

Neutral Citation Number: [2024] EWHC 1271 (KB)

Case No: QB-2022-002405

**IN THE HIGH COURT OF JUSTICE**  
**OF ENGLAND AND WALES**  
**KING'S BENCH DIVISION**  
**COMMERCIAL COURT**

Royal Courts of Justice, Rolls Building  
Fetter Lane, London, EC4A 1NL

Date: 1 May 2024

**Before :**

**Mrs Justice Cockerill**

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**Between :**

**Pan NOx Emissions Litigations**

**Claimant**

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**Adam Kramer KC and Kate Boakes (instructed by Leigh Day and Pogust Goodhead) for  
the Claimants**

**Toby Riley-Smith KC and David Myhill (instructed by Signature Litigation LLP) for the  
Renault Defendants**

**Maya Lester KC and Paul Wright (instructed by Kennedys Law LLP) for the PCD  
Defendants**

Hearing dates: 1<sup>st</sup> May 2024

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**APPROVED RULING**

**Mrs Justice Cockerill**  
**(10:25 am)**

**Wednesday, 1 May 2024**

**Ruling by MRS JUSTICE COCKERILL**

1. I regard this as thoroughly undesirable that this has happened, and I have a lot of scepticism about the argument that as currently constituted Monsieur de Navacelle's proposed expert report does not overlap or duplicate; however, I am going to allow it to go in, contrary to Mr Kramer's very thorough and persuasive submissions, essentially for this reason. This is a case where the original expert reports were put in on the part of Renault and Peugeot before we had the order for the French Blocking Statute hearing. Now, admittedly the French Blocking Statute hearing was always likely to happen, but things have moved on. It is not quite as simple as the matter having always been scheduled in this way.
2. This is obviously a point of great importance to the parties in, as Mr Riley-Smith says, high-value group litigation, and the stakes are high in terms of criminal sanctions. It is important for the Defendants that they are able to put their best foot forward. Having reflected, doubtless carefully, on this -- because this is not a course of action that I am sure anybody would lightly take at this stage in the game -- Renault have decided that in order put their best foot forward they need somebody to respond in relation to those passages of the Claimants' experts' reports which deal with the French Blocking Statute issues, in particular risk of prosecution, from the point of view of the practitioner, or from giving the perspective of the practitioner. It is entirely possible -- and it is a risk I am not prepared to take that it would not happen -- that in considering those arguments the court would want to know exactly what the practitioner aspect is on the other side. So, to that extent I can see that some of this evidence will assist the court; some of it may, depending on the way the argument goes, be reasonably required to determine the issue.
3. So, I am going to let it in; however, I am, as I say, troubled by the overlap, I'm troubled by a section which appears to me to not be responsive. I am going to say that Renault are going to have to

decide which hat they are going to wear in terms of particular points, and identify the points which are said to be points which are responsive to the evidence of the Claimants' expert witnesses which have a practitioner element and identify the practitioner element. I do not want two versions of the academic analysis. I'm going to direct that Renault goes back to the draft report and identifies those.

4. Mr Kramer must not be left in the position of scratching his head and trying to work out which bits he has to cross-examine on. So that will go into the order.
5. And there will be costs implications, because we should not -- you know, there is going to be more work, there is going to be whole sections of this report which are going to have to be gone over and said "*We don't actually need that*" and so forth. As I said at the outset of this hearing really this is something really which ought to have been thought about earlier.