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Per local Rule, This case is assigned to Judge Treat, Charles S, for all purposes.

SUMMONS ISSUED

11 Attorneys for Plaintiffs Caleb Mendoza, Eduardo Mendoza and Maria Mendoza,
12 and Estate of Genesis Giovanni Mendoza Martinez, by and through its personal
13 representatives Eduardo and Maria Elena Mendoza

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF CONTRA COSTA

16 Caleb Mendoza; Eduardo Mendoza and
17 Maria Mendoza; and Estate of Genesis
18 Giovanni Mendoza Martinez, by and
19 through its personal representatives,
20 Eduardo and Maria Elena Mendoza,

21 Plaintiffs,

22 v.

23 Tesla, Inc., a Delaware corporation, and
24 DOES 1 through 100, inclusive,

25 Defendants.

26 Case No.: C24-02690

27 Complaint for Damages

- 28 1. Strict Products Liability
- 29 2. Negligent Products Liability
- 30 3. Negligent Misrepresentation
- 31 4. Fraudulent Misrepresentation
- 32 5. Concealment
- 33 6. Negligent Infliction of Emotional Distress
- 34 7. Wrongful Death

35 JURY TRIAL DEMANDED

36 Plaintiffs CALEB MENDOZA, EDUARDO and MARIA MENDOZA, and ESTATE OF
37 GENESIS GIOVANNI MENDOZA MARTINEZ, by and through its personal representatives
38 Eduardo and Maria Elena Mendoza allege on information and belief as follows:

39 **PARTIES**

- 40 1. Plaintiff CALEB MENDOZA ("Plaintiff" or "Mendoza") is an adult, and at all times
41 was, an adult citizen of California who resides on Bethal Island, County of Contra Costa in California.
- 42 2. Plaintiffs EDUARDO and MARIA MENDOZA are, and at all times were, adult
43 citizens of California who reside on Bethal Island, County of Contra Costa in California. Plaintiffs
44 are the mother and father of Decedent GENESIS GIOVANNI MENDOZA MARTINEZ

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1 (“Giovanni”).

2 3. GENESIS GIOVANNI MENDOZA MARTINEZ (“Giovanni”) was born June 21,
3 1991. He died at the age of 33 years old as a direct and proximate result of the misconduct of the
4 Defendants as alleged herein. Prior to his death, Giovanni suffered damages as a direct and proximate
5 result of the misconduct of the Defendants as alleged herein.

6 4. Plaintiffs Eduardo and Maria Elena Mendoza in their capacity as personal
7 representatives of the ESTATE OF GENESIS GIOVANNI MENDOZA MARTINEZ, brings a
8 survival action pursuant to Code of Civil Procedure section 337.30 to recover the damages Giovanni
9 suffered prior to his death.

10 5. Defendant TESLA, INC. (“Tesla”) is a Delaware corporation that had its principal
11 place of business in Palo Alto, California, from approximately 2003 until December 1, 2021, at which
12 point it moved its principal place of business to Austin, Texas. Tesla designs, develops, manufactures,
13 tests, markets, distributes, sells, and leases electric vehicles under the brand name “Tesla.” It also
14 offers services related to those vehicles, including designing, developing, and periodically sending
15 over-the-air updates for advanced driver assistance systems (“ADAS”) software in Tesla vehicles.
16 Tesla was the manufacturer of a Tesla Model S with license number 7HSJ063 and VIN
17 5YJSA1H10EFP44876, referenced throughout this complaint as the “Subject Vehicle.”

18 **DOE PARTIES**

19 6. The true names or capacities, whether individual, corporate, associate, or otherwise
20 of Defendants Does 1 to 100, inclusive and/or the factual bases of liability of Defendants Does 1
21 through 100 are unknown and Plaintiffs therefore sue said defendants by such fictitious names
22 pursuant to the Code of Civil Procedure section 474. Plaintiffs will seek to amend this Complaint to
23 allege the true names and capacities when the same have been ascertained.

24 7. Plaintiffs are informed and believe that each defendant named herein as a DOE is
25 responsible in some manner for the events, occurrences, and circumstances that form the basis of
26 this suit, in that each defendant designated herein as a DOE is responsible, negligently or in some
27 other actionable manner, for the events and happenings hereinafter referred to and caused injuries
28 and damages proximately thereby to Plaintiffs either through said Defendants’ own negligent conduct

1 or through the conduct of their agents, servants, or employees. As used herein the term “Defendants”
2 means all Defendants, including DOES 1 to 100, both jointly and severally, and references by name
3 to any named Defendant shall include all Defendants, both jointly and severally.

