



16204003

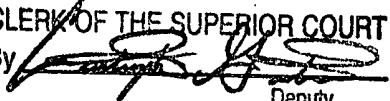
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Joshua H. Haffner, SBN 188652  
(jhh@haffnerlawyers.com)  
Graham Lambert, SBN 303056  
(gl@haffnerlawyers.com)  
**HAFFNER LAW PC**  
445 South Figueroa Street, Suite 2325  
Los Angeles, California 90071  
Telephone: (213) 514-5681  
Facsimile: (213) 514-5682

Attorneys for Plaintiff Giorgio Enea and all  
others similarly situated

**FILED**  
**ALAMEDA COUNTY**

APR 06 2018

CLERK OF THE SUPERIOR COURT  
By  Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

GIORGIO ENEA, an individual; on behalf  
of himself and all others similarly situated,

Plaintiffs,

v.

MERCEDES-BENZ USA, LLC; DAIMLER  
AG; and DOES 1 through 10, inclusive,

Defendants.

Case No. **RG18899964M**

**CLASS ACTION COMPLAINT FOR:**

(1) VIOLATION OF CONSUMER  
LEGAL REMEDIES ACT;

(2) BREACH OF EXPRESS  
WARRANTY;

(3) BREACH OF IMPLIED  
WARRANTY; AND

(4) UNFAIR BUSINESS PRACTICES.

**JURY TRIAL DEMANDED**

**BY FAX**

1 Plaintiff Giorgio Enea ("Plaintiff") brings this class action against Defendants Mercedes-  
2 Benz USA, LLC, Daimler AG, and Does 1-10 (collectively "Defendants"), and respectfully  
3 alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is a California statewide class action for violation of the Consumer Legal  
6 Remedies Act, Breach of Warranty, and Unfair Business Practices, arising out of Defendants'  
7 manufacture, design, and distribution of Mercedes-Benz branded automobiles with defective  
8 sunroofs. As alleged herein, the Mercedes Benz vehicles were defective in that the large moon or  
9 sunroofs, often referred to as panorama roofs (collectively "sunroofs") were prone to spontaneous  
10 exploding, shattering, and/or cracking sunroofs.

11 2. As more fully alleged herein, Plaintiff leased a new 2015 Mercedes Benz, with a  
12 sunroof manufactured by Defendants. The sunroof was defective, and on June 27, 2017, while  
13 Plaintiff was driving, the sunroof spontaneously shattered, spraying glass throughout the car and  
14 onto Plaintiff. The incident involving Plaintiff was the product of a common and known defect in  
15 the sunroof installed in Mercedes Benz vehicles.

16 3. Plaintiff seeks for himself and the Class compensatory damages, punitive damages,  
17 and restitutionary disgorgement. Plaintiff seeks to represent the following Classes in this matter:

18 **Class 1:** All California residents who purchased or leased a Mercedes  
19 Benz vehicle in California and who have incurred actual expenses in  
20 connection with either the diagnosis or repair of the vehicle's sunroof.

21 **Class 2:** All California residents who currently own or lease a Mercedes  
22 Benz vehicle in California and who have not had the sunroof fully  
23 repaired.

24 **JURISDICTION AND VENUE**

25 4. This Court has jurisdiction over the entire action by virtue of the fact that this is a  
26 civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the  
27 jurisdictional minimum of the Court. The acts and omissions complained of in this action took  
28 place in the State of California. Venue is proper because this is a class action, the acts and/or  
omissions complained of took place, in whole or in part within the venue of this Court.

1 PARTIES

2 5. Plaintiff Giorgio Enea, was, at all relevant times, a citizen of the State of  
3 California, and resident in the County of Alameda.

4 6. Defendant Mercedes-Benz USA, LLC was, at all relevant times, a Company doing  
5 business in the County of Alameda, State of California.

