

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
By ATTORNEY GENERAL  
DAVID W. SUNDAY, JR.,

and

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION,

and

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,

*Plaintiffs,*

v.

MERCEDES-BENZ USA, LLC

and

MERCEDES-BENZ GROUP AG

*Defendants.*

CIVIL DIVISION

Code 020 – Equity

Case No. GD-25-013614

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) DAYS after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**LAWYER REFERRAL SERVICE**  
**The Allegheny County Bar Association**  
**400 Koppers Building**  
**436 Seventh Avenue**  
**Pittsburgh, Pennsylvania 15219**  
**Phone: (412) 261-5555**  
<https://www.getapittsburghlawyer.com/>

Date: 12/22/2025

By:



Kevin R. Green (PA ID No. 321643)  
Senior Deputy Attorney General  
Office of Attorney General  
1251 Waterfront Place  
Mezzanine Level  
Pittsburgh, PA 15222  
Fax: 412-880-0196  
Phone: 412-235-9078  
Email: [kgreen@attorneygeneral.gov](mailto:kgreen@attorneygeneral.gov)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA  
By ATTORNEY GENERAL  
DAVID W. SUNDAY, JR.,

and

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION,

and

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,

*Plaintiffs,*

v.

MERCEDES-BENZ USA, LLC,

and

MERCEDES-BENZ GROUP AG,

*Defendants.*

CIVIL DIVISION

Code 020 – Equity

Case No. GD-25-013614

**COMPLAINT**

**AND NOW**, comes the Commonwealth of Pennsylvania, by Attorney General David W. Sunday, Jr., the Commonwealth of Pennsylvania, Department of Environmental Protection, and the Commonwealth of Pennsylvania, Department of Transportation (collectively, the “Commonwealth”), and bring this action against defendants Mercedes-Benz USA, LLC (“Mercedes-Benz USA”) and Mercedes-Benz Group AG (“Mercedes AG”) (collectively, “Mercedes” or “Defendants”), and allege the following:

## **I. PRELIMINARY STATEMENT**

1. From 2008 through 2017, Mercedes deceptively certified, marketed, and sold more than 200,000 light-duty trucks and passenger diesel vehicles with selective catalytic reduction technology called “BlueTEC Diesel Technology” (the “Diesel Vehicles”) in the United States, including approximately 10,579 Diesel Vehicles in the Commonwealth of Pennsylvania, that failed to comply with state and federal laws and regulations governing vehicle emissions and certifications, resulting in thousands of tons of excess air pollution. The Diesel Vehicles include sport utility vehicles, minivans, cargo vans, and sedans that employed Mercedes’s BlueTEC diesel engine system across model years (“MY”) 2009 through 2016.

2. Specifically, Mercedes designed, deployed, and then concealed from the public and state and federal regulators software allegedly intended to circumvent federal and state emissions standards so that emissions would appear to be within legal limits, while reducing emission controls outside of those test cycles (off-cycle) in normal, real-world operations. Mercedes also failed to disclose to regulators other software functions—auxiliary emission control devices (“AECDs”)—some of which significantly affected the Diesel Vehicles’ emissions control systems.

3. As a result of Mercedes’s conduct, in real-world operations the Diesel Vehicles can emit up to 30 to 40 times the legal limits of nitrogen oxides (NO<sub>x</sub>), a harmful pollutant that causes respiratory illness and premature death and that contributes to the formation of smog and particulate matter pollution, which also cause severe harm to human health.

4. Mercedes engaged in this unlawful conduct to: (a) obtain through deceptive means the certification they needed from federal and state regulators to market and sell the Diesel Vehicles in the United States, including within the Commonwealth of Pennsylvania; (b) conceal the fact that the Diesel Vehicles did not comply with applicable state and federal emission standards, subjecting residents of the Commonwealth of Pennsylvania and others to the health



risks of added air pollution; and (c) mislead consumers into believing that the Diesel Vehicles were a good option for purchase by environmentally conscious consumers.

5. The Commonwealth brings this action against Mercedes pursuant to: (a) the Pennsylvania *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1, *et seq.* (“Consumer Protection Law”); and (b) the Pennsylvania *Air Pollution Control Act* (“APCA”) and the regulations promulgated thereunder including, but not limited to, 25 Pa. Code §§ 126.401-126.441; and (c) the Pennsylvania *Vehicle Code* (“Vehicle Code”), at 75 Pa. C.S.A. §§ 4107 and 4531.

## II. PARTIES

6. The Commonwealth of Pennsylvania is a sovereign entity that brings this action on behalf of its residents.

7. Plaintiff, the Office of Attorney General, by Attorney General David W. Sunday (“Attorney General”), is the chief law enforcement officer of the Commonwealth of Pennsylvania and is authorized to bring this action pursuant to Pa. Const. art. IV, § 4.1 and 73 P.S. § 201-4.

8. The Attorney General is vested with the power and duty to restrain any method, act or practice declared unlawful by the Consumer Protection Law. 73 P.S. § 201-4.

9. The Attorney General maintains offices located at 1251 Waterfront Place, Mezzanine Level, Pittsburgh, Pennsylvania 15222 and at 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120.

10. Pursuant to the Commonwealth Attorneys Act, 71 P.S. §§ 732-101 *et seq.*, the Attorney General shall represent the Commonwealth or its agencies. 71 P.S. § 732-204(c).

11. Plaintiff, the Commonwealth of Pennsylvania, Department of Environmental Protection (“DEP”), is an executive agency of the Commonwealth of Pennsylvania, and is

authorized to administer and enforce the APCA and regulations promulgated thereunder. 35 P.S. §§ 4001-4015.

12. DEP maintains its principal office at the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

13. Plaintiff, the Commonwealth of Pennsylvania, Department of Transportation (“PennDOT”), is an executive agency of the Commonwealth of Pennsylvania and is authorized to administer and enforce, *inter alia*, the provisions of the Vehicle Code. 71 P.S. § 511.

14. PennDOT maintains its principal office at the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120.

15. Defendant Mercedes AG is an international automotive company that designs, engineers, manufactures, imports, distributes, sells, and leases motor vehicles under brands including Mercedes-Benz. Mercedes AG is organized under the laws of Germany and is headquartered in Stuttgart, Baden-Württemberg, Germany. Mercedes AG owns and controls defendant Mercedes-Benz USA.

16. Defendant Mercedes-Benz USA is a Mercedes AG subsidiary that designs, engineers, manufactures, imports, distributes, sells, and leases Mercedes vehicles in the United States, including in the Commonwealth of Pennsylvania, under the Mercedes-Benz brand and others. Mercedes-Benz USA is a Delaware limited liability company with a principal place of business and headquarters located in Sandy Springs, Georgia.

17. Mercedes engaged in trade or commerce within Pennsylvania by virtue of the conduct alleged herein.

### **III. JURISDICTION AND VENUE**

18. Mercedes designed, manufactured, imported, distributed, warranted, offered for sale and/or lease, and sold and made available for lease the Diesel Vehicles with the knowledge

and intent to market and sell them in all 50 states, including through its car dealership agents in the Commonwealth of Pennsylvania.

19. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over Mercedes, and authority to grant the relief requested pursuant to 761(a)(2) of the Judicial Code, 42 P.S. § 761(a)(2) and Section 4(10) of the APCA, 35 P.S. § 4004(10), which authorizes DEP to institute, in a court of competent jurisdiction, proceedings to compel compliance with this act and any rule or regulations promulgated under this act.