4 8. Plaintiffs are informed and believe and thereon allege that, at all times mentioned
5 herein, Defendants and each of them, were the agents, servants, employees, joint venturers, or
6 contractors of their co-defendants, and in doing the facts herein alleged they were acting within the
7 scope, course and authority of said agency, employment, contract, or joint venture. Each and every
8 defendant, as aforesaid, when acting as a principal, actively participated in, controlled, authorized,
9 aided and abetted, incited, compelled, coerced, directed, or subsequently ratified and/or adopted,
10 each and all of the acts or conduct alleged herein, with full knowledge of all the facts and
11 circumstances, including, but not limited to, full knowledge of each and all of the violations of
12 Plaintiffs’ rights and the damages to Plaintiff proximately caused thereby.

13 **JURISDICTION & VENUE**

14 9. The California Superior Court has jurisdiction over this action pursuant to California
15 Constitution Article VI, Section 10 which grants the Superior Court “original jurisdiction in
16 all causes except those given by statute to other trial courts.”

17 10. Tesla is subject to the personal jurisdiction of the courts of the State of California as
18 this lawsuit arises out of, and is directly related to, Tesla’s business activities in the State of California.

19 11. Venue is proper in this Court pursuant to California Code of Civil Procedure Section
20 395 in that the injury to Plaintiffs occurred within the County of Contra Costa.

21 12. The amount in controversy is well in excess of the Court’s jurisdictional threshold of
22 \$35,000.

23 **FACTUAL ALLEGATIONS**

24 **1. Tesla continuously misrepresented its cars’ ability to provide safe, autonomous**
25 **driving despite an awareness of the deadly consequences.**

26 13. For the past decade, the auto industry has been developing autonomous vehicle
27 technology.

28 14. SAE International (“SAE”), is a U.S.-based professional association and standards

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1 development organization. In 2014, SAE took a leading role in the development of autonomous
 2 vehicle technology standards by publishing the initial version of *SAE J3016 Recommended Practice:
 3 Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles*,
 4 commonly referred to as the SAE Levels of Driving Automation (“SAE Levels”).

5 15. The SAE Levels provide a taxonomy of vehicle driving automation systems with
 6 detailed definitions for six levels for driving automation, ranging from no driving automation (SAE
 7 Level 0) to full driving automation (SAE Level 5).¹ The SAE Levels can be summarized as follows:

- 8 • **Level 0—No Driving Automation:** The human driver performs all driving
 9 tasks (steering, acceleration, braking, etc.), although vehicles may have safety
 features like automatic emergency braking and forward collision warning.
- 10 • **Level 1—Driver Assistance:** The vehicle has features that provide a small
 11 degree of automation over the vehicle’s acceleration, braking, or steering (e.g.,
 adaptive cruise control, lane-keeping assistance).
- 12 • **Level 2—Partial Driving Automation:** The vehicle can perform multiple
 13 driving tasks (e.g., acceleration, steering) but remains under the human
 driver’s constant supervision, responsibility, and control.
- 14 • **Level 3—Conditional Driving Automation:** The vehicle can take full
 15 control of certain driving tasks such that the human driver need not remain
 constantly alert but must be ready to intervene upon request from the vehicle.
- 16 • **Level 4—High Driving Automation:** The vehicle can perform all driving
 17 tasks in specific locations or environments, but human override is still an
 option.
- 18 • **Level 5—Full Driving Automation:** The vehicle can perform all driving
 19 tasks under all conditions, with zero human attention or interaction required.

20 16. SAE refers to Level 1 and 2 technologies as systems or features that provide “driver
 21 support,” but reserves the term “automated driving” for Levels 3, 4, and 5.

22 17. The SAE levels are a widely accepted international standard and have been adopted
 23 by regulatory agencies such as the National Transportation Safety Board (“NTSB”), National
 24 Highway Traffic Safety Administration (“NHTSA”), and U.S. Department of Transportation.