6 7. Defendant Daimler AG was, at all relevant times, a Company doing business in the  
7 County of Alameda, State of California

8 8. Plaintiff is currently ignorant of the true names and capacities, whether individual,  
9 corporate, associate, or otherwise, of the defendants sued herein under the fictitious names Does 1  
10 through 10, inclusive, and therefore sue such defendants by such fictitious names. Plaintiff will  
11 seek leave to amend this complaint to allege the true names and capacities of said fictitiously  
12 named defendants when their true names and capacities have been ascertained. Plaintiff is  
13 informed and believe and thereon alleges that each of the fictitiously named defendants is legally  
14 responsible in some manner for the events and occurrences alleged herein, and for the damages  
15 suffered by the Class.

16 9. Plaintiff is informed and believes and thereon alleges that all defendants, including  
17 the fictitious Doe defendants, were at all relevant times acting as actual agents, conspirators,  
18 ostensible agents, alter egos, partners and/or joint venturers and/or employees of all other  
19 defendants, and that all acts alleged herein occurred within the course and scope of said agency,  
20 employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or  
21 implied permission, knowledge, consent authorization and ratification of their co-defendants;  
22 however, each of these allegations are deemed "alternative" theories whenever not doing so  
23 would result in a contradiction with other allegations.

24 FACTS COMMON TO ALL CAUSES OF ACTION

25 10. Defendants' are known throughout the United States and internationally as major  
26 manufacturers of automobiles and related products, including vehicles sold under the Mercedes  
27 Benz brand.

1           11. Many of Defendants' Mercedes Benz branded automobiles are sold with large sun  
2 or moon roofs, often referred to as panorama roofs (collectively referred to herein as "sunroofs").  
3 Defendants' sunroofs, because of their large size, span a large portion of the roof of the vehicle,  
4 and pose unique engineering challenges. They require precise strengthening, attachment, and  
5 stabilization of the glass. Several manufacturers have failed to meet these demands, and at least  
6 three manufacturers have issued safety recalls because of their large and/or panoramic sunroofs.

7           12. The larger sunroofs on Mercedes Benz vehicles are substantially similar in design  
8 and manufacture. Defendants charge a premium for the inclusion of a sunroof in one of their  
9 vehicles. Defendants' automobiles sold in California under the Mercedes Benz brand with  
10 factory-installed sunroofs are referred to in this complaint as "Mercedes Benz vehicles."

11           13. Several of Mercedes Benz models have the same problem with their sunroofs.  
12 Multiple Mercedes Benz drivers have complained that their sunroofs exploded, shattered, and/or  
13 cracked without warning. This is a serious safety concern, as the shattering of the sunroofs often  
14 occurs while the car is being driven, and showers broken glass on the occupants. Moreover, the  
15 explosion or shattering makes a loud and startling noise, which also has the propensity to distract  
16 drivers while operating a vehicle. Nonetheless, Defendants not only refuse to warn drivers, but  
17 also continue to sell and lease its vehicles without disclosing this defect to consumers.

18           14. Defendants represented and advertised that their automobiles, including sunroofs,  
19 were luxury, top-of-the line cars, built to the highest standard, and were safe for their intended  
20 use. Among other things, Defendant advertises and represents that the safety first features of  
21 Mercedes-Benz "set a standard that all automobiles eventually follow," and that its vehicles  
22 utilize "Intelligent Drive [which] is, essentially, the entire suite of groundbreaking driving safety  
23 features you'll find across our entire vehicle line."

24           15. The sunroofs in Mercedes Vehicles are defective and unsafe, in that they are prone  
25 to spontaneously explode, shatter, or crack. This defect is a safety hazard, as shards of glass fall  
26 on drivers while operating the vehicle, and could cause a serious accident. The sunroofs in  
27 Mercedes Benz vehicles are defective in their design and manufacture, as well as for their lack of  
28 warnings. Plaintiff is informed and believes, and on that basis alleges, that Defendants at all

1 relevant times were aware of the defects, and have changed providers or vendors for their sunroof  
2 glass because of the problems and defects.

3 16. On July 17, 2015, Plaintiff leased a new 2015 Mercedes Benz, GLA 250W4,  
4 Vehicle Identification Number WDCTG4GB6FJ141448, from RAB Motors/Mercedes Benz of  
5 Marin, an authorized Mercedes Benz dealership, in San Rafael, California. The Mercedes Benz  
6 car Plaintiff purchased had a sunroof for which Plaintiff paid a premium.