20. Section 13.6 of the APCA, 35 P.S. § 4013.6, authorizes DEP to file suit in the Commonwealth Court or in the court of common pleas of the county where the activity occurred, the condition exists, or the public is affected, seeking to abate a violation and asking the Court to levy a penalty.

21. Sections 6102 and 6103 of the Vehicle Code, 75 Pa.C.S. §§ 6102 and 6103, charge PennDOT with the administration of the Vehicle Code and the promulgation of rules and regulations by which it will carry out its duty.

22. Chapters 41 and 43 of the Vehicle Code charge PennDOT with the responsibility for vehicle equipment standards relevant to this litigation including the authority under Section 4108, 75 Pa.C.S. § 4108, to petition any court of the Commonwealth to restrain a violation of these standards.

23. This action is based solely on state laws as herein provided.

24. At all relevant times, Mercedes AG controlled and/or directed its wholly owned subsidiary Mercedes-Benz USA in its design, development, certification, marketing, offer, sale, and lease of the Diesel Vehicles within the Commonwealth of Pennsylvania.

25. In addition, Mercedes-Benz USA transacted business in the Commonwealth of Pennsylvania through numerous car dealerships, which act as its agents in selling and leasing vehicles, including the Diesel Vehicles, and in disseminating marketing messaging and materials and vehicle information to customers.

26. Accordingly, the exercise of specific jurisdiction over Mercedes is consistent with due process.

27. Venue lies in Allegheny County pursuant to Pa. R.C.P. 1006(a)(2) and (3) because, *inter alia*, the causes of action and transactions occurred there.

#### **IV. BACKGROUND AND FACTUAL ALLEGATIONS**

##### **The Combustion Process in Diesel Engines Produces High Levels of Nitrogen Oxides (NO<sub>x</sub>), Which Harm Human Health and the Environment.**

28. Diesel engines have inherent trade-offs between power, fuel efficiency, and emissions. Compared to gasoline engines, diesel engines generally produce greater power and higher fuel efficiency—but these benefits come at the cost of dirtier and more harmful vehicle emissions.

29. Diesel engines produce particularly high levels of NO<sub>x</sub>, which is a key contributor to ground-level ozone and fine particulate matter pollution, both of which have significant detrimental effects on human health and the environment.

30. NO<sub>x</sub> combines in the atmosphere with volatile organic compounds in a complicated reaction in the presence of heat and sunlight to form ozone, which, at the ground-level, is a major component of urban smog that harms the public health and damages the environment. Ground-level ozone pollution contributes to many human respiratory health problems, including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to

respiratory infections and illnesses, such as asthma, and disproportionately affects vulnerable members of society, particularly children and the elderly.

31. Portions of the Commonwealth of Pennsylvania, including Allegheny County, are in nonattainment with national ambient air quality standards for ground-level ozone pollution. Warmer temperatures associated with climate change will further exacerbate ozone pollution by providing more favorable conditions for ozone formation.

32. NO<sub>x</sub> emissions also cause eutrophication and excess nutrient loading in coastal and other waters, reduce the diversity of fish and other life in these waters, and, along with sulfur dioxide found in the atmosphere from other sources, contribute to the creation of fine nitrate and sulfate particles.

33. Like ozone, fine particulates affect Pennsylvania residents by causing human respiratory distress, cardiovascular disease, and even premature mortality. Fine nitrate and sulfate particles are also toxic to aquatic life and vegetation.

**Vehicle Manufacturers Must Limit Harmful NO<sub>x</sub> Emissions and Disclose Software Functions to Regulators to Obtain Certification to Market and Sell Their Vehicles in the United States.**

34. Because of the serious health and environmental impacts of NO<sub>x</sub> emissions, state and federal emission standards impose not-to-exceed limits.

35. Vehicle manufacturers must certify to the U.S. Environmental Protection Agency (“EPA”) and the California Air Resources Board (“CARB”) that their motor vehicles comply with those standards to obtain EPA-issued certificates of conformity and CARB-issued executive orders. The same standards also mandate certain durability requirements for the engine and its components.

36. The federal Clean Air Act permits California to obtain waivers from EPA to adopt and enforce its own emission standards for motor vehicles, which must meet or exceed the federal standards. Other states are allowed to adopt California's standards. Therefore, in order to sell vehicles in California and any state that adopted California's standards, manufacturers must certify to CARB that their vehicles comply with California's NO<sub>x</sub> standards.

37. For the Diesel Vehicles, EPA's Tier 2 Bin 5 emission standard imposes a NO<sub>x</sub> emission limit of 0.05 grams per mile (g/mi) at a Durability Vehicle Basis of 50,000 miles and 0.07 g/mi at 120,000 miles. California's Low-Emission Vehicle ("LEV") II emission standard imposes these same limits for the Diesel Vehicles from MY 2009 to 2014. For MY 2015 to 2016, California's LEV III standard imposes a combined limit for NO<sub>x</sub> and non-methane organic gases (another contributor to ozone and smog pollution) of 0.160 g/mi at a Durability Vehicle Basis of 150,000 miles.

38. CARB also requires vehicles to be equipped with on-board diagnostic systems that monitor emissions systems for the life of the vehicle and that can detect malfunctions in those emissions control systems and notify the driver or mechanic when emissions exceed certain designated levels.

39. Some states, including the Commonwealth of Pennsylvania, enforce the State of California's LEV Regulations, including but not limited to the LEV II and LEV III standards, by adopting their own corresponding regulations, as expressly permitted by Congress in Section 177 of the Clean Air Act, 42 U.S.C. § 7507 ("Section 177"). Under the authority of Section 5 of the APCA, 35 P.S. § 4005, the Pennsylvania Environmental Quality Board adopted and incorporated by reference California's vehicle emission standards for new passenger cars and light-duty trucks,

with several exceptions, into the Pennsylvania Clean Vehicles Program, 25 Pa. Code §§ 126.401-126.451.

40. Thus, in addition to meeting EPA requirements, to sell vehicles in states that have adopted California's LEV regulations, including the Commonwealth of Pennsylvania, vehicle manufacturers must: (a) certify to CARB that their motor vehicles comply with CARB's emission and on-board diagnostic certification requirements and test procedures; (b) obtain CARB approvals for each model year and for each test group showing they are certified as meeting the emission requirements of the applicable California LEV Regulations, and as meeting the diagnostic requirements of the applicable on-board diagnostic regulations; (c) obtain valid "environmental performance labels" disclosing their smog and global warming scores in accordance with the California LEV Regulations; (d) obtain valid "emission control labels" showing that they are certified for sale in California under the California LEV Regulations; and (e) warranty that the vehicles shall comply over their warranty term with all requirements of the California LEV regulations. *See generally* California Code of Regulations (CCR) Title 13, §§ 1900 *et seq.*

**The Law Requires Manufacturers to Disclose All AECDs and Prohibits the Use of Defeat Devices.**

41. An auxiliary emission control device or "AECD" is any element of design that senses temperature, vehicle speed, engine speed, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

42. State and federal emission regulations require vehicle manufacturers to make extensive written disclosures regarding the existence of, impact of, and justification for any devices, including AECDs, that affect the operation of the emission control system.