25 18. Tesla began equipping its vehicles with ADAS technology in 2014. Specifically, Tesla
 26 began equipping vehicles hardware that was intended to allow vehicles to automate some steering,

27
 28 ¹ SAE International, *Taxonomy and Definitions for Terms Related to Driving Automation
 Systems for OnRoad Motor Vehicles* (revised Apr. 30, 2021),
https://www.sae.org/standards/content/j3016_202104

1 braking, and acceleration functions, although the software to control those functions was not yet
2 available.

3 19. At all times relevant to this complaint, Tesla’s ADAS technology has only ever been
4 capable of SAE Level 2 autonomy. Tesla’s ADAS technology relies primarily on cameras and image-
5 recognition software with limited assistance from a single forward-facing radar unit. By contrast,
6 Level 3 and 4 systems rely on a more robust and expensive combination of cameras, multiple radar
7 units, and one or more light-detection-and-ranging (“LIDAR”) units. The general consensus among
8 autonomous vehicle experts is that truly autonomous, self-driving cars cannot be achieved without
9 some reliance on lidar technology. But Tesla has refused to use this technology because of expense
10 and aesthetics.

11 20. Consistent with the Level 2 limitations of its system, Tesla originally called its ADAS
12 features “advanced driver assistance.”

13 21. But in or about 2014 or 2015, a group of Tesla officers and directors—including
14 Tesla’s CEO, Elon Musk—decided to change the name to “Autopilot.” Tesla engineers expressed
15 concerns that the name was misleading and suggested less misleading options such as “Copilot.”
16 Musk and other Tesla officers and directors rejected those concerns and suggestions.² Musk and
17 other Tesla officers and directors favored “Autopilot” specifically because they believed the public
18 would associate it with truly self-driving cars, and that the perception Tesla was making self-driving
19 cars would increase sales, attract investments, and drive up Tesla’s stock price.

20 22. As a result, at all times relevant to this complaint, Tesla has marketed its ADAS
21 technology under various names, including “Autopilot,” “Enhanced Autopilot,” and/or “Full Self-
22 Driving Capability,” all of which falsely—and intentionally—imply that the vehicles equipped with
23 such software can operate at SAE Levels 3, 4, and 5, when in reality they are SAE Level 2 at best.
24 Tesla compounded the public misperception that its cars are self-driving by distributing promotional
25 materials and videos that depict Tesla’s vehicles driving themselves with no need for a human driver.

26
27 ² Cade Metz & Neal E. Boudette, “Inside Tesla as Elon Musk Pushed an Unflinching
28 Vision for Self-Driving Cars,” *The New York Times* (Dec. 6, 2021), available at
<https://www.nytimes.com/2021/12/06/technology/tesla-autopilot-elon-musk.html>

1 In June 2014, Tesla's CEO and co-founder, Elon Musk stated during a Shareholder Meeting that
 2 "I'm confident that—in less than a year—you'll be able to go from highway onramp to highway exit
 3 without touching any controls."

4 23. In October 2015, Tesla released its version 7.0 software, which enabled Autopilot on
 5 Model S vehicles. Robert Rose, the head of the Autopilot project, left Tesla shortly before the release.
 6 Evan Nakano, a Tesla Autopilot engineer who had worked on safety features, objected that Autopilot
 7 was not ready for release. When Tesla ignored his concerns, Nakano resigned in protest and wrote a
 8 resignation letter, circulated widely among Tesla employees, that called Autopilot's development
 9 "reckless decision making that has potentially put customer lives at risk."³

10 24. By December 2015, Musk was publicly stating Tesla vehicles would drive themselves
 11 within about two years. He told Fortune magazine, "I think we have all the pieces, and it's just about
 12 refining those pieces, putting them in place, and making sure they work across a huge number of
 13 environments—and then we're done. It's a much easier problem than people think it is."⁴ Musk also
 14 stated, "We're going to end up with complete autonomy, and I think we will have complete autonomy
 15 in approximately two years."

