant of “True HEPA” also carries greater significance to consumers: that there may be a “false” or inauthentic HEPA filter out there. The use of the term “True HEPA” is thus an affirmation by manufacturers like Defendant that a HEPA is a standardized term with prescribed qualities.

B. Defendant’s Products and Advertising

25. At issue in this action are the following models of air purifiers: the Levoit Everest Air Smart True HEPA air purifier, and the Levoit Core 300, Core 300-RAC, Core 300S, and Core P350 True HEPA (“Core Series”) air-purifier line of products, along with their respective replacement filters.

26. The Core Series purifiers are cylindrical devices that utilize the same circular filter between all of them that is interchangeable and replaceable. These Core Series purifiers have some unique features between them (*e.g.*, the Core 300S may be controlled by an app while



the Core 300 cannot be controlled by an app), but they are substantially similar in that the filter that comes with the units and the replaceable filter that can be purchased separately by consumers are identical, and they are both falsely advertised by Defendant as being HEPA grade and capable of trapping 99.97% of airborne particles at 0.3 microns. Moreover, Plaintiffs are informed and believes that Defendant applied HEPA test results from one filter to all of the Core Series air purifiers.

Figure 2: *Levoit Everest Air and Core 300 Series Air Purifiers and Replacement Filters*



Add to compare

MODEL: CORE 300, CORE 300S, CORE P350, CORE 300-RAC

Levoit Core 300 Original Filter

★★★★★ 3.7 (3)

\$29.99

27. Defendant crafted unique false and misleading HEPA representations for each of these Products, including that they trap at least 99.97% of 0.3 micron airborne particles. Indeed, Defendant has made the following express representations. These representations were made (among other places) on its website (which has since been altered), in its advertising, and on the websites of online stores that sell these filters, such as Amazon (these webpages have also been altered):

- a. Levoit Core 300 True HEPA Air Purifier. (Product package).
- b. Breathe in clean air with every breath using the Levoit Smart True HEPA Air Purifier. (Product page and Amazon page).
- c. [Includes a] H13 True HEPA Filter. (Product package and Amazon page).
- d. HEPASmart™ Technology helps capture 99.99% of bacteria and mold, as well as 99.9% of viruses*. (Product package and Amazon page).
- e. Filters at least 99.97% of airborne particles 0.3 microns in size, including fine dust, pet dander, smoke, and pollen. (Product package and Amazon page).
- f. The H13 True HEPA Filter works alongside the Pre-Filter and High-Efficiency Activated Carbon Filter to capture 99.97% of airborne particles 0.3 microns in size, such as dust, smoke, pollen, odor. (Product webpage and amazon page).
- g. Filters at least 99.97% of 0.3-micron airborne particles. (Product package and Amazon page).
- h. Levoit Core 300 True HEPA 3-Stage Original Filter. (Product package and Amazon Page).
- i. Fill your environment with fresh, clean air using Levoit's Core 300-RF 3-Stage Original Filter. An effective 3-stage filtration system captures at least

99.97% of airborne particles 0.3 microns in size, so your surrounding air is free of harmful contaminants. (Product page and Amazon page).

28. Throughout the class period, the packaging of the Core 300, 300S, and Core P350 also included HEPA claims:



Figure 3: Packaging for the Substantially Similar “Core” Series Air Purifiers at Issue

29. The EverestAir is a slab-shaped device that comes with a rectangular filter which is replaceable. The filter that comes with the unit and the replaceable filter that can be purchased separately by consumers are identical, and they are both falsely advertised by Defendant as being HEPA grade and capable of trapping 99.97% of airborne particles at 0.3 microns.

30. Defendant also made the following express representations in the advertising for its EverestAir Air Purifier. These representations were made (among other places) on its website

(which has since been altered), in its advertising, and on the websites of online stores that sell these filters, such as Amazon (these webpages have also been altered):