43. CARB's emission certification requirements and test procedures require, among other things, that vehicle manufacturers disclose in their certification applications for emission compliance all AECDs used in their vehicles. Specifically, manufacturers must:

- a. list all AECDs installed on their vehicles, and include for each a justification and a rationale for why it is not a defeat device; and
- b. list the parameters each AECD senses and controls.

44. CARB regulations likewise require vehicle manufacturers to disclose in their on-board diagnostic certification applications all AECDs used in their vehicles, along with inputs that invoke each AECD, a justification for and explanation of each AECD, the frequency of each AECD's operation, and the anticipated emission impact of each AECD.

45. CARB's emission certification requirements and test procedures further prohibit the use of all "defeat devices." In relevant part, a defeat device is any AECD that uses illegal "cycle recognition" technology to increase emission controls when a vehicle is on a formal emissions test cycle but circumvent or reduce the effectiveness of the emission control system under normal vehicle operation.

46. Vehicles equipped with undisclosed AECDs or defeat devices may not be certified for sale in the Commonwealth of Pennsylvania or in any other state.

**Diesel Vehicle Manufacturers Use Multiple Emission Control Strategies to Reduce NO<sub>x</sub> Emissions.**

47. To meet relevant emission standards, diesel vehicle manufacturers must balance the goal of implementing effective NO<sub>x</sub> reduction controls and strategies (which can place strain on the engine and its components) against the goal of meeting engine durability requirements.

48. Each Diesel Vehicle had emission control hardware controlled by software incorporated into the engine electronic control modules supplied by Robert Bosch LLC and/or Robert Bosch GmbH.

49. One component of the emission control system operates in the engine itself: “exhaust gas recirculation” reduces NO<sub>x</sub> emissions by redirecting exhaust back into the engine’s intake system and mixing it with fresh air, thereby reducing the amount of oxygen in the engine, lowering the combustion temperature and reducing the creation of NO<sub>x</sub>.

50. The other main component of the emission control system is the “after-treatment system,” which treats exhaust gas after it exits the engine. The after-treatment system operates through a process known as “selective catalytic reduction,” whereby an aqueous ammonia solution is injected into the exhaust stream after combustion but prior to emission from the tailpipe of the motor vehicle, to produce a chemical reaction that reduces NO<sub>x</sub> to nitrogen and water. The ammonia solution is known as diesel exhaust fluid, or “DEF.”

51. While both exhaust gas recirculation and after-treatment technologies have emission-related advantages (reducing NO<sub>x</sub> emissions), each also has drawbacks (including reduced fuel economy and increased maintenance) that impose engineering and marketing challenges.

52. As set forth in greater detail below, Mercedes did not lawfully address the engineering trade-offs and challenges posed by the available diesel technology and applicable emission standards. It opted instead to employ defeat device strategies in the Diesel Vehicles to meet design and performance targets.

53. As set forth in greater detail below, Defendants did not lawfully address the engineering trade-offs and challenges posed by the available diesel technology and applicable

emission standards. It opted instead to employ defeat device strategies in the Diesel Vehicles to meet design and performance targets.

**Mercedes Made False and Misleading Certifications to Regulators Concerning the Diesel Vehicles.**

54. Mercedes, either directly or through its predecessors and agents, designed BlueTEC engine systems that it installed in the Diesel Vehicles. Mercedes also conducted emissions testing on the Diesel Vehicles.

55. In designing the Diesel Vehicles for the U.S. market, Mercedes sought to achieve design and performance goals—including increased fuel efficiency and reduced maintenance—that it was unable to meet while complying with applicable NO<sub>x</sub> emission standards.

56. Instead of investing the time and resources needed to meet its design objectives while complying with emission standards, Mercedes implemented multiple undisclosed (or deceptively and incompletely disclosed) AECDs that operated to optimize emission controls during formal emissions tests, but to reduce the effectiveness of these controls off-cycle in real-world driving conditions. As calibrated, these undisclosed AECDs, when used alone or in combination, constituted illegal defeat devices.

57. Specifically, Mercedes employed a “dual dosing” strategy to avoid trade-offs necessary to lawfully control NO<sub>x</sub> emissions. The company programmed the Diesel Vehicles with two modes: in “fill-level mode,” the after-treatment system operated at high capacity with sufficient exhaust fluid dosing to remove NO<sub>x</sub> from the exhaust stream; and in “pre-control mode,” the after-treatment system operated at diminished capacity with low levels of diesel exhaust fluid dosing and resulting excess NO<sub>x</sub> emissions.

58. Through multiple undisclosed AECDs, which acted as defeat devices, the Diesel Vehicles were designed to detect parameters consistent with formal emission test cycles and turn

on the fill-level mode in these conditions—thus appearing to comply with emission standards—while otherwise reverting to pre-control mode, resulting in significant excess NO<sub>x</sub> emissions in real-world driving conditions.

59. By using these defeat devices to revert to pre-control mode in real-world driving conditions, Mercedes avoided trade-offs in vehicle performance and maintenance that can result from proper operation of NO<sub>x</sub> controls—thereby artificially improving vehicle performance in the form of increased torque and fuel economy, and (by reducing diesel exhaust fluid consumption) increasing the service interval for the Diesel Vehicles.

60. To further avoid detection, Mercedes used undisclosed functions in the Diesel Vehicles' on-board diagnostic systems to prevent those systems from notifying vehicle operators and repair technicians (through the check-engine light) of excess NO<sub>x</sub> emissions and other emission control failures that resulted from the defeat devices.

61. In addition to the defeat devices, Mercedes also hid from and/or failed to fully disclose to regulators multiple other AECDs that affected the Diesel Vehicles' emission control systems. These included functions designed to shut down the exhaust gas recirculation system after extended use and to reduce diesel exhaust fluid dosing in the after-treatment system as the Diesel Vehicles aged—again, with the purpose of boosting performance and reducing maintenance.

62. Although these additional undisclosed AECDs might not themselves qualify as “defeat devices” designed to detect the test cycle, these functions worked in concert with the defeat devices and—because they resulted in excess NO<sub>x</sub> emissions—they would not have been approved by regulators if disclosed.

63. Notwithstanding the presence of the defeat devices and other undisclosed AECDs, Mercedes sought and obtained approvals of the Diesel Vehicles under applicable EPA and CARB emission standards by submitting certifications like the ones below:

**S-14: Request for Certificate**

**S-14-01: Request for Certificate**

Mercedes-Benz requests that EPA issues a certificate of conformity and that ARB issues an executive order for the test group listed on the cover page of this application.

The applicable test results are listed in section 07. The test group complies with all applicable regulations contained within 40 CFR Part 86. Production vehicles are in all material respects the same as the certification test vehicles. The application is current as of this date.

64. Mercedes's submissions to EPA and CARB—and, by way of submission to CARB, to DEP—for certification of the Diesel Vehicles did not disclose the Defeat Devices or the other undisclosed AECDs.

65. Further, to obtain EPA and CARB approvals, Mercedes warranted that the Diesel Vehicles were designed, built, and equipped to meet the emission standards in Section 177 States. Mercedes further offered warranties to consumers regarding the Diesel Vehicles' performance and defects, representing that the Diesel Vehicles' emission control systems would operate properly to control emissions.