7 17. On June 27, 2017, Plaintiff was driving to work in his Mercedes Benz when the  
8 sunroof spontaneously exploded, send shards of glass all over Plaintiff, including in Plaintiff's  
9 eyes and hair, and the inside of the car. Plaintiff was able to maintain control of the automobile.

10 18. Plaintiff is a pilot for JetBlue. Due to the incident, Plaintiff had to be removed  
11 from flying until his eyes were checked and he was cleared by an eye doctor. Plaintiff missed  
12 several days of work as a result of the incident.

13 19. Plaintiff subsequently took his Mercedes Benz into one of Defendants repair  
14 facilities. Defendants, however, refused to pay for the repair costs for the sunroof unless Plaintiff  
15 signed a full release of liability. Plaintiff would not agree to sign a release of liability, and  
16 Defendants refused to repair his defective sunroof. Plaintiff incurred over \$2,000 in repair costs  
17 thus far.

### 18 CLASS ALLEGATIONS

19 20. Plaintiff brings this action on behalf of himself, and on behalf of all others  
20 similarly situated, and as a member of the Class defined as follows:

21 **Class 1:** All California residents who purchased or leased a Mercedes  
22 Benz vehicle in California and who have incurred actual expenses in  
23 connection with either the diagnosis or repair of the vehicle's sunroof.

24 **Class 2:** All California residents who currently own or lease a Mercedes  
25 Benz vehicle in California and who have not had the sunroof fully  
26 repaired.

27 21. Plaintiff reserves the right to amend or otherwise alter the class definitions  
28 presented to the Court at the appropriate time, or to propose or eliminate sub-classes, in response  
to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

1           22.    This action has been brought and may be properly maintained as a class action  
2 pursuant to California Code of Civil Procedure § 382 and other applicable laws.

3           23.    **Numerosity of the Class:** Members of the Class are so numerous that their  
4 individual joinder is impracticable. The precise number of Class members and their addresses are  
5 known to Plaintiff or will be known to Plaintiff through discovery. Class members may be  
6 notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

7           24.    **Existence of Predominance of Common Questions of Fact and Law:** Common  
8 questions of law and fact exist as to all members of the Class. These questions predominate over  
9 any questions affecting only individual Class members. These common legal and factual  
10 questions include:

- 11           a.    Whether sunroofs in Mercedes Benz vehicles are defective because they are prone to  
12                spontaneous explosion, shattering, and/or cracking;
- 13           b.    Whether Defendants violated Civil Code §1770(a)(5) or the CLRA;
- 14           c.    Whether Defendants violated Civil Code §1770(a)(7) or the CLRA;
- 15           d.    Whether Defendants violated Civil Code §1770(a)(9) or the CLRA;
- 16           e.    Whether Defendants breached express warranties in connection with the refusal to  
17                provide coverage to repair sunroofs;
- 18           f.    Whether Defendants' defective sunroofs breached the implied warranty of  
19                merchantability;
- 20           g.    Whether Defendants' conduct in connection with their defective sunroofs in Mercedes  
21                Benz vehicles is an unlawful business practice;
- 22           h.    Whether Defendants' conduct in connection with their defective sunroofs in Mercedes  
23                Benz vehicles is an unfair business practice
- 24           i.    The nature and extent of class-wide injury and the measure of damages for the injury.

25           25.    **Typicality:** Plaintiff's claims are typical of the claims of the members of the  
26 classes he represents because Plaintiff leased a Mercedes Benz vehicle with a sunroof, and the  
27 sunroof failed because of a common defect. Plaintiff and the members of the classes he  
28 represents sustained the same or similar types of damages and losses.

1           26.    Adequacy: Plaintiff is an adequate representative of the Class he seeks to  
2 represent because his interests do not conflict with the interests of the subclasses  
3 Plaintiff seeks to represent. Plaintiff has retained counsel competent and experienced in complex  
4 class action litigation and Plaintiff intends to prosecute this action vigorously. The interests of  
5 members of each Class will be fairly and adequately protected by Plaintiff and his counsel.