- a. Levoit EverestAir® Smart True HEPA Air Purifier. (Product webpage).
- b. To be considered True HEPA by US standards, the HEPA filter must trap at least 99.97% of 0.3-micron airborne particles. The EverestAir achieves this high standard of excellence, trapping fine dust, pollen, smoke particles, and pet dander, keeping your air as clean as possible. (Product webpage).
- c. H13 True HEPA Filtration Traps at least 99.97% of 0.3-micron airborne particles. (Product package).
- d. H13 True HEPA Filter with HEPASmart™ Technology Enhanced with statically charged fibers to trap at least 99.97% of 0.3-micron airborne particles, such as fine dust, smoke particles, pollen, and pet dander. (Product package).
- e. H13 True HEPA Filter Captures 99.99% of Particles, Pet Allergies, Smoke, Dust. (Product package).
- f. ANTI-ALLERGENS & ODORS: Premium 3-stage filtration includes a Washable Pre-Filter, H13 True HEPA Filter, and High-Efficiency Activated Carbon Filter. (product webpage).
- g. Trap at least 99.97% of 0.3-micron airborne particles, as well as odors, VOCs, fumes, and smoke. (Product package).
- h. The EverestAir provides premium filtration, trapping at least 99.97% of 0.3-micron airborne particles. (Product webpage).
- i. H13 True HEPA Filter with HEPA Smart Technology. Enhanced with statically charged fibers to trap fine dust, smoke particles, pollen, and pet dander, as well as bacteria, mold, and viruses*. *Testing Report No. 220614240GZU-001. (Product webpage).

31. The packaging for the EverestAir and its replacement filter make similar claims:



Figure 4

32. Defendant has scrubbed the product pages for each of these Purifiers of any reference to HEPA. In fact, on July 23, 2023, Vesync removed the old product page for its Core 300 series Air Purifiers and uploaded a new one with a unique web address.¹⁰ The old webpage described the Core 300S as the “Levoit Core 300S Smart True HEPA Air Purifier.” The new webpage omits any and all reference to HEPA filtration.

33. The changes to representations made about the Products were not constrained to Defendant’s website, either. Defendant has attempted to scrub reference to HEPA filtration from all online storefronts where the Air Purifiers are sold. However, this was only partially

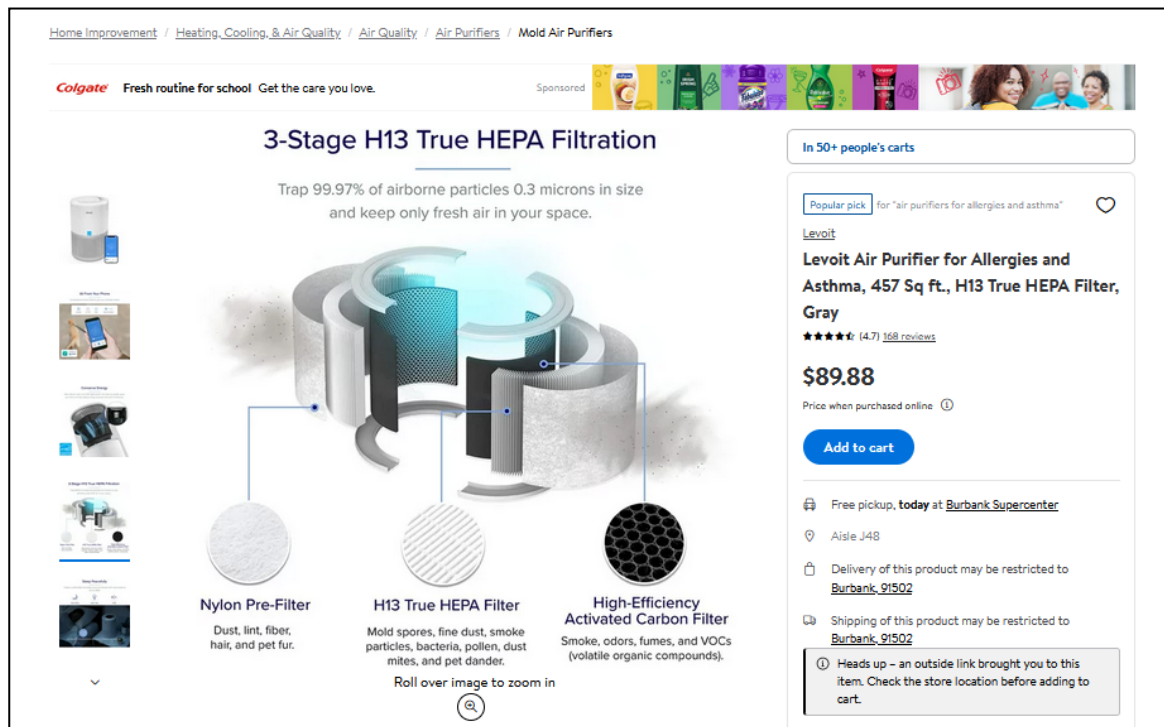
¹⁰ The product webpage changed from <https://levoit.com/products/core-300s-smart-true-hepa-air-purifier> to <https://levoit.com/products/core-300s-smart-air-purifier>.

successful. Some webpages were missed entirely and in others there are still misleading references to HEPA filtration.