66. Mercedes knew, or should have known, that these certifications contained false statements or omissions related to the Diesel Vehicles' emissions or AECDs.

67. In 2016, EPA and CARB discovered the Defeat Devices in the Diesel Vehicles through testing conducted at EPA's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, Michigan and at CARB's test laboratory in El Monte, California.

68. On September 14, 2020, EPA, through the U.S. Department of Justice, and the State of California and CARB, through the California Attorney General, filed complaints against Mercedes and simultaneously lodged a consent decree and partial consent decree, respectively, to

address Mercedes's violations of federal and California emission standards. The U.S. District Court for the District of Columbia consolidated the California action with the federal action. On December 17, 2020, EPA filed its motion for an order entering a consent decree. California subsequently filed its motion for an order entering the partial consent decree. Mercedes did not oppose either motion.

69. On March 9, 2021, the U.S. District Court for the District of Columbia granted EPA's and California's motions. As more fully set forth in the US-CA Consent Decree (*United States, et al., v. Mercedes AG, et al.*, No. 1:20-cv-02564 (D.D.C.)) and the California Partial Consent Decree (*People of the State of California v. Mercedes AG, et al.*, No. 1:20-cv-02565 (D.D.C.)), Mercedes has agreed to offer to owners and lessees of the Diesel Vehicles an Approved Emissions Modification that is expected to ensure the Vehicles comply with Clean Air Act and California Health and Safety Code emissions requirements and to offer a comprehensive emissions warranty for the Diesel Vehicles that receive the Approved Emissions Modification; and Mercedes has agreed to engage in Environmental Mitigation Projects to fully mitigate any lifetime excess emissions of oxides of nitrogen ("NOx") from the Diesel Vehicles in the United States;

**Mercedes Deceived Consumers by Marketing the Diesel Vehicles as Environmentally Friendly and the World's Cleanest Diesel Vehicles, Among Other Claims, Even Though the Diesel Vehicles Unlawfully Polluted the Air.**

70. Mercedes's advertisements, promotional campaigns, and public statements represented, among other things, that the Diesel Vehicles had high fuel economy; produced low emissions; reduced NOx by 90%; had lower emissions compared to other diesel vehicles; and had lower emissions compared to gasoline vehicles.

71. Specifically, Mercedes claimed that they offered consumers "the world's cleanest diesel automobiles." Mercedes represented to consumers that its BlueTEC Diesel Vehicles have

“ultra-low emissions,” emitting up to 90% fewer emissions than equivalent gas-powered vehicles. Mercedes further claimed that the BlueTEC Diesel Vehicles convert nitrous oxide emissions into “pure, earth-friendly nitrogen and water.”

72. In its messaging to consumers, Mercedes consistently touted its role in advancing “green” technologies, like BlueTEC Clean Diesel engines.

73. For instance, Mercedes referred to its BlueTEC engine as “[e]arth-friendly, around the world.”

74. A technical description of BlueTEC diesel engines available on the Mercedes-Benz website proclaimed: “BlueTEC—the world’s cleanest diesel engines. Environmentally-friendly technology, without sacrificing performance or driving pleasure.”

75. A 2009 website designed for Mercedes-Benz pictured a 2009 ML320 BlueTEC Clean Diesel driving in the sky through clouds, with the title, “Why you should go BLUE if you want to go green.”

76. In a brochure for a 2016 Sprinter, Mercedes claimed: “Thanks to BlueTEC clean-diesel technology, the Sprinter is one of the greenest vans in the land.”

77. In addition to promoting sales through deceptive advertisements; Mercedes also subjected consumers to additional misrepresentations at the point of sale and beyond.

78. Window stickers affixed to each Diesel Vehicle offered for sale or lease in the United State also displayed average “smog ratings” when, in fact, the Diesel Vehicles NOx ratings far exceeded the applicable standards.



## V. STATUTORY AND REGULATORY FRAMEWORK

### **Pennsylvania's Environmental Laws Require Motor Vehicles to Meet Air Emission Standards and Mandate Substantial Penalties for Violations.**

79. Pursuant to 42 U.S.C. § 7507, Section 177 of the Clean Air Act, Pennsylvania has incorporated into state law and enforces under its sovereign powers automobile emission standards identical to those enacted in California, standards which are generally more stringent than those promulgated by EPA and enforced by the federal government in those states that have not chosen to incorporate and enforce California's standards. As a result, vehicles sold or registered in Pennsylvania must meet these more stringent emission standards, and violations of these emission regulations are violations of Pennsylvania law.

80. At all times relevant to the allegations in this Complaint, Pennsylvania has incorporated the California automobile emission standards, which are found at CCR title 13, §§ 1900 *et seq.*, into Pennsylvania's APCA and regulations promulgated thereunder, known as the Pennsylvania Clean Vehicles Program, at Subchapter D of 25 Pa. Code Ch. 126 Sections 126.401-126.441, promulgated under Section 5 of the Air Pollution Control Act ("APCA"), 35 P.S. § 4005.

81. Pennsylvania, through the APCA Section 5, its implementing regulations, and related provisions of law, has established a comprehensive regulatory scheme designed to prevent the release of pollution to the atmosphere by, among other things, controlling the amount of air contaminants, like NO<sub>x</sub>, that are emitted from motor vehicles. Specifically, in relevant part:

- a. The Pennsylvania Clean Vehicles Program requirements apply to all new passenger cars and light-duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, titled or registered in this Commonwealth starting with the 2008 model year and each model year thereafter. Pa. Code § 126.411(a).

- b. Under the Pennsylvania Clean Vehicles Program, a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new light-duty vehicle, subject to the Pennsylvania Clean Vehicles Program requirements, in this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Cal. Code Regs. Tit. 13, incorporated herein by reference. 25 Pa. Code § 126.412(a).
- c. Under the Pennsylvania Clean Vehicles Program, compliance with the non-methane organic gases (NMOG) and NMOG+NO<sub>x</sub> fleetwide average in Cal. Code Regs. Tit. 13, § 1961 must be demonstrated for each motor vehicle manufacturer based on the number of new light-duty vehicles for sale in this Commonwealth. 25 Pa. Code § 126.412(b).
- d. New motor vehicles subject to the Pennsylvania Clean Vehicles Program must possess a valid emissions control label that meets the requirements of Cal. Code Regs. Tit. 13, Division 3, Chapter 1. 25 Pa. Code § 126.412(e).
- e. Prior to being offered for sale or lease in this Commonwealth, new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements must be certified as meeting the motor vehicle requirements of Cal. Code Regs. Tit. 13, § 1961, as determined by new motor vehicle certification testing in accordance with Cal. Code Regs. Tit. 13, Division 3, Chapter 2 and new motor vehicle compliance testing, conducted in accordance with Cal. Code Regs. Tit. 13, Division 3, Chapter 2. 25 Pa. Code §§ 126.421 and 126.422.

