

PELS RIJCKEN

District Court of the Northern Netherlands

Hearing of 21 February 2024

Case/roll number C/17/190788 / HA ZA 2023-172

**Interlocutory submission raising
a plea of lack of jurisdiction**

concerning

William Henry Gates III

residing in Medina (United States of America),

**claimant in the interlocutory proceedings, defendant
No. 15 in the main proceedings,**

represented by: W. Heemskerk, LL.B., of The Hague,

against:

1. [REDACTED] residing in Sneek,
the
municipality of Súdwest-Fryslân,
[REDACTED], residing at

Sneek, Municipality of Súdwest-Fryslân,

3. [REDACTED], residing at
Sneek, municipality of Súdwest-Fryslân,

[REDACTED] residing in

Doetinchem,

[REDACTED], residing at

Doetinchem,

[REDACTED], having previously resided in

Zaandam, municipality of Zaanstad,

[REDACTED], residing in

Leeuwarden,

**defendants in the interlocutory proceedings, claimants
in the main proceedings,**

lawyer: Mr A.G.W. van Kessel of Leeuwarden.

1 INTRODUCTION

- 1.1 By writ of summons dated 14 July 2023 (**'the Writ of Summons'**), the claimants (**'■ et al.'**) have summoned Mr William Henry Gates III (**'Gates'**) to appear before this court. In addition to Gates, ■ et al. have also summoned sixteen other parties: fifteen natural persons and one legal entity – the State of the Netherlands.
- 1.2 In short, **[REDACTED]** et al. allege that Gates and the other defendants, both as a group and individually, acted unlawfully towards **[REDACTED]** et al. This unlawful conduct is alleged to consist of Gates and the other defendants having deliberately misled **[REDACTED]** et al., thereby inducing them to receive Covid-19 injections which the defendants knew, or at least ought to have known, were not safe and effective. **[REDACTED]** et al. seek, in the main action, a declaration to that effect, and an order requiring Gates and the other defendants to compensate **[REDACTED]** et al. for the damages, the amount of which is to be determined at a later stage. _____
- 1.3 In this submission, Gates contests the jurisdiction of your court to rule on the claims brought by ■ et al. against Gates. This defence is raised as a preliminary objection pursuant to Article 11 of the Code of Civil Procedure (**"Rv"**).
- 1.4 In view of the nature of this preliminary objection to jurisdiction, Gates will not (and need not) respond to all the allegations in the writ of summons. However, this does not mean that Gates acknowledges any allegation made by ■ et al. that is not discussed or refuted in this statement of defence. Gates expressly reserves the right to raise other (formal and substantive) defences, if and in so far as your court were (nevertheless) to consider itself competent.

2 FRAMEWORK FOR ASSESSING JURISDICTION

- 2.1 With regard to the claims against Gates, your court will have to assess its international jurisdiction on the basis of the general Dutch rules on jurisdiction (the Code of Civil Procedure). In applying these rules, the starting point must be to align with the jurisdiction framework set out in Regulation No 1215/2012¹ (Brussels I-bis).

3 NO JURISDICTION ON THE BASIS OF THE GENERAL RULE OF 'FORUM REI'

- 3.1 The general rule under Dutch law on jurisdiction is that a party must be sued before the court of its so-called 'home country', the *forum rei* (Article 2 of the Code of Civil Procedure). It is established

¹ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

that Gates is not resident in the Netherlands. This means that your court cannot derive jurisdiction from the general rule of the law of jurisdiction.

4 NO OTHER BASIS FOR JURISDICTION HAS BEEN ESTABLISHED

- 4.1 [REDACTED] et al. also fail to state in the writ of summons why your court – by way of exception – might nevertheless have jurisdiction. [REDACTED] et al. make no mention whatsoever of the international law of jurisdiction.
- 4.2 [REDACTED] et al. merely state that one defendant, Defendant 1: Mr Everhardus Ite Hofstra (“**Hofstra**”), is resident within the district of your court.² Your court therefore has jurisdiction over the claims against Hofstra (Article 99 of the Code of Civil Procedure). According to [REDACTED] et al., the claims against the other defendants, apparently including Gates, are so closely connected that your court would also have jurisdiction over all the other defendants (Article 107 of the Code of Civil Procedure).³
- 4.3 However, [REDACTED] et al. do not allege any facts or circumstances from which such a close connection might follow. Gates therefore disputes that the claims against him and Hofstra are so interrelated as to justify their joint hearing. Furthermore, [REDACTED] et al. overlook the fact that Articles 99 and 107 of the Code of Civil Procedure merely govern the *relative* jurisdiction of your court. *International* jurisdiction cannot be derived from these provisions.
- 4.4 In the absence of any other grounds established for this purpose, Gates therefore contests the international jurisdiction of your court.

5 POSITION OF PLAINTIFF NO. 6

- 5.1 Following the death of the claimant referred to in point 6 ([REDACTED]) in October 2023, these proceedings were stayed with effect from 10 January 2024 pursuant to Article 225(1)(a) of the Code of Civil Procedure,⁴ but exclusively between Claimant 6 and the Defendants.
- 5.2 Nevertheless, Gates has also listed Claimant No. 6 on the cover page of this interlocutory submission. After all, should the (part) proceedings be resumed by the heirs of Claimant No. 6, it may be agreed that this submission may also be regarded as having been made in relation to them, which is preferable to repetition.⁵

² Summons, No. 297, pp. 62–63.

³ Summons, Nos. 296–297, pp. 62–63.

⁴ See the deed of [REDACTED] et al. dated 22 November 2023, No. 1, p. 3.

⁵ As stated by J.H. van Dam-Lely and N. Mirzajan, in: *T&C Civil Procedure*, Article 225 of the Code of Civil Procedure, note 4.b., p. 626.

6 CONCLUSION

On the basis of the foregoing, Gates submits that this Court may be pleased to rule, by judgment, to the extent possible enforceable provisionally:

- i. declare that, in respect of Gates, it lacks jurisdiction to hear the claims brought by the plaintiffs and others;
- ii. to order the plaintiffs and others to pay the costs of this interlocutory proceedings, on the understanding that statutory interest shall be payable on that order for costs from the fifteenth day following the date of the judgment to be delivered in this matter;
- iii. to order [REDACTED] and others to pay the subsequent costs, estimated at EUR 173 in accordance with the liquidation rate or, in the event of service of process, EUR 271.


Solicitor

handled by
Correspondence
telephone
Email
case no.

W. Heemskerk and P.F.B. Mulder
PO Box 11756, 2502 AT The Hague
+31 70 515 3847
willem.heemskerk@pelsrijcken.nl
11020837