6           27.    Superiority and Substantial Benefit: The class action is superior to other  
7 available means for the fair and efficient adjudication of Plaintiff and the Class members' claims.  
8 The damages suffered by each individual Class member may be limited. Damages of such  
9 magnitude are small given the burden and expense of individual prosecution of the complex and  
10 extensive litigation necessitated by Defendants' conduct. Further, it would be virtually  
11 impossible for the Class members to redress the wrongs done to them on an individual basis. Even  
12 if members of the Class themselves could afford such individual litigation, the court system could  
13 not. Individualized litigation increases the delay and expense to all parties and the court system,  
14 due to the complex legal and factual issues of the case. By contrast, the class action device  
15 presents far fewer management difficulties, and provides the benefits of single adjudication,  
16 economy of scale, and comprehensive supervision by a single court.

17           28.    The Class(es) should also be certified because:

18               a. The prosecution of separate actions by individual members of the Class would  
19 create a risk of inconsistent or varying adjudications with respect to individual Class members  
20 which would establish incompatible standards of conduct for Defendants;

21               b. The prosecution of separate actions by individual members of the Class would  
22 create a risk of adjudication with respect to them, which would, as a practical matter, be  
23 dispositive of the interests of the other Class members not parties to the adjudications, or  
24 substantially impair or impede their ability to protect their interests; and

25               c. Defendants have acted or refused to act on grounds generally applicable to the  
26 Class, and/or the general public, thereby making appropriate final and injunctive relief with  
27 respect to the Classes as a whole.

28

**FIRST CAUSE OF ACTION**  
**(Violation of Consumer Legal Remedies Act)**  
**(By Plaintiff and all class members against all Defendants)**

1  
2  
3 29. Plaintiff re-alleges, and incorporates by reference, the preceding paragraphs of this  
4 Complaint; as though fully set forth herein.

5 30. This cause of action is brought under the Consumer Legal Remedies Act,  
6 California Civil Code §1750 *et seq.* Plaintiff and members of the Class are consumers as defined  
7 by California Civil Code §1761(d). The Mercedes Benz vehicles at issue are goods within the  
8 meaning of Civil Code §1761(a).

9 31. Defendants violated and continue to violate the CLRA by engaging in the  
10 following practices proscribed by California Civil Code §1770(a) in transactions with Plaintiff  
11 and members of the Class, which were intended to result in, and did result in, the sale of  
12 Mercedes Benz vehicles::

- 13 a. Representing that goods . . . have . . . characteristics, . . . [or] uses . . . which they do  
14 not have, in violation of Civil Code §1770(a)(5);  
15 b. Representing that goods . . . are of a particular standard . . ., if they are of another, in  
16 violation of Civil Code §1770(a)(7);  
17 c. Advertising goods . . . with intent not to sell them as advertised, in violation of Civil  
18 Code §1770(a)(9).

19 32. Defendants have undertaken unfair methods of competition and unfair or deceptive  
20 acts or practices in transactions intended to result or which results in the sale of goods and/or  
21 services to a consumer, as alleged herein.

22 33. As a result of the employment by Defendants of the above-alleged methods, acts,  
23 and practices, Plaintiff and the class suffered damage within the meaning of Civil Code §1780(a),  
24 entitling them to injunctive relief. Pursuant to Civil Code §1782(d), Plaintiff and the class further  
25 intend to seek compensatory damages and/or restitution, and, in light of Defendants' willful and  
26 conscious disregard of the safety and rights of Plaintiff and the class, Plaintiff and the class also  
27 intend to seek an award of punitive damages. Plaintiff will amend the complaint to add requests  
28 for damages at the appropriate time, pursuant to Civil Code §1782(d).



1           34. As a proximate result of Defendant's violations of the CLRA, Plaintiff and the  
2 Class request that Defendant be enjoined from engaging in the aforementioned conduct in  
3 violation of the CLRA.