34. The following diagram is representative of the type of HEPA representations that consumers interested in the Core Series of Air Purifiers would encounter before the pages were scrubbed:

Figure 5: *A Diagram of the Core Series Replacement Filter from the Levoit Website*

35. With all Products, Defendant makes the same representation: that the filters used in Core Series Air Purifiers had been tested and performed at or above the “HEPA” standards



for filtration. In reality, they had not.

C. Defendant's Products Fail To Meet HEPA Standards

36. Plaintiffs' counsel commissioned independent third-party testing of the Core Series filter.

37. The lab chosen by Plaintiffs' counsel is often used by companies to certify their filters and is an industry leader in the rigorous and accurate testing of HEPA filters. The lab is certified by ANAB/ANSI, a non-governmental organization that provides accreditation services

and training to public and private-sector organizations. Moreover, the lab is well known for its stringent adherence to the various HEPA testing protocols set forth by the European Union, the International Standards Organization, and the United States. The lab is capable of testing filters with efficiencies up to 99.9999% filtration.

38. Defendant claimed that its filters could filter out 99.97% of particles at 0.3 microns. The lab is more than sufficiently equipped to test such a claim.

39. Testing by the lab commissioned by Plaintiffs' counsel found that Defendant's Core Series filters did not capture 99.97% of particles at 0.3 microns and were not truly HEPA-grade.

40. The testing was conducted in accordance with European and American testing protocols. In America the protocol used to establish HEPA-grade is IEST-RP-CC001.7. In Europe the protocol used to establish HEPA classification is the EN1822 test. Both protocols test for a filter's ability to filter out fine particles, but they employ differing testing methodologies and naming conventions. The Core Series filters were tested twice under the IEST standard and once under the EN1822 standard.

41. The results of the EN1822 test are used to group filters into one of three classes: Efficient Particulate Air Filters (EPA), High Efficiency Particulate Air Filters (HEPA), and Ultra Low Penetration Air Filters (ULPA). For purposes of the test, efficiency is defined as the filtration efficiency against the "most penetrating particle size." Each class has subdivisions as well, depending on the filter's efficiency. Thus, a filter tested under the EN1822 standard which could filter between 85% and 95% of particles at the most penetrating size would be classified as an EPA 10, or "E10" filter. A filter which captures the most penetrating particles at a rate of 99.999995% would be categorized as a ULPA 17, or "U17" filter. HEPA filters can be H13 (99.95%) or H14 (99.995%) before bumping up to the U15 class (99.9995% efficiency).

42. For the American IEST protocol, to be classified as a HEPA filter, the filter must have a filtration efficiency of at least 99.97% down to 0.1 microns. This is the test Defendant utilized to classify its Air Purifiers.

43. When Defendant's Core Series filter was tested under the EN1822 standard, the Product's filtration efficiency at the most penetrating particle size (0.0340 microns) was 98.701%, resulting in a grade of E11, the second lowest grade. This demonstrates that Defendant's H13 claim is false. Moreover, as depicted below in Figure 6, all of the particle ranges tested from 0.293 microns to 0.3398 microns fell below 99.97%. As such, the testing also conclusively proves that Defendant's advertised efficiency claim of 99.97% at 0.3 microns is false.