- f. Each manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program requirements, certified by CARB and sold or leased in this Commonwealth, must conduct inspection testing in accordance with Cal. Code Regs. Tit. 13, Division 3, Chapter 2. 25 Pa. Code § 126.423.
- g. For the purposes of determining compliance with the Pennsylvania Clean Vehicles Program, a manufacturer must submit annually to DEP, within 60 days of the end of each model year, a report documenting the total deliveries for sale of vehicles in each test group over that model year in this Commonwealth. 25 Pa. Code § 126.432(a).
- h. For purposes of determining compliance with the Pennsylvania Clean Vehicles Program, a motor vehicle manufacturer must submit annually to the DEP by March 1 of the calendar year following the close of the completed model year, a report of the fleet average NMOG or NMOG+NO<sub>x</sub> emissions of its total deliveries for sale of light-duty vehicles in each test group for Pennsylvania for that particular model year.
- i. The fleet average report, calculating compliance with the fleetwide NMOG or NMOG+NO<sub>x</sub> exhaust emission average, must be prepared according to the procedures in Cal. Code Regs. Tit. 13, Division 3, Chapter 1.
- j. Fleet average report must, at a minimum, identify the total number of vehicles, including offset vehicles, sold in each test group delivered for sale in Pennsylvania, the specific vehicle models comprising the sales in each state and the corresponding certification standards, and the percentage of

each model sold in Pennsylvania in relation to total fleet sales. 25 Pa. Code § 126.432(b) and (c).

- k. A manufacturer of new motor vehicles subject to the Pennsylvania Clean Vehicles Program is required to warrant to each owner of a vehicle that each vehicle will comply with the requirements of Cal. Code Regs. Tit. 13, Div. 3, Ch. 1, §§ 2035-2038, 2040 and 2041.

82. APCA Sections 4, 9 and 13.6, 35 P.S. §§ 4004, 4009 and 4013.6, authorize Pennsylvania to require injunctive relief and to collect civil penalties for violations of Pennsylvania's air pollution regulations.

83. Pursuant to section 9.2(a) of the APCA, 35 P.S. § 4009.2(a), all fines, civil penalties and fees collected under this act shall be paid into the Treasury of the Commonwealth in a special fund known as the Clean Air Fund, which, along with interest earned, shall be administered by the DEP for use in the elimination of air pollution.

**Pennsylvania's Consumer Protection Law prohibits "unfair methods of competition" and "unfair or deceptive acts or practices" 73 P.S. §§ 201-1 *et seq.***

84. The Consumer Protection Law authorizes the Attorney General to bring an action in the name of the Commonwealth of Pennsylvania to restrain by temporary or permanent injunction unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce.

85. Section 201-3 of the Consumer Protection Law makes it unlawful for any person, broadly defined, to conduct unfair methods of competition or unfair or deceptive acts or practices, as further defined by subclauses (i) through (xxi) of Section 201-2(4), in the conduct of any trade or commerce. 73 P.S. § 201-3.

86. “Trade” or “commerce” includes, in pertinent part, “the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed . . . and includes trade or commerce directly or indirectly affecting the people of this Commonwealth.” 73 P.S. § 201-2(3).

87. The following acts and practices constitute “unfair methods of competition” or “unfair or deceptive acts or practices” as prohibited by Section 201-3 of the Consumer Protection Law, including, without limitation:

- a. Causing likelihood of confusion, or of misunderstanding as to the source, sponsorship, approval or certification of goods or services, in violation of 73 P.S. § 201-2(4)(ii);
- b. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, in violation of 73 P.S. § 201-2(4)(iii);
- c. Representing that goods or services have sponsorship, approval, characteristics, ingredients, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have;
- d. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have, in violation of 73 P.S. § 201-2(4)(vii);
- e. Advertising goods or services with intent not to sell them as advertised, in violation of 73 P.S. § 201-2(4)(ix); and

- f. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding, in violation of 73 P.S. § 201-2(4)(xxi).

88. Section 201-8(b) of the Consumer Protection Law provides for civil penalties up to \$1,000 per violation of the Consumer Protection Law, or, if the victim is sixty years of age or older, the civil penalty shall not exceed \$3,000 per violation, in addition to the other relief which may be granted. 73 P.S. § 201-8(b).

**Pennsylvania's Vehicle Code Prohibits the Disabling, Changing, or Altering of the Emission Control System in a Vehicle.**

89. Pursuant to 75 Pa. C.S. § 4702, motor vehicles in Pennsylvania must be inspected annually for safety and for air emissions compliance.

90. Pennsylvania's Vehicle Code prohibits any person, broadly defined as any nature person, firm, co-partnership, association or corporation, from disabling, changing or altering the emission control system of a vehicle. 75 Pa. C.S. § 4531(b).

91. Additionally, no person shall knowingly sell a vehicle whose emission control system has been disabled, changed, or altered from its original design specifications. 75 Pa. C.S. § 4531(c).

92. It is unlawful for any person to sell, offer for sale, lease, install or replace, either separately or as part of the equipment of a vehicle which does not comply with the Vehicle Code or regulations promulgated thereunder, or which does not comply with an applicable Federal motor vehicle safety standard adopted by PennDOT's regulations 75 Pa. C.S. § 4107(a)(1).

93. Section 4107(a)(2) of the Vehicle Code provides for civil penalties of \$100 per violation of Section 4107(a)(1), with each violation constituting a separate violation with respect to each motor vehicle or item of motor vehicle equipment, except that the maximum civil penalty

shall not exceed \$10,000.00 for any related series of violations. It is unlawful for any person to “willfully or intentionally remove, other than for purposes of repair and replacement, or render inoperative, in whole or in part, any item of vehicle equipment which was required to be installed at the time of manufacture or thereafter upon any vehicle, by any law, rule, regulation or requirement of any officer or agency of the United States or of the Commonwealth, if it is intended that the vehicle be operated upon the highways of this Commonwealth unless the removal or alteration is specifically permitted by this title or by regulations promulgated by” PennDOT. 75 Pa. C.S. § 4107(b)(1).

94. It is unlawful for any person to “cause or permit another person to operate, on any highway in this Commonwealth any vehicle or combination which is not equipped as required under this part [IV of the Vehicle Code] . . . .” 75 Pa.C.S. § 4107(b)(2).

95. It is unlawful for any person to do any act forbidden by Part IV of the Vehicle Code or fail to perform any act required thereunder. 75 Pa.C.S. § 4107(b)(3).

96. Section 1904(a) of the Vehicle Code, 75 Pa. C.S. § 1904(a), states that all fines, civil penalties and fees collected in connection with the administration of the Vehicle Code shall be paid into the Treasury of the Commonwealth of Pennsylvania for deposit into the Motor License Fund.

## **VI. CAUSES OF ACTION**

### **COUNT I**

#### **VIOLATIONS OF PENNSYLVANIA CLEAN VEHICLES PROGRAM REGULATIONS’ EMISSION STANDARDS AND ON-BOARD DIAGNOSTIC REQUIREMENTS (Against All Defendants)**

97. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.



98. Pursuant to 25 Pa. Code § 126.412(a), a person may not sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a new light-duty vehicle subject to the Pennsylvania Clean Vehicles Program requirements in this Commonwealth of Pennsylvania that has not received a CARB Executive Order for all applicable requirements of Cal. Code Regs. Tit. 13, incorporated herein by reference.

99. For the Diesel Vehicles, Mercedes's certifications were based on CARB Executive Orders certifying the vehicles' compliance with California Emission Regulations. However, those Executive Orders were not valid because, as set forth more fully above, they were based on certification documents in which Mercedes failed to disclosed the existence of the Defeat Devices and other AECD technology, and further failed to disclose that the Defeat Devices acted, alone or in combination, as illegal defeat devices in violation of 25 Pa. Code § 126.412(a).

