

# ECLI:NL:RBAMS:2024:6204

Authority	Amsterdam Court
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Case number	C/13/705132 / HA ZA 21-687
Areas of law	Civil law
Special features	First instance - single Interim ruling
Content indication	Role decision on oral hearing. Findings Rechtspraak.nl

## Excerpt

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role decision

### **AMSTERDAM COURT**

Private law department

### **Roll call decision of 18 September 2024**

*in Case C/13/705132 / HA ZA 21-687 of*

the foundation

### **EMISSION CLAIM FOUNDATION,**

based in Amsterdam, plaintiff,

Advocate Mr C. Jeloschek of Amsterdam,

at

1. the public limited company

### **STELLANTIS N.V.,**

based in Amsterdam,

2. the private limited liability company

**STELLANTIS NETHERLANDS B.V.**,  
based in Amsterdam,  
defendants 1 and 2,  
Advocate Mr A. Knigge of Amsterdam,

and

*in Case C/13/712754 / HA ZA 22-71 of*

the foundation

**CAR CLAIM FOUNDATION**,  
based in Rotterdam, plaintiff,  
Advocate Mr P. Haas of Rotterdam,

against the defendants referred to above under 1 and 2 and against

4. the legal person under foreign law

**STELLANTIS AUTO S.A.S.**, formerly **PSA AUTOMOBILES S.A.**,  
based in Poissy, France,

5. the legal person under foreign law

**AUTOMOBILES PEUGEOT S.A.**,  
based in Poissy, France,

6. the legal person under foreign law

**AUTOMOBILES CITROËN S.A.S.**,  
based in Poissy, France,

7. the legal person under foreign law

**GM DEUTSCHLAND HOLDINGS GMBH**, formerly **ADAM OPEL GMBH**,  
based in Frankfurt am Main, Germany,

8. the legal person under foreign law

**OPEL AUTOMOBILE GMBH**,  
based in Rüsselsheim am Main, Germany,

9. the legal person under foreign law

**GENERAL MOTORS HOLDINGS LLC**,  
based in Detroit (Michigan), United States of America,

10. the legal person under foreign law

**GENERAL MOTORS COMPANY,**

based in Detroit (Michigan), United States of America, defendants 4  
to 10,

Advocate Mr A. Knigge of Amsterdam,

and against

Defendants 11 to 137,

the Car Dealers,<sup>1</sup>

Advocate M.J. van Joolingen of s-Hertogenbosch,

and

*in Case C/13/712812 / HA ZA 22-72 of*

the foundation

**DIESEL EMISSIONS JUSTICE FOUNDATION,**

based in Amsterdam, plaintiff,

Advocate Mr J.D. Edixhoven of Amsterdam,

against the defendants listed above under 1, 2 and 4 to 137.

The plaintiffs will hereinafter be referred to collectively as the Foundations. Defendants 1, 2 and 4 to 10 will hereinafter be collectively referred to as Stellantis et al. Defendants 11 to 137 will hereinafter be collectively referred to as the Car Dealers.

## **1 Proceedings**

### **in all cases**

1.1. The conduct of proceedings in all cases is evident from:

- the interlocutory judgment of 3 July 2024,
- The statement on the roll of 31 July 2024 by Mr Edixhoven on behalf of the Foundations,
- the statement on the roll of 31 July 2024 by Mr Knigge on behalf of Stellantis c.s. and the Car Dealers,
- Mr Knigge's message of 31 July 2024 on behalf of Stellantis et al,
- Mr Edixhoven's message of 31 July 2024 on behalf of the Foundations,
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the court's notice of 13 August 2024, which stipulates that oral proceedings will take place on 11 February 2025.

## 2 The review

- 2.1. The judgment of 3 July 2024 provides that the oral hearing will be limited to, in brief, liability. At the request of the parties, the court clarified that this oral hearing would focus on, and thus be limited to, the question, essential for this liability, of whether manipulation instruments were present in the diesel-engined vehicles that (the legal predecessors of) Stellantis c.s. and the Autodealers placed on the Dutch market in the relevant period, and whether there was any justification for that presence. In the context of that question, the validity of the type-approval decisions will also be addressed, as well as the burden of proof and the Foundations' request under Section 22 Rv.
- 2.2. In what the parties have put forward in this respect, the District Court sees reason to give them the opportunity to take a deed prior to the oral hearing on what the parties have referred to as the EU-law framework, i.e. the question of whether or not the type approval decisions have binding effect and to what extent the (civil) court can give an opinion on the effect of these decisions in civil-law legal relationships. To this end, the case will be referred to the roll on 16 October 2024 for the Foundations to take a decree on this issue alone, after which Stellantis et al. and the Autodealers may respond by reply decree four weeks thereafter. Contrary to the Foundations' request, there is no reason for a different order. Deeds should not exceed 12 pages.
- 2.3. The session agenda for the oral hearing on 11 February 2025 is set as follows:

09.00 09.15	introduction
09.15 11.15	first term of the Foundations
11.15 11.30	brief pause
11.30 12.30	first deadline defendants
12.30 13.15	lunch break
13.15 14.15	continuation first term defendants
14.15 14.30	brief pause
14.30 15.30	court questions and answers
15.30 16.15	second term of the Foundations
16.15 17.00	second term defendants

- 2.4. Foundations should divide their speaking time by mutual agreement. The same applies to Stellantis c.s. and the Car Dealers. In doing so, the court assumes that they will each coordinate their positions where possible to avoid repetition. The defendants' first submission includes a response to the Foundations' first submission.
- 2.5. The court would like to receive by 5 February 2025 a statement from each of the parties as to which lawyers and representatives of the parties will be present at the oral proceedings. That statement can be sent by e-mail to the registry (messagesprocesvoeringdagv.rb-ams@rechtspraak.nl).
- 2.6. Finally, the court recalls that the judgment of 3 July 2024 ruled that further submissions may be made until no later than eight weeks before the oral hearing.

## 3 The decision

The court

**in all matters**

3.1. refers the matter to the roll of **16 October 2024** for deed on the side of the Foundations on the issue mentioned in 2.2, after which Stellantis et al. and the Car Dealers may respond by reply deed four weeks thereafter,

3.2. reserves any further decision.

This rolling decision was given by Mr J.T. Kruis, Mr N.C.H. Blankevoort and Mr M. Wouters, Judges, assisted by Mr P. Palanciyan, Registrar, and pronounced in public on 18 September 2024.

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<sup>1</sup> For details of defendants 11 to 137, see the judgment dated 16 August 2023.

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