EN1822 Results – Core Series Filter

Classification: <i>E 11</i>	
<i>Size Rang(μm)</i>	<i>Initial Fractional Efficiency(%)</i>
0.0165	99.625
0.0190	99.070
0.0221	98.827
0.0255	98.793
0.0294	98.776
0.0340	98.701
0.0392	98.909
0.0453	99.012
0.0523	99.144
0.0604	99.336
0.0698	99.457
0.0806	99.564
0.0931	99.682
0.1075	99.728
0.1241	99.770
0.1433	99.804
0.1655	99.794
0.1911	99.827
0.2207	99.844
0.2548	99.858
0.2943	99.841
0.3398	99.839
0.3924	99.822
0.4532	99.875
0.5233	99.846
0.6043	99.786

Figure 6

44. The Core Series Products fared no better after two rounds of testing under the IEST-RP-CC001.7 standard (depicted in Figure 7, below). At 0.1-0.2 microns the Products' filters had efficiencies of 99.589% and 97.831%; at 0.2-0.3 microns the Products' filters had an

efficiencies of 99.699% and 98.229%; and at 0.3-0.5 microns the Products' filters had an efficiencies of 99.866% and 98.652%. Because the test results fell below the 99.97% threshold at and above 0.1 microns, including at 0.3 microns, the Core Series filters failed to meet the HEPA standard. The testing also conclusively proves that Defendant's advertised efficiency claim of 99.97% at 0.3 microns is false.

IEST Results – Core Series Filter

Flow Rate(cfm)	130 cfm	Flow Rate(cfm)	130 cfm
ΔP (" H ₂ O)	0.374	ΔP (" H ₂ O)	0.299
Size Range (μm)	Fractional Efficiency %	Size Range (μm)	Fractional Efficiency %
0.1-0.2	99.589	0.1-0.2	97.831
0.2-0.3	99.699	0.2-0.3	98.229
0.3-0.5	99.866	0.3-0.5	98.652
0.5-0.7	99.901	0.5-0.7	98.716
0.7-1.0	99.924	0.7-1.0	98.795
1.0-2.0	99.940	1.0-2.0	99.114
2.0-3.0	99.976	2.0-3.0	99.306
3.0-5.0	99.985	3.0-5.0	99.589

Figure 7 – Results of HEPA Tests Conducted on Two Random Samples of Core Series Filters

45. Plaintiffs are informed and believe that Defendant knew through its own testing—under IEST and EN1822 standards, which were in place at all times during the Class Period—that its Products were being falsely advertised as having HEPA filters.

46. Throughout the class period, Defendant made repeated express representations on the Product's packaging and in its marketing (including in-store and on Amazon and other websites carrying the Products) that the Products included a HEPA-grade filter that even exceeded the HEPA standard. Plaintiffs' testing proves otherwise. Defendant's advertising is thus false and highly misleading to consumers like Plaintiffs and the members of the Class they seek to represent.

D. But for Defendant's HEPA Misrepresentations, Plaintiffs and the proposed Class would have paid less for their Air Purifiers.

47. By falsely claiming that its EverestAir Core Series purifiers had HEPA filters, and selling its replacement filters as HEPA, Defendant was able to overcharge Plaintiffs and the class members in the amount of a HEPA-related premium associated with those claims.

48. Defendant's HEPA claims appeared on the packaging that its Levoit Air Purifiers came in; appeared on the webpages where its products were sold; and were baked into the titles of the Levoit Air Purifiers themselves. Accordingly, those claims were seen by all purchasers of the Levoit Air Purifiers and replacement filters.

49. Defendant's HEPA claims misled reasonable consumers. Defendant is one of the nation's leading air-purifier manufacturers, so consumers would reasonably believe Defendant's HEPA claims; consumers do not and cannot typically test the accuracy of a HEPA claim before purchasing an air purifier; and Defendant's HEPA claims were expressly false, not impliedly false (Defendant explicitly claimed that Defendant's air purifiers and filters meet the HEPA standard, when in fact they do not), *i.e.*, no reasonable consumer would interpret Defendant's claims as making some kind of implicitly true statement.

50. If Defendant hadn't claimed that its purifiers and filters were HEPA-grade, then the market price of those purifiers and filters would have been lower, *i.e.*, those market prices would have been less than they were in the actual world, and closer to the price of non-HEPA filters.

51. Accordingly, Plaintiffs and the proposed Class paid for Defendant's Levoit Air Purifiers at artificially inflated prices. In other words, Defendant's misrepresentations allowed it to overcharge Plaintiffs and the Class, who were damaged in the amount of that overcharge.

