

S246444

SUPREME COURT
FILED

MAY 07 2018

Jorge Navarrete Clerk

Deputy

**IN THE
SUPREME COURT OF CALIFORNIA**

ALLEN KIRZHNER,

Plaintiff and Appellant,

vs.

MERCEDES BENZ USA LLC,

Defendant and Respondent.

APPEAL FROM THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE
HON. JAMES J. DI CESARE (CASE NUMBER 30-2014-00744604)

**REQUEST FOR JUDICIAL NOTICE OF RELEVANT
LEGISLATIVE HISTORY**

ANDERSON LAW FIRM

*MARTIN W. ANDERSON (STATE BAR NO. 178422)

2070 NORTH TUSTIN AVENUE

SANTA ANA, CALIFORNIA 92705

TEL: (714) 516-2700 • FAX: (714) 532-4700

E-MAIL: MARTIN@ANDERSONLAW.NET

ATTORNEY FOR PLAINTIFF AND APPELLANT

ALLEN KIRZHNER

(COUNSEL CONTINUED ON NEXT PAGE)

S246444

**IN THE
SUPREME COURT OF CALIFORNIA**

ALLEN KIRZHNER,

Plaintiff and Appellant,

vs.

MERCEDES BENZ USA LLC,

Defendant and Respondent.

APPEAL FROM THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE
HON. JAMES J. DI CESARE (CASE NUMBER 30-2014-00744604)

**REQUEST FOR JUDICIAL NOTICE OF RELEVANT
LEGISLATIVE HISTORY**

ANDERSON LAW FIRM

*MARTIN W. ANDERSON (STATE BAR NO. 178422)

2070 NORTH TUSTIN AVENUE

SANTA ANA, CALIFORNIA 92705

TEL: (714) 516-2700 • FAX: (714) 532-4700

E-MAIL: MARTIN@ANDERSONLAW.NET

ATTORNEY FOR PLAINTIFF AND APPELLANT

ALLEN KIRZHNER

(COUNSEL CONTINUED ON NEXT PAGE)

(COUNSEL CONTINUED)

LAW OFFICE OF JEFFREY KANE
JEFFREY KANE (STATE BAR NO. 183974)
20902 BROOKHURST STREET, SUITE 210
HUNTINGTON BEACH, CALIFORNIA 92646
TEL: (714) 964-6900 • FAX: (714) 964-6944
E-MAIL: LEMNLAW@GMAIL.COM

ATTORNEY FOR PLAINTIFF AND APPELLANT
ALLEN KIRZHNER

TABLE OF CONTENTS

REQUEST FOR JUDICIAL NOTICE..... 4
DECLARATION OF MARTIN W. ANDERSON 5

REQUEST FOR JUDICIAL NOTICE

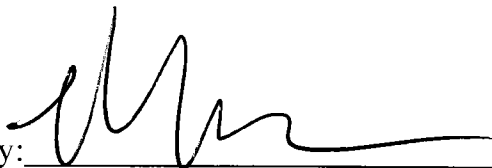
Plaintiff and Appellant Allen Kirzhner hereby requests that the Court take Judicial Notice of the Legislative History concerning AB 2057, which has been submitted in a separately bound volume. (*See Declaration of Martin W. Anderson, attached.*)

The Court may take judicial notice of this material pursuant to Evidence Code sections 451, 452, and 453. (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 544, fn. 4 [“Because the [legislative history] materials are relevant to a material issue in this case, we grant the request.”].)

The Legislative History relating to AB 2057 is relevant to his appeal because AB 2057 appears to be the Assembly Bill by which the statutory language which is at issue on this appeal was added to the statute. It is relevant for the reasons discussed in Part II.A.1.(g). of the Opening Brief on the Merits.

DATED: May 1, 2018

ANDERSON LAW FIRM
MARTIN W. ANDERSON
JEFFREY KANE

By: 

MARTIN W. ANDERSON
Attorneys for Plaintiff and Appellant
Allen Kirzhner

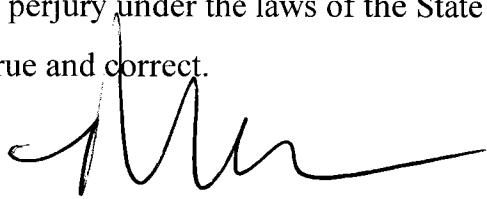
DECLARATION OF MARTIN W. ANDERSON

I, Martin W. Anderson, hereby certify as follows:

1. I am appellate counsel for Plaintiff and Appellant Allen Kirzhner.
2. I was also counsel for the Plaintiff and Respondent in *Consumer Advocates v. DaimlerChrysler Corporation et al.* (hereafter “*Gavaldon*”), which reached this Court in 2002 and was assigned case number S104477.
3. In connection with the *Gavaldon* appeal, Appellant DaimlerChrysler Corporation submitted two volumes of Legislative History to the Court of Appeal, and also requested that this Court take judicial notice of the same materials. Volume two of that request entirely concerned AB 2057, which was ultimately passed and added the statutory language that is the subject of this appeal to the Song-Beverly Consumer Warranty Act.
4. I have submitted along with this Declaration a separately bound volume containing the Declaration of Jan S. Raymond from the Legislative History Clearinghouse and the Legislative History materials relating to AB 2057 which were submitted to the Court of Appeal in the *Gavaldon* case and which this Court took judicial notice of in the *Gavaldon* case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: May 1, 2018



MARTIN W. ANDERSON

PROOF OF SERVICE (CCP § 1013A(3))

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, Martin Anderson, am employed in the county of Orange, State of California. I am over the age of 18, and not a party to this action. My business address is 2070 North Tustin Avenue, Santa Ana, California 92705.

ELECTRONICALLY: On the date and time indicated below, I served the document electronically by sending it by electronic mail to the email address indicated below. The transmission was reported complete and without error by my e-mail provider. Pursuant to Rules of Court, rule 2.251(a)(2)(B), a party consents to electronic service when that party electronically files any documents with the Court.

Document(s) Served:

REQUEST FOR JUDICIAL NOTICE OF RELEVANT LEGISLATIVE HISTORY

Person(s) served, address(es), and fax number(s):

Mr. Jon D. Universal
Universal & Shannon, LLP
2240 Douglas Blvd., Suite 290
Roseville, CA 95661

Email Address: juniversal@uswlaw.com

Date of Service: May 1, 2018
Time of Service: 12:50 p.m.
Date Proof of Service Signed: May 1, 2018

I declare under penalty of perjury under the laws of the State of California and of my own personal knowledge that the above is true and correct.

Signature:  _____