4   **SECOND CAUSE OF ACTION**  
5   **(Breach Of Express Warranty )**  
6   **(By Plaintiff and all class members against all Defendants)**

7           35. Plaintiff re-alleges, and incorporates by reference, the preceding paragraphs of this  
8 Complaint, as though fully set forth herein.

9           36. Defendants expressly warranted to Plaintiff and class members, among other  
10 things, that "all new Mercedes-Benz vehicles are protected by our New Vehicle Limited  
11 Warranty, covering defects in material or workmanship for 48-months or 50,000 miles, whichever  
12 comes first." Defendant also made other express warranties, as alleged in paragraph 14. The  
13 express warranties were part of basis of the bargain for Plaintiff and class members.

14           37. Plaintiff's sunroof failed within the warranty period, as alleged herein, but  
15 Defendants refused to properly repair and/or cover Plaintiff for this defect. Defendant has  
16 similarly failed to repair and/or cover Class members for costs associated with the defect in the  
17 sunroofs of Mercedes Benz vehicles.

18           38. Defendant breached the express warranty by selling Mercedes Benz automobiles  
19 with defective and unsafe sunroofs, and failing to cover Plaintiff and class members for repair and  
20 other costs associated with the defective sunroofs in the Mercedes Benz vehicles. As a result of  
21 Defendants' breaches, Plaintiff and the Class members have suffered damages and/or or entitled  
22 to restitution, including but not limited to, the cost of the lease associated with sunroof, the cost of  
23 repair, and/or the cost of inspection and/or replacement with a non-defective roof.

24   **THIRD CAUSE OF ACTION**  
25   **(Breach Of Implied Warranty )**  
26   **(By Plaintiff and all class members against all Defendants)**

27           39. Plaintiff re-alleges, and incorporates by reference, the preceding paragraphs of this  
28 Complaint, as though fully set forth herein.

          40. This cause of action is brought under Song-Beverly Consumer Warranty Act, Civil  
Code §§1792 and 1791.1.

1           41. Defendants were at all times the manufacturer, distributor, warrantor, or seller of  
2 the Mercedes Benz vehicles at issue in this action. Defendant knew or should have know of the  
3 use for which the Mercedes Benz vehicles were purchased. However, the Mercedes Benz  
4 vehicles were not fit for the ordinary purpose of providing reasonably safe transportation because  
5 the sunroof's were defective and prone to spontaneous explosion, shattering, and/or cracking.  
6 This was an inherent defect at the time of sale or leasing the Mercedes Benz vehicles.

7           42. Defendants impliedly warranted that the Mercedes Benz vehicles were of  
8 merchantable quality and fit for such use. This implied warranty included, among other things:  
9 (i) a warranty that the Mercedes Benz vehicles and the sunroof system manufactured, designed,  
10 supplied, distributed, and/or sold by Defendants was safe, reliable, and/or durable for providing  
11 transportation; and (ii) a warranty that the Mercedes Benz vehicles and the sunroof system would  
12 be fit for their intended use while the Mercedes Benz vehicles were being operated.

13           43. Contrary to the applicable implied warranties, the Mercedes Benz vehicles and the  
14 sunroof system, at the time of sale and thereafter, were not fit for their ordinary and intended  
15 purpose of providing Plaintiff and Class members with reliable, durable, and safe transportation.  
16 Instead, the Mercedes Benz vehicles were defective, including but not limited to, defective in the  
17 design and manufacture of the sunroof system.

18           44. Defendants' actions complained of herein breached the implied warranty that the  
19 Mercedes Benz vehicles were of merchantable quality and fit for use as safe and reliable  
20 transportation, in violation of Civil Code §§1792 and 1791.1.

21           45. As a result of Defendants' breaches, Plaintiff and the Class members have suffered  
22 damages and/or or entitled to restitution, including but not limited to, the cost of the lease  
23 associated with sunroof, the cost of repair, and/or the cost of inspection and/or replacement with a  
24 non-defective roof.

25 ///

26 ///

27 ///

28 ///

**FOURTH CAUSE OF ACTION**  
**VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION ACT**  
**(By Plaintiff and all class members against all Defendants)**

1  
2  
3       46. Plaintiff re-alleges, and incorporates by reference, the preceding paragraphs of this  
4 Complaint, as though fully set forth herein.