PARTIES

52. Plaintiff Devika Sen is a citizen of New York and resides in the city of Ridgewood, New York. While in New York, Plaintiff Sen purchased the Levoit Core 300S True

HEPA Filter Air Purifier from Defendant's Amazon store webpage on February 1, 2022, for \$149.99. Plaintiff Sen reviewed and relied on Defendant's warranties and representations about the Product's HEPA filter and filtration capabilities prior to purchasing the Product.

Specifically, Plaintiff Sen saw on the Amazon store page that Defendant's Air Purifier was advertised with the following representations and warranties (directly quoted):

- a. Levoit Core 300 True HEPA Air Purifier.
- b. Breathe in clean air with every breath using the Levoit Smart True HEPA Air Purifier.
- c. [Includes a] H13 True HEPA Filter.
- d. HEPASmart™ Technology helps capture 99.99% of bacteria and mold, as well as 99.9% of viruses*.
- e. Filters at least 99.97% of airborne particles 0.3 microns in size, including fine dust, pet dander, smoke, and pollen.
- f. The H13 True HEPA Filter works alongside the Pre-Filter and High-Efficiency Activated Carbon Filter to capture 99.97% of airborne particles 0.3 microns in size, such as dust, smoke, pollen, odor.
- g. Filters at least 99.97% of 0.3-micron airborne particles.
- h. Levoit Core 300 True HEPA 3-Stage Original Filter.
- i. Fill your environment with fresh, clean air using Levoit's Core 300-RF 3-Stage Original Filter. An effective 3-stage filtration system captures at least 99.97% of airborne particles 0.3 microns in size, so your surrounding air is free of harmful contaminants.

53. Plaintiff Sen reasonably relied on Defendant's representations and believed that the Air Purifiers had HEPA filters. Had Defendant not warranted and represented that the Products had HEPA filters, Plaintiff Sen would not have purchased the Product or would have paid substantially less for it.

54. Plaintiff Daniel Tepper is a citizen of New York and resides in Westchester County, New York. While in New York, Plaintiff Tepper purchased a Levoit Core 300 True HEPA Filter Air Purifier from Amazon.com on March 3, 2022 for \$89.98. Plaintiff also

purchased a Levoit Core P350 True HEPA Filter Air Purifier from Amazon.com on July 11, 2023 for \$119.99, as well as two Levoit Core 300-RAC True HEPA Air Purifiers (\$79.99 each) from Macys.com. Plaintiff Tepper reviewed and relied on Defendant's warranties and representations about the Product's HEPA filter and filtration capabilities prior to purchasing the Products. Specifically, Plaintiff saw on the Amazon and Macy's websites that Defendant's filters were advertised as HEPA grade and that "HEPA" was incorporated into the product's title. The packaging pictured on the websites states on the box "True HEPA Air Purifier." He also read reviews regarding same on those websites which were based on Defendant's representations. Plaintiff Tepper reasonably relied on Defendant's representations and believed that the Air Purifiers had HEPA filters. Had Defendant not warranted and represented that the Products had HEPA filters, Plaintiff Tepper would not have purchased the Products or would have paid substantially less for them.

55. Plaintiff Jordan Menter is a citizen of Massachusetts and resides in the city of Amherst. Plaintiff is immunocompromised. She is conscientious of the risks that a COVID- 19 infection could pose to her health, which include severe illness, or worse. Prior to purchasing an air purifier, Plaintiff needed service work done on her stove, but the repair person informed her that he was unwilling to wear a mask while he worked. As a result, Plaintiff decided to purchase an air purifier, to protect her from exposure for this service work, as well as to protect her from similar risks going forward. She only considered purchasing HEPA-grade filters because she believed only HEPA-filters could sufficiently minimize her health risks.

56. Accordingly, in 2023, while at her home in Amherst, Plaintiff Menter purchased the Levoit Core 300 True HEPA Filter Air Purifier from Defendant's "Levoit: Air Purifiers" webpage on Target.com, for \$99.99 (\$106.24 with tax). Shortly before making her purchase, Plaintiff noted that the Levoit Core 300 was advertised as being HEPA-grade on Target's website; that "HEPA" was incorporated into the product's title; and that the product was described as HEPA-grade in the "About This Item" or "12 Questions" section of Target's website. Shortly after the purchase, Plaintiff received an order confirmation describing the

Levoit Core 300 as HEPA-grade. When Plaintiff received the purifier, it came in a box describing the Core 300 as HEPA-grade.