16 25. In January 2016, Musk announced on a conference call with reporters that Autopilot
 17 was "probably better" than a human driver. He stated Tesla vehicles would be able to drive
 18 significantly better than humans within two to three years, and that within approximately two years
 19 drivers would be able to use Tesla's "Summon" feature, which allows drivers to remotely instruct
 20 their vehicle to drive to a specified location, to summon a vehicle from the other side of the country.⁵

23 ³ Ianthe Jeanne Dugan & Mike Spector, "Tesla's Push to Build a Self-Driving Car
 24 Sparked Dissent Among Its Engineers," *The Wall Street Journal* (Aug. 24, 2017), available at
 25 <https://www.wsj.com/articles/teslas-push-to-build-a-self-driving-car-sparks-dissent-among-its-engineers-1503593742>

26 ⁴ Kristen Korosec, "Elon Musk Says Tesla Vehicles Will Drive Themselves in Two
 27 Years," *Fortune* (Dec. 21, 2015), available at <https://fortune.com/2015/12/21/elon-musk-interview/>

28 ⁵ Elon Musk, <https://twitter.com/elonmusk/status/686279251293777920> (Jan. 10, 2016, 12:11 PM).

1 26. As a result of the above, thousands of Tesla drivers relied—and continue to rely—
2 on Tesla’s ADAS technology as though it were capable of Level 3, 4, or 5 self-driving, when in fact
3 it is incapable of safely handling a variety of routine roadway scenarios without driver input.
4 Predictably, this has led—and will continue to lead—to multiple collisions between Teslas and other
5 vehicles or pedestrians, resulting in death or serious bodily injury.

6 27. On January 20, 2016, 23-year-old Gao Yaning, who had a history of relying on
7 Autopilot to drive, was killed in China on the way home from a family wedding when his Tesla Model
8 S crashed at full speed on a highway into the back of a large street sweeper. The facts of the accident
9 strongly indicate that Autopilot was engaged at the time of the crash.⁶

10 28. On May 7, 2016, Joshua Brown was killed in Florida when the Autopilot on his Tesla
11 Model S failed to recognize a tractor-trailer crossing in front of his car, which resulted in Brown’s car
12 striking and passing under the trailer at 74 mph.⁷ The top third of Brown’s car was sheared off.
13 Brown was a Tesla enthusiast who had previously made videos of himself using Autopilot, one of
14 which was retweeted by Elon Musk just a few weeks earlier.⁸

15 29. Despite these incidents, Tesla officers and directors—including, most notably, Elon
16 Musk—repeatedly doubled-down on the premise that Teslas were, or would soon be, capable of safe,
17 fully autonomous driving with minor software updates.

18 30. For example, on June 2, 2016—less than a month after Brown’s death—Musk
19 confidently announced that “autonomous driving” was “basically a solved problem,” and that Tesla’s
20 Autopilot software was already safer than a human driver on highways. “I think we’re basically less
21

22 ⁶ Neal Boudette, “Autopilot cited in Death of Chinese Tesla Driver,” *The New York*
23 *Times* (Sept. 14, 2016), available at <https://www.nytimes.com/2016/09/15/business/fatal-tesla-crash-in-china-involved-autopilot-government-tv-says.html>

24 ⁷ NTSB, No. HWY16FH018, Dkt. No. 2, “Crash Summary Report” (June 19, 2017),
25 available at
[https://data.nts.gov/Docket/Document/docBLOB?ID=40453253&FileExtension=.PDF&File](https://data.nts.gov/Docket/Document/docBLOB?ID=40453253&FileExtension=.PDF&FileName=Crash%20Summary-Master.PDF)
26 [Name=Crash%20Summary-Master.PDF](https://data.nts.gov/Docket/Document/docBLOB?ID=40453253&FileExtension=.PDF&FileName=Crash%20Summary-Master.PDF)

27 ⁸ Rachel Abrams & Annalyn Kurtz, “Joshua Brown, Who Died in Self-Driving
28 Accident, Tested Limits of His Tesla,” *The New York Times* (July 1, 2016), available at
<https://www.nytimes.com/2016/07/02/business/joshua-brown-technology-enthusiast-tested-the-limits-of-his-tesla.html#:~:text=Brown%20became%20a%20victim%20of,in%20a%20self%2Ddriving%20car.>

1 than two years away from complete autonomy—complete,” Musk said.⁹

2 31. On July 14, 2016, *Consumer Reports* urged Tesla to “change the name of the Autopilot
3 feature because it promotes a potentially dangerous assumption that the Model S is capable of driving
4 on its own.” Instead of using the “misleading” name Autopilot, *Consumer Reports* urged Tesla to “name
5 automated features with descriptive, not exaggerated, titles.”¹⁰

