

**In the Supreme Court of the State of California**

**MICHAEL McCLAIN, et al.,**

**Plaintiffs and Appellants,**

**v.**

**SAV-ON DRUGS, et al.,**

**Defendants and Respondents.**

Case No. S241471

**SUPREME COURT  
FILED**

**DEC 13 2017**

**Jorge Navarrete Clerk**

Second Appellate District, Div. Eight, Case Nos. B265011 and B265029 Deputy  
Los Angeles County Superior Court, Case Nos. BC325272 and BC327216  
John Shepard Wiley, Judge

**RESPONDENT CALIFORNIA DEPARTMENT  
OF TAX AND FEE ADMINISTRATION'S  
MOTION FOR JUDICIAL NOTICE**

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**TO THE HONORABLE CHIEF JUSTICE AND THE HONORABLE  
ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE  
OF CALIFORNIA:**

Pursuant to Rule 8.252, subdivision (a) of the California Rules of Court, defendant and respondent the California Department of Tax and Fee Administration hereby requests that the Court take judicial notice of the legislative histories of Senate Bill No. 2049 (1995-1996 Reg. Sess.) and of Assembly Bill No. 1916 (2001-2002 Reg. Sess.). These bills proposed to expand existing statutory sales tax exemptions to include glucose testing strips and lancets, but they did not become law.

The legislative history of Senate Bill No. 2049 is available at <[http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_2049&sess=9596&house=B&author=senators\\_leslie,\\_ayala,\\_craven,\\_and\\_mello](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_2049&sess=9596&house=B&author=senators_leslie,_ayala,_craven,_and_mello)> [as of Dec. 12, 2017].

The legislative history of Assembly Bill No. 1916 is available at <[http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=ab\\_1916&sess=0102&house=B&author=matthews](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_1916&sess=0102&house=B&author=matthews)> [as of Dec. 12, 2017].

Pursuant to Evidence Code sections 452 and 459, the Court may take judicial notice of “[o]fficial acts of the legislative, executive, and judicial departments ... of any state of the United States.” (Evid. Code, § 452, subd. (c).) Statutes are the Legislature’s official acts. Legislative committee reports and analysis are also proper subjects of judicial notice. (*In re J.W.* (2002) 29 Cal.4th 200, 211 [legislative committee analysis are subject to judicial notice]; *Acer v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 484 [same])


These legislative histories were not in their entirety presented to the trial court or the Court of Appeal, and do not relate to any proceeding

below that occurred after judgment was entered in this case.<sup>1</sup> However, they may be relevant and helpful to the Court's understanding of the Department's and Legislature's actions concerning exemptions for lancets and test strips.

For these reasons, the California Department of Tax and Fee Administration respectfully requests that the Court take judicial notice of the histories of the above-listed bills, should it determine that they are relevant to the disposition of this matter.

Dated: December 13, 2017      Respectfully submitted,

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<sup>1</sup> Some of the legislative history for Assembly Bill 1916 is in the Appellants' Appendix. (See 2 AA 464-471.)

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Michael McClain, et al. v. Sav-On Drugs, et al.**  
Case No.: S241471

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On December 13, 2017, I served the attached **ANSWER BRIEF ON THE MERITS, MOTION FOR JUDICIAL NOTICE and PROPOSED ORDER** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 13, 2017, at San Francisco, California.

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