5       47. This cause of action is brought by Plaintiff and the Class under California Business  
6 & Professions Code §17200, et seq. (the "UCL"). Section 17200 of the UCL prohibits any  
7 unlawful, unfair, or fraudulent business practices.

8       48. Through the actions alleged herein, Defendants have engaged in unfair competition  
9 within the meaning of the UCL. Defendants' conduct, as alleged herein, constitutes unlawful,  
10 unfair, and/or fraudulent business practices under the UCL.

11       49. Defendants' unlawful conduct includes, but is not limited to, violation of the  
12 CLRA, Song-Beverly Consumer Warranty Act, and laws regarding express warranties.  
13 Defendants' fraudulent conduct, includes, but is not limited to, failing to disclose that the sunroofs  
14 are defective and a safety hazard, misrepresenting the characteristics, uses, and/or standards of the  
15 Mercedes Benz vehicles and sunroofs, and representing that the sunroofs were safe and of  
16 merchantable quality free of defects. Defendants unfair conduct includes, but is not limited to,  
17 distributing Mercedes Benz automobiles, and charging a premium for the sunroof feature, when  
18 the sunroof was defective, as alleged herein.

19       50. Plaintiff has standing to assert this claim because he has suffered injury in fact and  
20 has lost money as a result of Defendants' conduct.

21       51. Plaintiff and the Class seek restitutionary disgorgement from Defendants, and an  
22 injunction prohibiting them from engaging in the unlawful, unfair, and/or fraudulent conduct  
23 alleged herein.

24 ///

25 ///

26 ///

27 ///

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER**

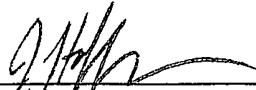
WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf of the general public, prays for judgment against Defendants as follows:

- A. An order that this action may proceed and be maintained as a class action;
- B. Awarding Plaintiff and Class members compensatory damages in an amount according to proof at trial;
- C. Awarding restitutionary disgorgement from Defendants to Plaintiff and the Class;
- D. Any and all remedies for breach of express warranty, including under California Civil Code §1794;
- E. Any and all remedies pursuant to the Song-Beverly Act, including under California Civil Code §1794;
- F. Attorney's fees and costs;
- G. For such other relief the Court deems just and proper.

DATED: April 6, 2018

**HAFNER LAW PC**

By:

  
\_\_\_\_\_  
Joshua H. Haffner  
Graham Lambert  
Attorneys for Plaintiff and others  
Similarly situated


**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury for himself and the Class members on all claims or causes of action so triable.

DATED: April 6, 2018

**HAFFNER LAW PC**

By:

  
\_\_\_\_\_  
Joshua H. Haffner  
Graham Lambert  
Attorneys for Plaintiff and others  
Similarly situated

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION OF GIORGIO ENEA**

I, Giorgio Enea, declare as follows:

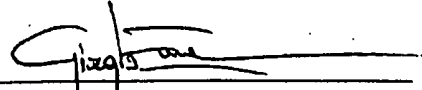
1. I am the Plaintiff in the above-referenced case, including with respect to the First Cause of Action for Violation of the Consumer Legal Remedies Act. I am a competent adult, over eighteen years of age, and a resident of the State of California. I am making this declaration in support of my Class Action Complaint against Defendants Mercedes-Benz USA, LLC, and Daimler AG.

2. On July 17, 2015, I leased a new 2015 Mercedes Benz, GLA 250W4, Vehicle Identification Number WDCTG4GB6FJ141448, from RAB Motors/Mercedes Benz of Marin, an authorized Mercedes Benz dealership, in San Rafael, California.

3. I reside in Oakland, California. Accordingly, pursuant to California Civil Code section 1780(d), the Superior Court of the State of California, County of Alameda is the proper venue for my claims for Violation of the Consumer Legal Remedies Act.

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

Executed this 6<sup>th</sup> day of April, 2018 in Oakland, California

  
\_\_\_\_\_  
Giorgio Enea