

## **Mercedes Emissions Claim Client Update October 23<sup>rd</sup> 2020**



### **UPDATE ON THE MERCEDES EMISSIONS CLAIM**

We write to provide you with an update about the recent developments in this claim.

#### **Court proceedings issued**

As set out in our client care letter, we are pursuing several different types of legal claim to obtain compensation for affected vehicle owners. The time limits that apply to these claims differ. If the time limit passes for you to bring a claim, you cannot rely on that claim. You can still bring any of the other kinds of claim available to you for which the time limit has not yet passed.

Notwithstanding that we are still at an early stage in our investigations, High Court proceedings were issued on behalf of 41 claimants who had purchased their vehicles in October 2014 to protect their claim under the Consumer Protection from Unfair Trading Regulations (CPUT). The benefit of including this cause of action within an individual claim is that, subject to persuading the Court of the seriousness of the defendants' actions, the claimant might be able to recover a percentage discount on the purchase price of the vehicle. There are therefore theoretical advantages in making a claim under these regulations.

Under CPUT the six-year time limit runs from the date you contracted to buy the vehicle or entered into a finance agreement in respect of that vehicle, and six years from the date of each payment made under that finance agreement. You are only eligible to bring a claim under CPUT if you purchased your vehicle outright from an authorised Mercedes Benz dealership on or after the 1 October 2014, or took out finance from Mercedes Benz Finance and made payments on or after 1 October 2014. You are also only able to bring a CPUT claim if your vehicle was intended to be mainly used for personal purposes (i.e. not intended to be used mainly for business purposes).

If you are not able to include a cause of action under CPUT you are still able to claim for breach of contract, deceit, fraudulent misrepresentation and under the consumer credit act, depending upon how and when you purchased your vehicle.

## **Establishment of the Claimant Committee**

We will shortly be sending you a link to an online questionnaire that you will need to complete to provide us with further details about your claim. Please watch out for our next email and ensure that the questionnaire is completed upon receipt. You also will need to provide us with the following:

1. A complete copy of any finance agreement you used to finance the purchase of the vehicle. If you have not kept a copy, please contact the finance company to ask for one.
2. A legible copy of your vehicle purchase invoice to include the terms and conditions (often printed on the reverse). It should be headed "invoice". Note that the vehicle order form is not the same as the invoice, but please also provide the order form if you have it. You should be able to obtain a copy from the dealership where you purchased your vehicle. If you cannot obtain a copy, we will need some other evidence of purchase (such as a bank statement).
3. Confirmation of whether when you purchased your vehicle, it was intended to be used mainly for business purposes.

As set out in your CFA, where there is a large group action with thousands of claimants it is necessary to appoint a Claimant Committee. This Claimant committee is made up

of 5 representatives whose role it is to make decisions and provide instructions on behalf of all the claimants. This committee has now been constituted. We are delighted to say that the following individuals have volunteered to represent your best interests and we are extremely grateful to them:

**Mr William David Lee**

David was first admitted as a Solicitor in December 1967, after reading Law at Sheffield University, and after 10 years as a Partner in a general practice in Bolton, Greater Manchester, he joined the then Westland Helicopter Group, in Somerset, as an in-house lawyer, in 1980.

He remained with the Company, which ultimately became Augusta Westland Limited, until retiring from the position as International Group General Counsel and Company Secretary at the end of 2015.

Over this period, he gained extensive experience in, inter alia, high value commercial matters, competition law, contractual disputes and Litigation and Arbitration (largely conducted by external law firms).

For 10 years, until September 2019, David was the Legal Director and Company Secretary of a professional Football Club from which he stepped down when the Club was taken over.

**Mr Upali De Soyza**

Upali is a retired solicitor who had his own practice in London. He is also a qualified accountant with membership to two Chartered Accountancy bodies. Prior to setting up his legal practice he held senior accountancy appointments with FTSE 100 Companies dealing with financial, accountancy and legal (commercial) matters, mainly customer related.

Upon setting up his solicitors practice he dealt with commercial law matters, selling/buying disputes and further managing, with other employed solicitors, three legal aid franchises in three different areas of law.