100. Mercedes sold, registered, offered for sale or lease, imported, delivered, purchased, rented, leased, acquired, or received in the Commonwealth of Pennsylvania the Diesel Vehicles, which exceeded the applicable emission limitations for NO<sub>x</sub> by up to dozens of times, in violation of 25 Pa. Code § 126.412(a).

101. Mercedes sold, registered, offered for sale or lease, imported, delivered, purchased, rented, leased, acquired, or received in the Commonwealth of Pennsylvania the Diesel Vehicles, which contained the Defeat Devices that obviated the intended purpose of the on-board diagnostics in violation of the various requirements for the functioning of the diagnostic systems on passenger vehicles as set forth in 13 CCR §§ 1968.1 and 1968.2, in violation of 25 Pa. Code § 126.412(a).

102. Each violation of 25 Pa. Code § 126.412(a) constitutes a separate offense with respect to each Diesel Vehicle in Pennsylvania.

103. Each day of continued violation and each violation of any provision of the Air Pollution Control Act, any rule or regulation adopted under the Air Pollution Control Act or any DEP order issued pursuant to the Air Pollution Control Act, including 25 Pa. Code §126.412(a), shall constitute a separate offense and violation. 35 P.S. § 4009.3.

104. Mercedes' Diesel Vehicles with invalidly obtained CARB Executive Orders continue to be driven in the Commonwealth and as a result of being delivered, imported, sold, or leased have caused, and continue to cause, substantial environmental harm and dangerous effects to the health and well-being of humans, animals and vegetation.

## **COUNT II**

### **VIOLATIONS OF PENNSYLVANIA AIR RESOURCES REGULATION – CIRCUMVENTION (Against All Defendants)**

105. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.

106. As stated above, Defendants, by creating and providing defeat devices for the emissions control systems of the Diesel Vehicles, helped use a device or technique which, without resulting in the reduction of the total amount of air contaminants emitted, concealed the emission of air contaminants from the Diesel Vehicles, which would otherwise be in violation of the Pennsylvania Air Resources Regulations.

107. By creating and providing defeat devices on the emissions control systems of the Diesel Vehicles, and thereby using a device or technique which, without resulting in the reduction of the total amount of air contaminants emitted, concealed the emission of air contaminants from the Diesel Vehicles that would otherwise be in violation of the Pennsylvania Air Resources Regulations, Defendants violated 25 Pa. Code § 121.9.

108. Each violation of 25 Pa. Code § 121.9 constitutes a separate offense with respect to each new motor vehicle with defeat device technology.

109. Each day of continued violation and each violation of any provision of the Air Pollution Control Act, any rule or regulation adopted under the Air Pollution Control Act or any DEP order issued pursuant to the Air Pollution Control Act, including 25 Pa. Code § 121.9, shall constitute a separate offense and violation. 35 P.S. § 4009.3.

110. Defendants' defeat device technology continues to remain in the Commonwealth and as a result of being delivered, imported, sold, or leased have caused, and continue to cause, substantial environmental harm and dangerous effects to the health and well-being of humans, animals and vegetation.

### **COUNT III**

#### **VIOLATIONS OF PENNSYLVANIA CLEAN VEHICLES PROGRAM REGULATIONS' ENVIRONMENTAL PERFORMANCE LABEL REQUIREMENTS (Against All Defendants)**

111. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.

112. Pursuant to 25 Pa. Code § 126.412(e), it is unlawful for any person to sell, import, deliver, purchase, lease, rent, acquire, receive, title or register a 2008 or subsequent model year passenger car in the Commonwealth of Pennsylvania unless it possesses a valid emissions control label that meets the requirements of Cal. Code Regs. Tit. 13, Division 3, Chapter 1.

113. By producing cars for certification that contained undisclosed AECDs, including the Defeat Devices which were designed to render inoperative or otherwise alter the emission control system in the Diesel Vehicles, Mercedes invalidly obtained environmental performance labels pursuant to 13 CCR § 1965.

114. Accordingly, each Diesel Vehicle was sold, imported, delivered, purchased, leased, rented, acquired, received, titled or registered in the Commonwealth of Pennsylvania without a valid environmental performance label, in violation of 25 Pa. Code § 126.412(e).

115. Each violation of 25 Pa. Code § 126.412(e) constitutes a separate offense with respect to each new motor vehicle.

116. Each day of continued violation and each violation of any provision of the Air Pollution Control Act, any rule or regulation adopted under the Air Pollution Control Act or any DEP order issued pursuant to the Air Pollution Control Act, including 25 Pa. Code § 126.412(e), shall constitute a separate offense and violation. 35 P.S. § 4009.3.

117. Defendants' Diesel Vehicles with invalid emissions control labels continue to remain in the Commonwealth and as a result of being delivered, imported, sold, or leased has caused, and continue to cause, substantial environmental harm and dangerous effects to the health and well-being of humans, animals and vegetation.

#### **COUNT IV**

#### **VIOLATIONS OF PENNSYLVANIA VEHICLE CODE'S PROHIBITION OF DEFEAT DEVICES (Against All Defendants)**

118. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.

119. Pursuant to Section 4531(b) of the Vehicle Code, no person shall disable, change or alter the emission control system of a vehicle. 75 Pa. C.S. § 4531(b).

120. Pursuant to Section 4531(c) of the Vehicle Code, no person shall knowingly sell a vehicle whose emission control system has been disabled, changed or altered from its original

design specifications, except for in-kind replacement of system components and added components which are designed to improve emissions. 75 Pa. C.S. § 4531(c).

121. Pursuant to Section 4107(a) of the Vehicle Code, it is unlawful for any person to sell, offer for sale, lease, install or replace, either separately or as part of the equipment of a vehicle, any item of vehicle equipment affecting the operation of the vehicle which does not comply with this title or regulations promulgated thereunder, or which does not comply with an applicable Federal motor vehicle safety standard adopted by PennDOT's regulations. 75 Pa. C.S. § 4107(a)(1).

122. Pursuant to Section 4107(b)(1) of the Vehicle, it is unlawful for any person to willfully or intentionally remove (other than for purposes of repair and replacement) or render inoperative, in whole or in part, any item of vehicle equipment which was required to be installed at the time of manufacture or thereafter upon any vehicle, by any law, rule, regulation or requirement of any officer or agency of the United States or of the Commonwealth, if it is intended that the vehicle be operated upon the highways of this Commonwealth unless the removal or alteration is specifically permitted by the Vehicle Code or PennDOT regulations. 75 Pa. C.S. § 4107(b)(1).

123. Pursuant to Section 4107(b)(2) of the Vehicle Code, it is unlawful for any person to cause or permit another person to operate, on any highway in this Commonwealth any vehicle which is not equipped as required under Part IV of the Vehicle Code. 75 Pa. C.S. § 4107(b)(2).

124. Pursuant to Section 4107(b)(3) of the Vehicle Code, it is unlawful for any person to do any act forbidden by Part IV of the Vehicle Code or fail to perform any act required thereunder. 75 Pa. C.S. § 4107(b)(3).

