

# EXHIBIT 1.F

# ECLI:NL:RBNNE:2021:341

Judicial authority District Court of Noord-Nederland  
Date of judgment January 27, 2021  
Date of publication February 9, 2021  
Case No. C/18/197261 / HA ZA 20-28  
Areas of law Civil law  
Specific features First instance – three-judge panel  
Content indication  
Motion 843a DCCP granted in part  
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## Judgment

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judgment

**DISTRICT COURT OF NOORD-NEDERLAND**

Civil law section

Location Groningen

Case No. / Docket No.: C/18/197261 / HA ZA 20-28

**Judgment in the motions of January 27, 2021**

in the matter of

**1 [plaintiff 1],**

residing in Maassluis,

**2. [plaintiff 2],**

residing in Groningen,

  


plaintiffs in the main action and applicants in the motion,  
respondents in the independent motion,  
attorneys I.S. Oosterhoff and O.E. van Erp Taalman Kip, practicing in Amsterdam,

vs.

**1 [defendant 1] ,**

residing in Groningen,  
defendant in the main action and respondent in the motion,  
applicant in the independent motion,  
attorney C. Grondsma, practicing in Leeuwarden,

2. the close corporation

**[defendant 2],**

domiciled in Groningen,  
defendant in the main action and respondent in the motion,  
applicant in the independent motion,  
attorneys C. Grondsma, practicing in Leeuwarden,

3. the public corporation

**[defendant 3],**

domiciled in Groningen,  
defendant in the main action and respondent in the motion,  
attorneys J.H. Duyvensz and M.J. van de Graaf, practicing in Amsterdam,

4. the civil law foundation

**[defendant 4],**

domiciled in Groningen,  
defendant in the main action and respondent in the motion,  
attorneys J.H. Duyvensz and M.J. van de Graaf, practicing in Amsterdam,

5. **[defendant 5],**

residing in Paterswolde,  
defendant in the main action and respondent in the motion,  
attorneys J.H. Duyvensz and M.J. van de Graaf, practicing in Amsterdam,

6. **[defendant 6] ,**

without a known domicile in the Netherlands,  
defendant in the main action and respondent in the motion,  
applicant in the independent motion,  
attorney C. Grondsma, practicing in Leeuwarden.

[the plaintiffs] are hereinafter referred to as the 'Heirs'. The defendants in the main action and the respondents in the motion are hereinafter separately referred to as [defendant 1], [defendant 2],

[defendant 3], [defendant 4], [defendant 5] and [defendant 6]. Where reference is made to [defendant 1], [defendant 2] and [defendant 6] jointly, they will be referred to as [defendant 6] et al. Where reference is made to [defendant 3], [defendant 5] and [defendant 4] jointly, they will be referred to as [defendant 3] et al.

## 1 The proceedings

1.1. The course of the proceedings is evident from the following:

- the summons also containing a motion in terms of Article 843a of the Dutch Code of Civil Procedure, ('DCCP'), of November 14, 2019,
- the motion containing a change of claim in the Heirs' motion of March 25, 2020,
- the answer to the motion of [defendant 3] et al. of May 6, 2020,
- the answer to the motion of [defendant 6] et al. of May 6, 2020, also containing an independent motion in the ancillary proceedings on the basis of Article 843a, DCCP,
- the answer to the Heirs' independent motion of July 1, 2020,
- the document containing exhibits (45 and 46) of the Heirs of November 10, 2020,
- the official record of the hearing in the ancillary proceedings of November 10, 2020, accompanied by notes of the hearing of the Heirs, [defendant 3] et al. and [defendant 6] et al.

1.2. Finally, a date was scheduled for the judgment in the ancillary proceedings.

[...]

2.23. In a decision of July 1, 2019, at the Heirs' request, this Court ordered a preliminary witness examination to hear [defendant 1], chief executive officer [defendant 4] [name 13], board member [defendant 4], [defendant 5] and [defendant 6].

