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## **EU Court of Justice decision puts Mercedes further on the back-foot over diesel emissions fraud claims**

***UK Mercedes owners should join group action here to secure compensation***

London... [A decision](#) released by the EU Court of Justice (CJEU) yesterday (17.12.20) ([see summary press release](#)) puts Mercedes further on the back-foot in the face of claims they engaged in diesel emissions fraud in the European market, according to lawyers at Fox Williams and Hagens Berman UK who are working together on a potential group action litigation on behalf of England and Wales Mercedes owners.

The CJEU decision, sought by the French national court in relation to the Case of C-693/18 CLCV and Others\* (Defeat device on diesel engines), provides important clarification on the definition and scope of the concepts of 'emission control system' and 'defeat device' with regard to EU Regulation No 715/2007. The decision finds a defeat device is not a permissible exception to the rule and expressly prohibits the use of defeat devices which reduce the effectiveness of emission control systems under normal conditions of vehicle use.

The EU Court of Justice concluded that 'a manufacturer cannot install a defeat device which systematically improves, during approval procedures, the performance of the vehicle emission control system and thus obtain approval of the vehicle.'

**Fox Williams partner Andrew Hill**, who is leading the UK based group litigation against Mercedes over diesel emissions, comments: "The EU Court of Justice's finding is binding on the entire European Union and incredibly helpful to us. Regardless of Brexit, it strengthens our case in England and Wales on behalf of consumers who, we will argue, have been defrauded by Mercedes."

He continues: "Our case will argue that Mercedes illegally deceived the purchasers of diesel and BlueTec engine vehicles sold here between 2008 and 2018 by programming an emission defeat device during test conditions which limited illegally high, dangerous levels of Nitrogen Oxide (NOx) emissions normally evident in real-world driving conditions."

"The EU Court of Justice decision provides further evidence that Mercedes owes compensation to all UK consumers who purchased or leased these vehicles."

Fox Williams LLP is collaborating with Hagens Berman UK LLP, led by Michael Gallagher, in building its group claim in England and Wales. The firms have received funding terms and will be operating the case on a no-win, no fee basis.

US class action firm Hagens Berman pioneered a successful class action lawsuit in the US over similar fraud claims which this summer saw more than US\$700m being paid out to US Mercedes owners. Hagens Berman also led litigation against Volkswagen in the US where it was found that a comparable defeat device was used and again, the firm secured substantial compensation for US vehicle owners.

**Steve Berman, Managing Partner, Hagens Berman** comments: “Mercedes denies there are parallels between the emissions control system used in US vehicles and European models. However, our extensive investigations show that Mercedes has been using emission defeat devices for over a decade in both the US and European markets. They have similarly misrepresented the environmental pollution levels of their engines, contravened local regulatory requirements and deceived consumers. They need to be held accountable in Europe as well as the US.”

Fox Williams and Hagens Berman UK is encouraging owners of Mercedes diesel models sold from 2008 up to 2018 to register with a view to joining their group action litigation. These models include passenger and commercial vehicles and vans, such as people movers, shuttles and taxis.

Earlier estimates suggested that approx 1.2 million potential claimants owning (or having owned) impacted vehicles purchased in England and Wales have been affected by the Mercedes Dieselgate scandal, based on Mercedes selling more than 600,000 impacted vehicles here between 2008 and 2018. However, Fox Williams and Hagens Berman, through further investigation, now believe this number could be higher given additional models are also likely emitting dirty diesel emissions.

Not only private owners and businesses, such as fleet operators and hire car companies, but also lessees of vehicles affected may be eligible for damages.

**Andrew Hill** adds: “Mercedes vehicle owners and lessees in England and Wales will likely have good claims for losses caused to them from unwittingly owning or leasing dirty diesels. Compensation could be in the range of £5,000 to £10,000 per vehicle.”

Those unsure if their Mercedes vehicle is affected by the dirty diesel technology, can contact Fox Williams at [www.mercedes-dieselclaims.co.uk](http://www.mercedes-dieselclaims.co.uk).

The Fox Williams-led group action claim will be conducted on a no-win, no-fee basis, meaning that there will be no out-of-pocket cost to sign up to or participate.

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### **Notes for editors**

\*Case C-693/ 18 CLCV and Others involved a car manufacturer alleged to have marketed vehicles in France equipped with software capable of distorting the results of approval tests for emissions of gaseous pollutants, such as nitrogen oxides ('NOx'). That company is alleged to have deceived the purchasers of diesel engine vehicles as to the essential qualities of those vehicles and the controls carried out before they were placed on the market.

### **About Fox Williams**

Fox Williams is a leading London City law firm known for its ambition, great culture and good sense. The litigation team is recognised for its independent market position as well as for the quality of its work. The firm's litigation lawyers advise on a wide range of disputes, employing legal strategies that minimise the risks and realistically assess the potential rewards for clients. Fox Williams has

considerable experience in bringing civil fraud claims, and of cutting-edge, high-value group action litigation for institutional investors and shareholders of wrong-doing public companies. For more information, see [www.foxwilliams.com](http://www.foxwilliams.com)

### **About Hagens Berman**

Hagens Berman Sobol Shapiro LLP is one of the largest and most renowned plaintiff-side group action law firms in the United States. The firm's tenacious advocacy for plaintiffs has earned it numerous national accolades, including "Most Feared Plaintiff's Firm," and consistent rankings among a handful of elite plaintiffs' law firms. More can be found at [www.hbsslaw.com](http://www.hbsslaw.com).

Hagens Berman originally filed its dirty diesel emissions-cheating litigation against Mercedes in the US on 25 February 2016 and secured a US\$ 700m payout on behalf of owners and lessees of affected diesel Mercedes vehicles in August 2020. This settlement is in addition to the further US\$1.5 billion settlement and penalty Mercedes must pay the US Department of Justice and Environmental Protection Agency.

Hagens Berman was also one of the lead firms that worked to achieve the US\$14.7 billion Volkswagen Dieselgate settlement in the US in 2016 (having been the first firm to file suit against Volkswagen in that matter). The firm has also pioneered emissions-cheating litigation against Audi, BMW, Fiat Chrysler, Ford and General Motors for affected US consumers, and conducted extensive independent research and testing in each case.

Hagens Berman is currently eyeing the potential for bringing further emissions related fraud actions in the European market.

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