

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO. 50-2005-CA003024-XXXXMBAB

MIKE SOLNIK, M.D.,

Plaintiff,

v.

DAIMLERCHRYSLER A.G. f/k/a
DAIMLER-BENZ AKTIENGESELLSCHAFT
and MERCEDES-BENZ USA, INC. f/k/a
MERCEDES-BENZ OF NORTH AMERICA, INC.
and L.P. EVANS MOTORS WPB, INC.
d/b/a MERCEDES-BENZ OF MIAMI,

Defendants.


NOTICE OF FILING

COMES NOW, Specially Appearing Defendant DaimlerChrysler AG, by and through undersigned counsel, and hereby files the original Declaration of Dr. Siegfried Schwung in support of its Motion to Dismiss for Lack of Personal Jurisdiction.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via facsimile and U.S. mail on this 10th day of September, 2005, to: **Spencer T. Kuvin, Esq., RICCI-LEOPOLD, PA, Attorneys for Plaintiff**, 2925 PGA Boulevard, Suite 200, Palm Beach Gardens, Florida 33410.

RUDEN, McCLOSKEY, SMITH,
SCHUSTER & RUSSELL, P.A.
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By: 
Peter L. Wechsler, FBN 125244

MIA:284823:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

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GENERAL JURISDICTION DIVISION

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MERCEDES-BENZ OF NORTH AMERICA, INC.
and L.P. EVANS MOTORS WPB, INC.
d/b/a MERCEDES-BENZ OF MIAMI

Defendants.

**DECLARATION IN SUPPORT OF SPECIALLY APPEARING DEFENDANT
DAIMLERCHRYSLER AG'S
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Dr. Siegfried Schwung, with a business address of 71059 Sindelfingen,
Germany, being duly sworn, deposes and says:

1. I am over the age of eighteen years and am otherwise fully competent to make this declaration. I am Vice-President and General Counsel, Legal Affairs-Product, for DaimlerChrysler AG. In that capacity, I am personally familiar with the affairs of DaimlerChrysler AG as set forth in the remaining paragraphs of this declaration. I have

personal knowledge of the facts stated below and those facts are true and correct. If called as a witness to do so, I could and would testify competently thereto.

2. DaimlerChrysler AG is an Aktiengesellschaft, or German "stock company," with its "seat," or principal place of business, in Stuttgart, Germany. Contrary to Plaintiff's Complaint in this matter at Paragraph 2(a), which Complaint I have read and understood in full, DaimlerChrysler AG does not maintain a "principal place of business in Michigan," nor is it qualified to do business in the State of Florida.

3. DaimlerChrysler AG does no business in the State of Florida and does not maintain any office, agency or representative there. No one is authorized by DaimlerChrysler AG to accept service of process in Florida, nor has DaimlerChrysler AG ever appointed an agent for service of process in Florida. DaimlerChrysler AG is not now, nor has it ever been, engaged in business in Florida, nor has it ever been qualified, licensed, or authorized to do business in Florida. DaimlerChrysler AG does not have and never has had any officers, employees, or agents stationed to work for it in Florida.

4. DaimlerChrysler AG does not conduct advertising or solicitation activities in Florida, nor does it conduct any sales, service, or other business activities in Florida, including entering into any contracts to insure a person, property or other risk. DaimlerChrysler AG does not have and never has had Florida bank accounts. It does not now own, nor has it ever owned, used or possessed Florida real estate. It has never paid Florida taxes.

5. DaimlerChrysler AG has never sold any Mercedes-Benz automobiles in Florida. At all times relevant to this action, Mercedes-Benz USA, LLC (hereafter "MBUSA"), a separate and independent Delaware limited liability company with its principal place of business in New Jersey, held and still holds the right to import, distribute, and advertise Mercedes-Benz vehicles and component parts within the United States, including Florida. DaimlerChrysler AG does not exercise any day-to-day control over MBUSA, including control with respect to sales of Mercedes-Benz vehicles and component parts in the United States. DaimlerChrysler AG does not exercise any control over any Florida Mercedes-Benz retail dealer, nor has it entered into contracts with any such dealers.

6. MBUSA is an indirect subsidiary of DaimlerChrysler AG. MBUSA and DaimlerChrysler AG are independent companies, and each strictly observes all corporate formalities necessary for its own separate legal existence. The parent of MBUSA is DaimlerChrysler North America Holding Corporation ("DCNAHC"), which is a Delaware Corporation with a principal place of business in Michigan. DCNAHC is in turn a subsidiary of DaimlerChrysler AG. As its name would suggest, DCNAHC is a holding company, which does not design, test, market, or sell Mercedes-Benz vehicles.

7. After MBUSA purchases Mercedes-Benz passenger vehicles from DaimlerChrysler AG in Germany, MBUSA distributes the vehicles it has purchased and provides service and sales support throughout the United States, including Florida. Once title to the vehicles passes to MBUSA, DaimlerChrysler AG has no control over their

ultimate destination within the United States. DaimlerChrysler AG did not sell the vehicle at issue in this lawsuit, or any of its component parts, to the plaintiff in this action. DaimlerChrysler AG did not maintain or repair the subject vehicle, nor does DaimlerChrysler AG make any warranties to United States consumers (including plaintiff here) concerning the operation of any Mercedes-Benz vehicle.

8. Before the formation of MBUSA, including its corporate predecessors, Mercedes-Benz vehicles were not distributed in Florida or elsewhere in the United States by DaimlerChrysler AG or its corporate predecessors, but rather by separate unrelated companies.

9. DaimlerChrysler AG does not design any of its Mercedes-Benz vehicles (including the Subject Vehicle involved in this case) specifically for the Florida market.

10. DaimlerChrysler AG has never advertised or solicited business regarding its Mercedes-Benz vehicles in Florida. Advertising of Mercedes-Benz vehicles in Florida is conducted by MBUSA and independent authorized Florida Mercedes-Benz dealerships under contract with MBUSA. DaimlerChrysler AG has never entered into any dealership agreements with any Mercedes-Benz dealerships in Florida.

11. DaimlerChrysler AG has never established any channels for providing regular advice regarding its Mercedes-Benz vehicles to customers in Florida. Customer inquiries regarding Mercedes-Benz vehicles in the United States are referred to MBUSA.

12. DaimlerChrysler AG has never marketed its Mercedes-Benz vehicles through a distributor in Florida who has agreed to serve as the sales agent for the product.

As discussed above, MBUSA is an independent company, which owns the vehicles it markets. MBUSA has never been DaimlerChrysler AG's sales agent in Florida or elsewhere for sales of Mercedes-Benz vehicles.

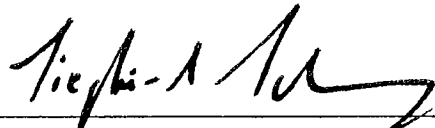
13. DaimlerChrysler AG has never created, employed or controlled any distribution system in Florida or elsewhere within the United States.

14. DaimlerChrysler AG has never purposefully or voluntarily directed its activities towards the State of Florida with respect to the manufacture or sale of Mercedes-Benz vehicles.

15. All of the statements above concerning DaimlerChrysler AG were equally true as applied to DaimlerChrysler AG's corporate predecessors Daimler-Benz AG and Mercedes-Benz AG, at all times relevant to this action.

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

Dated: September 13, 2005



DR. SIEGFRIED SCHWUNG

CO. 50-2005-CA003024-XXXXMBAB
DaimlerChrysler AG