57. Prior to purchasing the product, Plaintiff reviewed and relied on Defendant's warranties and representations about the Core 300's HEPA filter and filtration capabilities. Had Defendant not warranted and represented that the Levoit Air Purifiers came with a HEPA filter, Plaintiff would not have paid as much as she did for the air purifier or would have purchased an air purifier that was actually HEPA-grade.

58. Plaintiff Rick Chen is a citizen of California and resides in the city of San Francisco, California. While in California, Plaintiff Chen purchased the Levoit Core 300 True HEPA Filter Air Purifier from Defendant's Amazon store webpage on September 27, 2020, for \$99.99. Plaintiff purchased another Core 300 Air Purifier (\$99.99) along with a "H13 True HEPA" replacement filter (\$23.99) from Amazon on December 31, 2020. Plaintiff Chen reviewed and relied on Defendant's warranties and representations about the Product's HEPA filter and filtration capabilities prior to purchasing the Product. Specifically, Plaintiff Chen saw on the Amazon store page that Defendant's Air Purifier was advertised with the following representations and warranties (directly quoted):

- a. Levoit Core 300 True HEPA Air Purifier.
- b. Breathe in clean air with every breath using the Levoit Smart True HEPA Air Purifier.
- c. [Includes a] H13 True HEPA Filter.
- d. HEPASmart™ Technology helps capture 99.99% of bacteria and mold, as well as 99.9% of viruses*.
- e. Filters at least 99.97% of airborne particles 0.3 microns in size, including fine dust, pet dander, smoke, and pollen.
- f. The H13 True HEPA Filter works alongside the Pre-Filter and High-Efficiency Activated Carbon Filter to capture 99.97% of airborne particles 0.3 microns in size, such as dust, smoke, pollen, odor.
- g. Filters at least 99.97% of 0.3-micron airborne particles.

h. Levoit Core 300 True HEPA 3-Stage Original Filter.

(a) Fill your environment with fresh, clean air using Levoit's Core 300-RF 3-Stage Original Filter. An effective 3-stage filtration system captures at least 99.97% of airborne particles 0.3 microns in size, so your surrounding air is free of harmful contaminants.

59. Plaintiff Chen reasonably relied on Defendant's representations and believed that the Air Purifiers had HEPA filters. Had Defendant not warranted and represented that the Products had HEPA filters, Plaintiff Chen would not have purchased the Product or would have paid substantially less for it.

60. Defendant Vesync Corporation is a California corporation with headquarters in Tustin, California.

JURISDICTION AND VENUE

61. This Court has personal jurisdiction over Defendant because it transacts business in this county and the conduct giving rise to this action arises out of and relates to that business.

62. Venue is proper in this district pursuant to NY CPLR § 503 because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County, given that Plaintiff Sen was located in the county when she purchased Defendant's Product.

CLASS ALLEGATIONS

63. ***Class Definition.*** Plaintiffs seek to represent a class of similarly situated persons in the United States who purchased a Levoit EverestAir, Core 300, Core 300-RAC, Core 300S, Core P350 or replacement filter during the applicable statutory period.

64. The Nationwide Class is collectively referred to as the "Class." Excluded from the Class are governmental entities; Defendant; and Defendant's affiliates, parents, subsidiaries, employees, officers, directors, and co-conspirators. Also excluded is any judicial officer presiding over this matter and the members of their immediate families and judicial staff.

65. Plaintiffs reserve the right to modify or expand the definition of the Class to seek recovery on behalf of additional persons as facts are learned in further investigation and discovery.

66. **Numerosity.** Members of the Class are so numerous that their individual joinder herein is impracticable. The precise number of Class members and their identities are unknown to Plaintiffs at this time but will be determined through discovery of Defendant's records. Class members may be notified of the pendency of this action by mail, email, publication, and/or other media, including social media.

67. **Commonality and Predominance.** Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. These common legal and factual questions include, but are not limited to:

- a. Whether the Products are in fact HEPA-grade;
- b. Whether Defendant's express representations about the capability of the Products included false and/or misleading statements and/or omissions;
- c. Whether Defendant knowingly made false HEPA claims about the Products;
- d. Whether Defendant's representations were material;
- e. Whether an objectively reasonable consumer would have been misled by Defendant's HEPA claims; and
- f. Whether Defendant's HEPA claims allowed it to charge more for the Products than it otherwise could have.