6 32. On July 20, 2016, Tesla’s official blog quoted a post by Musk, in which he
7 misleadingly suggests that lack of regulatory approval was a major challenge Tesla was facing in
8 bringing to market fully self-driving vehicles:

9 When true self-driving is approved by regulators, it will mean that you will be able to
10 summon your Tesla from pretty much anywhere. Once it picks you up, you will be
11 able to sleep, read or do anything else enroute to your destination. You will also be
12 able to add your car to the Tesla shared fleet just by tapping a button on the Tesla
13 phone app and have it generate income for you while you’re at work or on vacation.¹¹

14 33. In August 2016, a Tesla with Autopilot engaged crashed into a parked vehicle on a
15 Beijing highway. After the owner stated publicly that Tesla had misrepresented Autopilot’s
16 capabilities and misled buyers, Tesla removed from its China website a term that translates as “self-
17 driving” and replaced it with a term that translates as “self-assisted driving.”¹² Tesla did not make any
18 similar changes to its U.S. website.

19 34. In September 2016, Musk—referencing Brown’s fatal crash—publicly announced
20 that Tesla had fixed the issue that caused that crash in the latest version of its “Autopilot” software
21 by increasing the system’s reliance on radar so that it “would see a large metal object across the
22 road.”¹³

23 ⁹ Recode, “Elon Musk | Full Interview | Code Conference 2016,”
24 <https://www.youtube.com/watch?v=wsixsRISz4&t=4675s> at 1:17:55–1:21:20 (June 2, 2016).

25 ¹⁰ *Consumer Reports*, “Consumer Reports Calls on Tesla to Disable and Update Auto
26 Steering Function, Remove ‘Autopilot’ Name” (July 14, 2016), *available at*
27 <https://www.consumerreports.org/media-room/press-releases/2016/07/consumer-reports-calls-on-tesla-to-disable-and-update-auto-steering-function-remove-autopilot-name/>

28 ¹¹ Elon Musk, “Master Plan, Part Deux,” <https://www.tesla.com/blog/master-plan-part-deux> (July 20, 2016).

¹² Jake Spring & Alexandria Sage, “Tesla removes ‘self-driving’ from China website after Beijing crash,” *Reuters* (Aug. 15, 2016), *available at* <https://www.reuters.com/article/us-tesla-china-crash-idUSKCN10Q0L4>

¹³ Neal Boudette, “Elon Musk Says Pending Tesla Updates Could Have Prevented

1 35. On October 16, 2016, German regulators sent Tesla a formal letter reading, “In order
2 to prevent misunderstanding and incorrect customers’ expectations, we demand that the misleading
3 term Autopilot is no longer used in advertising the system.” The German government also reminded
4 Tesla vehicle owners that Tesla’s ADAS technology required, and could only be safely operated with,
5 constant driver attention and supervision.¹⁴

6 36. On October 19, 2016, Tesla released its Autopilot 2.0 software and announced that
7 all new Tesla cars would come with a new suite of hardware (called Autopilot Hardware 2) consisting
8 of eight cameras, twelve ultrasonic sensors, and a forward-facing radar unit, which Tesla claimed
9 would allow the cars to soon become capable of SAE Level 5 autonomy.¹⁵ To access the hardware,
10 owners would have to pay \$5,000 for an “Enhanced Autopilot” feature and another \$3,000 for the
11 right to activate Tesla’s promised “Full Self-Driving Capability.” The Enhanced Autopilot package
12 provided drivers most or all of the features in the FSD package, except for the right to unlimited
13 access to Tesla’s soon-to-arrive full self-driving technology, and potential early access to FSD Beta
14 updates Tesla might release on its way perfecting that technology.

