



**Mercedes-Benz Class Action**  
**Krisoula El-Helou v Mercedes-Benz Australia/Pacific Pty Ltd & Ors**  
**Supreme Court of Victoria**  
**GROUP PROCEEDING SUMMARY STATEMENT**

Case: S ECI 2024 00234

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**1. What is a class action?**

Where seven or more people have claims that arise out of similar circumstances, a class action can be brought by a lead plaintiff on their own behalf and as a representative of others (called 'group members'). This type of proceeding is also referred to as 'group proceeding'. The class action will resolve the common issues of fact or law for the class through the vehicle of the lead plaintiff's case.

**2. Who is a group member in the Mercedes-Benz Class Action?**

You are a group member if, between 1 January 2008 and 22 January 2024 (**Relevant Period**), you acquired, either new or second hand, a legal or equitable interest in a Mercedes-Benz diesel vehicle in Australia (including on hire purchase), which contained a defeat device (**Affected Vehicle**). A complete definition of 'group member' is available at section 2, paragraph 1 of the Statement of Claim.

**3. Who is the Mercedes-Benz Class Action against, and what is the claim for?**

The claim is against Mercedes-Benz Australia/Pacific Pty Ltd, and its German parent companies, which manufactured and supplied the Affected Vehicles (together, **Mercedes-Benz**). The lead plaintiff:

- a. alleges that the Affected Vehicles were fitted with defeat devices, as a result of which they emitted pollutants in excess of the permitted regulatory levels; and
- b. seeks compensation from Mercedes-Benz for loss suffered, including on the basis that they misrepresented that the Affected Vehicles complied with regulatory requirements.

**4. Who is the law firm acting for the lead plaintiff?**

Piper Alderman.

**5. What is the role and responsibility of the lead plaintiff?**

The role of the lead plaintiff is to represent the class. The lead plaintiff will give instructions to Piper Alderman regarding the conduct of the case and may give evidence during the proceeding. In hearing the lead plaintiff's case, the Court will be asked to make findings in relation to questions of fact and/or law that are common to all group members. In this case the lead plaintiff is Krisoula El-Helou.

**6. How is the Mercedes-Benz Class Action Funded?**

The Mercedes-Benz Class Action is funded by Woodsford Litigation Funding 29 LLP (company number OC444022) (**Woodsford**), a litigation funder registered in the United Kingdom. Woodsford has entered into a litigation funding agreement with Ms El-Helou (**Litigation Funding Agreement**). Under that Agreement, a portion of the costs of running the case will be borne by Woodsford. Costs of the action not covered by Woodsford will initially be covered by Piper Alderman.

The lead plaintiff and group members will not be asked to pay anything upfront or out of pocket. In the event of a successful outcome (such as a settlement approved by the Court, or a judgment awarding damages to group members), the Litigation Funding Agreement allows Woodsford to recover its costs and to receive a commission; a separate fee agreement between Ms El-Helou and Piper Alderman

allows Piper Alderman to recover its costs and an ‘uplift fee’. Those amounts, together with any other amounts approved by the Court, such as to ATE insurers, will only be payable from any settlement or judgment sum if approved by the Court. If approved, they will be deducted from, and will never exceed, any compensation that group members obtain.

If there is no successful outcome, the lead plaintiff and group members will not be asked to pay Piper Alderman’s fees and disbursements or other costs. Further, if Mercedes-Benz pursues recovery of their legal costs from the lead plaintiff, Woodsford will pay such costs in accordance with the terms of the Litigation Funding Agreement. Group members cannot be pursued for costs by Mercedes-Benz as the *Supreme Court Act 1986* (Vic) prohibits orders for costs against group members, unless a group member takes their own individual action, or acts as a representative, within the proceeding.

Further information about Woodsford and the terms of the funding offered is in the Funding Information Summary Statement, and at <https://piperalderman.com.au/class-actions/mercedes-class-action/>.

### **7. How are legal fees and disbursements charged?**

The lead plaintiff and Piper Alderman have entered into a fee agreement, pursuant to which Piper Alderman will charge its legal fees calculated using time-based billing and disbursements (for example, fees for experts and barristers).

Woodsford will pay Piper Alderman a portion of its legal fees and all disbursements until settlement or judgment, but the remaining legal costs are conditional upon the success of the claim. Any legal costs not covered by Woodsford will be carried by Piper Alderman on a No-Win-No-Fee basis. If there is a successful outcome, Piper Alderman will charge a 25% uplift fee on their unpaid fees and will, subject to Court approval, recover that fee together with its unpaid fees, from any settlement or judgment sum.

### **8. Are there currently any other class actions against Mercedes-Benz?**

Yes – a Class Action by lead plaintiffs Paul Wawryk and Craig Stubbings against Mercedes-Benz Australia/Pacific Pty Ltd and its German parent company Mercedes-Benz Group AG commenced on 22 November 2022 (case no. S ECI 2022 04768) (**Other Mercedes Class Action**) is on foot. That class action was commenced on behalf of group members who “purchased or leased or otherwise acquired a legal interest” in certain models of Mercedes-Benz (being engine models OM 607, OM 622, OM 626, OM 640, OM 651) between 2009 and 22 November 2022.

The Court will manage the Mercedes-Benz Class Action and the Other Mercedes Class Action together, and may permanently stay one of the proceedings or consolidate the two actions. In doing so, the Court will consider various factors.

### **9. Who can group members contact for further information about the case?**

Group members may contact Piper Alderman for further information about the Mercedes-Benz Class Action, at no out of pocket cost, at:

- Email: [MercedesClassAction@piperalderman.com.au](mailto:MercedesClassAction@piperalderman.com.au)
- Phone: +61 2 9253 3819
- Post: Piper Alderman Mercedes Class Action  
Level 23, 1 Farrer Place  
Sydney NSW 2000