P.J. Duinkerken was appointed as the investigating judge. The witnesses were heard on September 18, 2019. During the preliminary witness examinations, [defendant 5] gave the following statement (where relevant here):

*(...)“In response to your question as to who I believed to be the beneficiary at the time, I would like to invoke my right to remain silent. I would like to explain this by stating that at the time I had a statement by the executive director [name 2] at my disposal and I wanted to check whether it was accurate. Regarding the date of that statement I would like to invoke my right to remain silent. I do however confirm that this statement dates from before the date on which the money was paid in the account of [defendant 4]”(...)*

2.24. In a notice of appeal of February 12, 2020, [defendant 5] appealed the decisions of the Board of Discipline on the Heirs' complaints, the Tax and Customs Administration and the Dean. The Dean and the Tax and Customs Administration and the Dean also filed an appeal. On October 4, 2020, the oral hearing before the Disciplinary Appeals Tribunal was held.

2.25. In decisions of December 4, 2020 (ECLI:NL:TADRARL:2020:61), part of the Dean's appeal was declared well-founded. The Disciplinary Appeals Tribunal set aside the disputed decisions with docket nos. 19-375 and 19-376, suspending the practise of [defendant 5] and [name 12] for a period of four weeks of which two weeks were conditional. The Disciplinary Appeals Tribunal set aside part of the decision (with docket no. 19-377) on the Dean's complaint against the executive directors of

[defendant 4] while declaring the complaint against [defendant 5] well-founded, without imposing any disciplinary measures.

2.26. In decisions of December 4, 2020 (ECLI:NL:TADRARL:2020:62), part of the appeal of [defendant 5] was declared well-founded. The Disciplinary Appeals Tribunal set aside part of the Board of Discipline's decision on the Heirs' complaint (docket no. 19-371) relating to the measure imposed by the Board and issued a reprimand to [defendant 5].

2.27. In decisions of December 4, 2020 (ECLI:NL:TADRARL:2020:49), part of the appeal of the Tax and Customs Administration MKB Groningen was declared well-founded. The Disciplinary Appeals Tribunal set aside part of the disputed decisions with docket nos. 19-373 and 19-374 while issuing a reprimand to [defendant 5] and [name 12].

### 3 The claim in the Heirs' motion

3.1. The Heirs claim (after increasing their claim) an immediately enforceable judgment ordering [defendant 1] et al., principally, to issue copies, and, alternatively, to allow examination of the following records, with the defendants at which the claim is directed being stated in brackets:

[...]

x. as set out in para. 49 of the summons, the deceased spoke with [defendant 5] at [defendant 3] on or around February 22, 2016. It follows from the Tax and Customs Administration's timeline (exhibit 21 to the summons) that the deceased had left "a folder with some documents at [defendant 3]". The Heirs claim a copy of or examination of the full file of the deceased that is held at [defendant 3], including the documents that the deceased left at [defendant 3] on or around February 22, 2016 (*of [defendant 1], of [defendant 5] and of [defendant 3]*);

y. during the preliminary witness examination, [defendant 5] of [defendant 3] stated the following:

*(...) "In response to your question as to who I believed to be the beneficiary at the time, I would like to invoke my right to remain silent. I would like to explain this by stating that at the time I had a statement by the executive director [name 2] at my disposal and I wanted to check whether it was accurate. Regarding the date of that statement I would like to invoke my right to remain silent. I do however confirm that this statement dates from before the date on which the money was paid in the account of [defendant 4]" (...)*

The Heirs claim examination of or a copy of this statement (*of [defendant 3] and of [defendant 5]*);

[...]

### 5 The assessment

#### Action plan

5.1. It must be assessed in these proceedings whether [defendant 6] et al. and [defendant 3] et al. must disclose (or allow examination of) the records requested by the Heirs. The Heirs base their claim on Article 843a DCCP.

5.2. At the oral hearing it was noted, on behalf of [defendant 6] et al., that if the motions were granted, either fully or in part, it would be logical for them (rather than for [defendant 3] et al.)



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