125. Section 4107(a)(2) of the Vehicle Code provides for civil penalties of \$100 per violation of Section 4107(a)(1), with each violation constituting a separate violation with respect to each motor vehicle or item of motor vehicle equipment, except that the maximum civil penalty shall not exceed \$10,000.00 for any related series of violations. It is unlawful for any person to “willfully or intentionally remove, other than for purposes of repair and replacement, or render inoperative, in whole or in part, any item of vehicle equipment which was required to be installed at the time of manufacture or thereafter upon any vehicle, by any law, rule, regulation or requirement of any officer or agency of the United States or of the Commonwealth, if it is intended that the vehicle be operated upon the highways of this Commonwealth unless the removal or alteration is specifically permitted by this title or by regulations promulgated by” PennDOT. 75 Pa. C.S. § 4107(b)(1).

126. By installing and using on each of the Diesel Vehicles multiple AECDs that were not disclosed to regulators and which, alone or in combination, acted as defeat devices that caused the emission control system of each vehicle to be disabled, changed, or altered, Mercedes violated, or caused or allowed the violation of Sections 4107 and 4531 of the Vehicle Code with respect to each of the Diesel Vehicles. 75 Pa.C.S. §§ 4107 and 4531.

127. Said conduct is willful and is unlawful.

#### **COUNT V**

#### **VIOLATIONS OF PENNSYLVANIA AIR POLLUTION CONTROL ACT AND ITS IMPLEMENTING REGULATIONS PROHIBITING EMISSIONS THAT UNREASONABLY INTERFERE WITH THE COMFORTABLE ENJOYMENT OF LIFE OR PROPERTY (Against All Defendants)**

128. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.

129. By offering for sale or lease in the Commonwealth of Pennsylvania the Diesel Vehicles that emit NO<sub>x</sub> in excess of state emission standards, Mercedes has caused or allowed emissions of air pollution in a “manner or concentration inimical or which may be inimical to public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property” throughout Pennsylvania, in violation of 25 Pa. Code §§ 126.401-531.

130. Excess NO<sub>x</sub>, ozone, and particulate matter are present throughout the Commonwealth of Pennsylvania as a result of Mercedes’s actions and illegal and harmful pollution continues to be emitted into the Commonwealth of Pennsylvania’s environment from the Diesel Vehicles. NO<sub>x</sub> in the atmosphere can lead to the formation of ozone and particulate matter, which are serious problems in the Commonwealth of Pennsylvania and harmful to its residents’ health. Areas of the Commonwealth of Pennsylvania, including the Allegheny County area, are classified as nonattainment areas for the national ambient air quality standards for ozone.

131. As a direct and proximate result of Mercedes’s conduct, excess NO<sub>x</sub>, ozone, and particulate matter are present throughout the Commonwealth of Pennsylvania, and are continuing to be emitted into the environment.

132. As a direct and proximate result of Mercedes’s conduct, large numbers of people throughout the Commonwealth of Pennsylvania have been exposed and/or will continue to be exposed to excess NO<sub>x</sub>, ozone, and particulate matter, thereby affecting the health, safety and welfare of each person.



## **COUNT VI**

### **VIOLATIONS OF THE PENNSYLVANIA CONSUMER PROTECTION LAW (Against All Defendants)**

133. The Commonwealth repeats and re-alleges the allegations in the foregoing paragraphs as if fully set forth herein.

134. At all relevant times, both Defendants have been persons engaged in business, trade or commerce in the Commonwealth of Pennsylvania within the meaning of the Consumer Protection Law 73 P.S. § 201-2(3) and § 201-2(4).

135. Mercedes engaged in deceptive acts or practices by, without limitation:

- a. Manufacturing and/or installing certain AECDs in the Diesel Vehicles that were not disclosed to regulators and which, alone or in combination, acted as defeat devices, rendering those vehicles non-conforming with applicable emission standards;
- b. Misrepresenting and/or falsely certifying and warranting the Diesel Vehicles' compliance with applicable emission standards;
- c. Placing into commerce vehicles that failed to comply with applicable emission standards;
- d. Failing to disclose and/or actively concealing from environmental regulators the existence of the Defeat Devices and their harmful environmental impact;
- e. Failing to disclose and/or actively concealing from consumers the existence of the Defeat Devices and their harmful environmental impact;
- f. Violating the explicit terms of an express warranty issued to each buyer and lessor of a Diesel Vehicle, namely, the express warranty that the car

conformed to applicable state and federal emission standards and other applicable environmental standards;

- g. Selling and offering for sale vehicles that were defective because, without limitation, the vehicles failed to conform to applicable state and federal emission standards;
- h. Falsely and deceptively advertising, promoting and warranting the Diesel Vehicles as environmentally friendly and compliant with emission standards despite the fact that, in regular driving, they emit NO<sub>x</sub> at many multiples the allowable amounts; and
- i. Falsely, misleadingly, and/or deceptively advertising, promoting, and warranting the Diesel Vehicles by failing to disclose that certain performance measures could only be met when the Defeat Devices were operating.

136. The aforesaid acts and practices constitute unfair methods of competition and/or unfair or deceptive acts or practices as prohibited by Section 201-3 of the Consumer Protection Law, as defined by Section 201-2 of said Law, including without limitation:

- a. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services, in violation of Section 201-2(4)(ii) of the Consumer Protection Law, 73 P.S. § 201-2(4)(ii);
- b. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another, in violation of

Section 201-2(4)(iii) of the Consumer Protection Law, 73 P.S. § 201-2(4)(iii);

- c. Representing that goods or services have a sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have, in violation of Section 201-2(4)(v) of the Consumer Protection Law, 73 P.S. § 201-2(4)(v);
- d. Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another, in violation of Section 201-2(4)(vii) of the Consumer Protection Law, 73 P.S. § 201-2(4)(vii);
- e. Advertising goods or services with intent not to sell them as advertised, in violation of Section 201-2(4)(ix) of the Consumer Protection Law, 73 P.S. § 201-2(4)(xiv);
- f. Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made, in violation of Section 201-2(4)(xiv) of the Consumer Protection Law, 73 P.S. § 201-2(4)(xiv); and
- g. Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding, in violation of Section 201-2(4)(xxi) of the Consumer Protection Law, 73 P.S. § 201-2(4)(xxi).

137. The above-described conduct has been willful and is unlawful under Section 201-3 of the Consumer Protection Law, 73 P.S. § 201-3.

138. Mercedes's conduct has significantly harmed consumers in the Commonwealth of Pennsylvania, who did not receive the benefit of their bargain and who unwittingly bought and drove cars that violated the law and contributed to environmental harm notwithstanding that those consumers believed they had purchased or leased an environmentally-friendly car.