**Mr Richard Barnes**

Richard has had a long career in Local Government. Having first been elected as a Councillor in the London Borough of Hillingdon in 1982. Richard was elected leader of

the Conservative Group in 1991 retaining that position until July 2000. He also served, for two periods, as the Leader of the Council, London Borough of Hillingdon.

In May 2002 Richard was elected Greater London Assembly Member for Ealing and Hillingdon. He was elected Leader of the Conservative Group on the London Assembly in 2005 following the successful election of Boris Johnson as the Mayor of London in 2008. Richard was appointed the Statutory Deputy Mayor of London by Mr. Johnson and served in that capacity until the elections of 2012.

Richard served a Deputy Chair of the Metropolitan Police Authority, as a Member of the Service Authority (National Crime Squad and National Criminal Intelligence Service) together with responsibilities as a Member of the London Assembly.

As Chair of the "London Bombings:7/7 Review Committee", he conducted the only public inquiry and examination of post event issues related to resilience, business recovery and continuity in London.

Richard acted as Chairman of the London 2012 Equality and Diversity Forum which contributed to the preparation and delivery of the London 2012 Olympic and Paralympic Games.

Richard retired from the GLA in 2012 and from the Council in 2014. In retirement he acts as both a Non-Executive Director and Consultant to a number of organisations.

### **Mr Adam Kamenetzky**

Adam Kamenetzky is a Senior Research Fellow at the National Institute for Health Research (NIHR), the UK's largest public funder of health and social care research. His work explores how public investment in research generates long-term societal impact and value, and how evaluation can inform NIHR's own policies and working practices, acting as a custodian of taxpayers' investments in research.

In parallel Adam is a visiting fellow at the Policy Institute at King's College London, with a particular research interest in improving the social value and accountability of science to wider society. Before joining King's in 2016, he was Chief Executive Officer of the Good Governance Foundation, a not-for-profit consultancy organisation that supported international NGOs working in challenging global environments. Former roles include research advisory, communications and management positions at charities including Médecins Sans Frontières and Great Ormond Street Hospital Children's Charity.

Adam has an MSc in Science Communication from Imperial College London and a BSc in Developmental Biology from the University of Edinburgh. He is currently in the early stages of a practice-oriented PhD focussing on organisational approaches to research impact and its assessment.

### **Mr Martin Usher**

Martin is a solicitor, who works for Moore Barlow LLP and Aspire Law and represents people who have sustained serious injuries including traumatic brain injuries and spinal cord injuries. He has extensive litigation experience and has supported clients in high profile cases, including, The Westminster Terror Attack and the 2011 M5 motorway crash. He is a Committee member for the Major Trauma Group, a not for profit community interest company, to assist major trauma victims. Martin has also been a Trustee for Headway Southampton, a charity that supports people who sustained acquired brain injury, for over 6 years, including 3 terms as Chair of Headway Southampton.

Our relationship to the Claimant Committee is governed by the Group Management Agreement which has been attached to this e-mail. As the claim progresses, we will hold regular meetings with the Claimant Committee who will help ensure that the clients best interest are always prioritised.

### **Group Litigation Steering Committee**

As you are aware there are a number of law firms advertising Mercedes claims. Although each firm will vary in size, expertise and have differing funding arrangements with its clients; their clients will eventually be included within the same group action.

Leigh Day are joint Lead Solicitors in the VW group litigation. With the VW Steering Committee we have in the last two months, reached out to those firms that we consider to have the most clients or most relevant expertise, with a view to establishing a steering committee of Core Mercedes Claimant firms to coordinate the litigation going forward and ensure that all the lessons learnt from the VW litigation are applied here and that the group litigation is run as effectively and efficiently as possible.

### **Settlements in the US**

In September Mercedes' parent company Daimler agreed a 1.5-billion-dollar settlement with the US authorities. This is a promising development for us and will hopefully encourage Daimler to take a pragmatic and sensible approach to litigation in this Jurisdiction.

If you have any queries please do not hesitate to contact the team.