68. **Typicality.** Plaintiffs' claims are typical of the claims of the proposed Class because Plaintiffs, like all members of the Class, were induced by Defendant's false and misleading warranties to purchase Defendant's Products without knowing that Defendant's claims about the Products' filter were false and misleading. The representative Plaintiffs, like all members of the Class, have been damaged by Defendant's misconduct in the very same way as the members of the Class. Further, the factual bases of Defendant's misconduct are common to all members of the Class and represent a common thread of misconduct resulting in injury to all members of the Class.

69. **Adequacy.** Plaintiffs are adequate representatives of the Class they seek to represent because their interests do not conflict with the interests of the members of the Class;

they have retained counsel competent and experienced in prosecuting class actions; and they intend to prosecute this action vigorously. The interests of the members of the Class will be fairly and adequately protected by Plaintiffs and their counsel.

70. ***Superiority.*** A class action is superior to other available means for the fair and efficient adjudication of the claims of the members of the Class. Each individual member of the Class may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also represents a potential for inconsistent or contradictory judgments. By contrast, the class-action device presents far fewer management difficulties and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

CAUSES OF ACTION
COUNT I
Fraud

71. Plaintiffs hereby incorporate by reference the allegations contained in paragraphs 1-70 of this Complaint.

72. Plaintiffs bring this claim individually and on behalf of the members of the Nationwide Class.

73. As alleged in detail above, Defendant misrepresented material facts about the Products, including by misrepresenting to consumers that the Products had HEPA or "True HEPA" filters, despite knowing that they did not.

74. Defendant was in a position to know (and did know) the true quality and capability of its Products, but it affirmatively warranted that the Products had HEPA filters, when in truth they did not. In fact, Plaintiffs are informed and believe that Defendant knew

through its own testing—under IEST and EN1822 standards, which were in place at all times during the Class Period—that its Products were being falsely advertised as having HEPA filters.

75. The misrepresentations made by Defendant, upon which Plaintiffs and the members of the Class relied, were intended to induce and actually did induce Plaintiffs and the members of the Class to purchase the Products. Defendant induced Plaintiffs and the members of the Class to purchase the Products that Plaintiffs and the members of the Class would not have purchased, or would have paid substantially less for, had Defendant been truthful about the quality and capability of its Products.

76. Defendant’s fraudulent actions caused damages to Plaintiffs and the Class, who are entitled to damages and other legal and equitable relief as a result.

77. Plaintiffs and the Class are entitled to recover from Defendant all amounts wrongfully collected and improperly retained by Defendant.

COUNT II
Breach of Express Warranty

78. Plaintiffs hereby incorporate by reference the allegations contained in paragraphs 1-70 of this Complaint.

79. Plaintiffs bring this claim individually and on behalf of the members of the Nationwide Class.

80. As alleged in detail above, Defendant misrepresented material facts about its Products, including by misrepresenting to consumers that the Products had “HEPA,” “H13,” or “True HEPA” filters, despite knowing that they did not.

81. Defendant was in a position to know the true quality and capability of its Products but affirmatively warranted that the Products had HEPA filters, when in truth they did not.

82. Substantial benefits have been conferred on Defendant by Plaintiffs and the Class through the purchase of the Products. Defendant knowingly and willingly accepted and enjoyed these benefits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs and all members of the proposed Class the following relief against Defendant:

- (a) An order certifying the Nationwide Class, and naming Plaintiffs' attorneys as Class Counsel to represent the members of the Class;
- (b) An order declaring that Defendant's conduct violates the common law referenced herein;
- (c) Compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- (d) Prejudgment interest on all amounts awarded;
- (e) Restitution and all other forms of equitable monetary relief;
- (f) An order requiring Defendant to undertake a corrective advertising campaign;
- (g) An order awarding Plaintiffs and the Class their reasonable attorneys' fees and expenses and costs of suit; and
- (h) Granting such other and further relief as may be just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury of all issues so triable.

Dated: May 5, 2026

Respectfully submitted,

BURSOR & FISHER, P.A.

By: /s/ Alec M. Leslie

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