139. The Commonwealth believes that the citizens of the Commonwealth are suffering and will continue to suffer unless the acts and practices complained of herein are permanently enjoined.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Commonwealth of Pennsylvania requests that this Court grant the following relief:

- A.** Enter an order declaring Defendants' conduct as described in the Complaint to be in violation of the Consumer Protection Law, the APCA and its implementing regulations, and the Vehicle Code;
- B.** Pursuant to Sections 9.1 and 13.6(b) of the APCA, 35 P.S. §§ 4009.1 and 4013.6(b), enter an order requiring the Defendants, individually, as well as jointly and severally, to pay a civil penalty of up to \$25,000 per day per violation for violations of 35 P.S. § 4008 and 25 Pa. Code §§ 121.7, 121.9;
- C.** Pursuant to Section 4107(a)(2) of the Vehicle Code, 75 Pa.C.S. § 4107(a)(2), enter an order requiring Defendants, individually, as well as jointly and severally, to pay a civil penalty of \$100 per day for each violation of Section 4107(a)(1) of the Vehicle Code, 75 Pa.C.S. § 4107(a)(1), up to a maximum of \$10,000 for any related series of violations;

- D.** Pursuant to Section 13.6 APCA, 35 P.S. § 4013.6, and Section 201-4 of the Consumer Protection Law, 73 P.S. § 201-4, enter an order permanently enjoining Mercedes from:
- i.** Selling, offering for sale, introducing into commerce, or delivering for introduction into commerce into the Commonwealth of Pennsylvania any new motor vehicle equipped with an undisclosed AECD or defeat device or any new motor vehicle not eligible for sale pursuant to emission and environmental standards in the Commonwealth of Pennsylvania;
  - ii.** Bypassing, defeating, or rendering inoperative any device or element of design installed on or in a new motor vehicle in compliance with emission and environmental standards in the Commonwealth of Pennsylvania; and
  - iii.** Submitting or causing to be submitted false or misleading certifications to DEP;
- E.** Pursuant to Sections 9 and 13.6 of the APCA , 35 P.S. §§ 4009 and 4013.6, enter an order requiring Mercedes to abate and mitigate the Diesel Vehicles' emissions of NO<sub>x</sub> emitted in excess of applicable emission standards;
- F.** Pursuant to Section 201-8(b) of the Consumer Protection Law, enter an order requiring Defendants, individually, as well as jointly and severally, to pay civil penalties in the amount of one thousand dollars (\$1,000.00) for each and every violation of the Consumer Protection Law, which will increase to three thousand dollars (\$3,000.00) for each violation involving a victim age sixty (60) or older;
- G.** Enter an order providing appropriate relief under Section 201-4.1 of the Consumer Protection Law, 73 P.S. § 201-4.1, to Pennsylvania consumers who purchased,

leased, or otherwise own a Diesel Vehicle sold or leased by Mercedes, that requires Mercedes to:

- i. Provide adequate and appropriate restitution and/or rescission;
  - ii. Promptly recall and repair Diesel Vehicles in the Commonwealth of Pennsylvania in a manner that removes or permanently disables any defeat device, ensures compliance with all applicable emissions standards, and maintains the performance and fuel efficiency of the vehicle consistent with Mercedes's representations at the time of the vehicle's original sale or lease; and
  - iii. Provide a warranty, for the life of the subject vehicle or lease, that it will conform to all applicable emission standards;
- H.** Pursuant to Section 201-4 of the Consumer Protection Law, 73 P.S. § 201-4, enter an order prohibiting Mercedes from engaging in deceptive or misleading statements, representations, omissions or other marketing or promotion of its vehicles, including their environmental friendliness, benefits or advantages or their compliance with applicable emissions standards or other environmental standards or requirements;
- I.** Award the Commonwealth costs of its investigation and prosecution of this action; and
- J.** Grant such additional and further relief as the Court deems appropriate and just.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

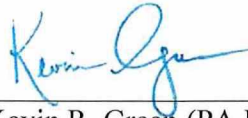
Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL

DAVID W. SUNDAY, JR.  
ATTORNEY GENERAL

Date: 12/22/2025

By:



Kevin R. Green (PA ID No. 321643)  
Senior Deputy Attorney General  
Office of Attorney General  
1251 Waterfront Place  
Mezzanine Level  
Pittsburgh, PA 15222  
Fax: 412-880-0196  
Phone: 412-235-9078  
Email: [kgreen@attorneygeneral.gov](mailto:kgreen@attorneygeneral.gov)  
*For the Plaintiff*

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

Date: 12-19-2025

By:



Michael A. Braymer  
Chief Legal Counsel  
Department of Environmental Protection  
Governor's Office of General Counsel  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, PA 17101  
Phone: 814-332-6077  
Email: mbraymer@pa.gov

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**



COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

Date: 12/19/2025

By: \_\_\_\_\_



Jeffrey M. Spotts  
Chief Counsel  
Governor's Office of General Counsel  
Department of Transportation  
Office of Chief Counsel  
400 North Street, P.O. Box 8212  
Harrisburg, PA 17105-8212  
Phone: 717.787.5473  
Email: [jespotts@pa.gov](mailto:jespotts@pa.gov)

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
By ATTORNEY GENERAL  
DAVID W. SUNDAY, JR., *et al.*,

*Plaintiffs,*

v.

MERCEDES-BENZ USA, LLC, *et al.*,

*Defendants.*

CIVIL DIVISION

Code 020 – Equity

Case No. GD-25-013614

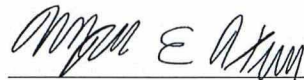
**VERIFICATION**

I, Megan Herr, hereby state that I am a Consumer Protection Agent for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection, Pittsburgh Regional Office, and I am authorized to make this verification on behalf of the Plaintiff in the within action. I hereby verify that the facts set forth in the foregoing *Complaint* are true and correct to the best of my knowledge or information and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

Date: 12/19/2025

By:



Megan Herr  
Consumer Protection Agent

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA  
By ATTORNEY GENERAL  
DAVID W. SUNDAY, JR., *et al.*,

*Plaintiffs,*

v.

MERCEDES-BENZ USA, LLC, *et al.*,

*Defendants.*

CIVIL DIVISION

Code 020 – Equity

Case No. GD-25-013614

**CERTIFICATE OF COMPLIANCE**

I, Kevin R. Green, Esq., hereby certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL

DAVID W. SUNDAY, JR.  
ATTORNEY GENERAL

Date: 12/22/2025

By:

  
Kevin R. Green (PA ID No. 321643)  
Senior Deputy Attorney General  
Office of Attorney General  
1251 Waterfront Place  
Mezzanine Level  
Pittsburgh, PA 15222  
Fax: 412-880-0196  
Phone: 412-235-9078  
Email: [kgreen@attorneygeneral.gov](mailto:kgreen@attorneygeneral.gov)

# Supreme Court of Pennsylvania

## Court of Common Pleas Civil Cover Sheet

ALLEGHENY

County

For Prothonotary Use Only:

Docket No:

TIME STAMP

*The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.*

SECTION A

### Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:  
Commonwealth of PA, by AG David W. Sunday, Jr.

Lead Defendant's Name:  
Mercedes-Benz USA, LLC

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits  
(check one) ☒ outside arbitration limits

Is this a *Class Action Suit*? ☐ Yes ☒ No

Is this an *MDJ Appeal*? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Kevin Ryan Green, Senior Deputy Attorney General (PA ID No. 321643)

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

### TORT (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### MASS TORT

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### PROFESSIONAL LIABILITY

- ☐ Dental  
☐ Legal  
☐ Medical  
☐ Other Professional:  
\_\_\_\_\_  
\_\_\_\_\_

### CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
\_\_\_\_\_  
☐ Employment Dispute:  
Discrimination  
☐ Employment Dispute: Other  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### REAL PROPERTY

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### CIVIL APPEALS

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
\_\_\_\_\_  
\_\_\_\_\_

☐ Zoning Board

☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations  
Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☒ Other:  
Equity- Brought by PA under  
UTPCPL 73 PS 201-1 et seq