15 37. As part of the announcement, Tesla published a post on its official company blog
16 titled “All Tesla Cars Being Produced Now Have Full Self-Driving Hardware,” stating “[w]e are
17 excited to announce that, as of today, all Tesla vehicles produced in our factory – including Model 3
18 – will have the hardware needed for full self-driving capability at a safety level substantially greater
19 than that of a human driver.” In the same post, Tesla stated that “[s]elf-driving vehicles will play a
20 crucial role in improving transportation safety and accelerating the world’s transition to a sustainable
21 future,” and that “[f]ull autonomy will enable a Tesla to be substantially safer than a human driver.”¹⁶

22 Fatal Crash,” *The New York Times* (Sept. 11, 2016), available at
23 [https://www.nytimes.com/2016/09/12/business/elon-musk-says-pending-tesla-updates-could-](https://www.nytimes.com/2016/09/12/business/elon-musk-says-pending-tesla-updates-could-have-prevented-fatal-crash.html)
[have-prevented-fatal-crash.html](https://www.nytimes.com/2016/09/12/business/elon-musk-says-pending-tesla-updates-could-have-prevented-fatal-crash.html)

24 ¹⁴ Reuters Staff, “Germany says Tesla should not use ‘Autopilot’ in advertising,”
25 *Reuters* (Oct 16, 2016), available at <https://www.reuters.com/article/idUSKBN12G0KS>

26 ¹⁵ Alex Nishimoto, “All New Tesla Models Will Feature Level 5-Capable Autopilot
27 Hardware,” *Motor Trend* (Oct. 20, 2016), available at [https://www.motortrend.com/news/new-tesla-](https://www.motortrend.com/news/new-tesla-models-will-feature-level-5-capable-autopilot-hardware/)
[models-will-feature-level-5-capable-autopilot-hardware/](https://www.motortrend.com/news/new-tesla-models-will-feature-level-5-capable-autopilot-hardware/)

28 ¹⁶ The Tesla Team, “All Tesla Cars Being Produced Now Have Full Self-Driving
Hardware,” [https://www.tesla.com/blog/all-tesla-cars-being-produced-now-have-full-selfdriving-](https://www.tesla.com/blog/all-tesla-cars-being-produced-now-have-full-selfdriving-hardware)
[hardware](https://www.tesla.com/blog/all-tesla-cars-being-produced-now-have-full-selfdriving-hardware) (Oct. 19, 2016).

1 38. The blog post included a video made by Tesla’s Autopilot team in the weeks before
 2 the release, which purported to show a Tesla driving itself without any human intervention from the
 3 person in the driver’s seat, whose hands remain off the steering wheel throughout the video. The
 4 video begins with a note saying, “The person in the driver’s seat is only there for legal reasons. He is
 5 not doing anything. The car is driving itself.” However, multiple Tesla Autopilot employees who
 6 worked on the video would later report that the route taken by the car had been charted ahead of
 7 time by software that created a three-dimensional digital map (a feature unavailable to drivers using
 8 the commercial version of Autopilot), and that the video did not accurately show how the car
 9 operated during filming. For example, in portions of the video Tesla did *not* show, the car executed
 10 driving tasks poorly, and even crashed into a fence at one point.¹⁷ Tesla engineers had to run the
 11 pre-programmed route multiple times to get a clean video clip that made it appear the car was capable
 12 of driving itself. None of these facts were referenced in the video or otherwise disclosed by Tesla.
 13 The deceptive and misleading video was later used to promote Autopilot’s purported abilities, and
 14 indeed is still featured on the company’s website as of this writing.¹⁸

15 39. Also on October 19, 2016, the company held a conference call with reporters, during
 16 which Musk stated that all new Tesla cars would now include all the cameras, computing power, and
 17 other hardware necessary for “full self driving.” Musk further stated that Tesla would “be able to
 18 demonstrate a demonstration drive of our full autonomy all the way from LA to New York. So
 19 basically from home in LA to let’s say dropping you off in Times Square, NY and then having the
 20 car parking itself by the end of next year without the need for a single touch.”¹⁹ Musk repeatedly
 21 represented that autonomous vehicles were safer than human-driven ones, and even warned
 22 journalists that they would be “killing people” if they wrote negative articles about self-driving
 23 //

24 _____
 25 ¹⁷ See Metz & Boudette, *supra* note 2.

26 ¹⁸ See Tesla, <https://www.tesla.com/autopilot>; Tesla, “Tesla Self-Driving
 Demonstration,” [https://www.tesla.com/videos/autopilot-self-driving-hardware-neighborhood-
 long](https://www.tesla.com/videos/autopilot-self-driving-hardware-neighborhood-long) (Nov. 18, 2016).

27 ¹⁹ Xautoworld, “Transcript: Elon Musk’s Autopilot 2.0 Conference Call,”
 28 <https://www.xautoworld.com/tesla/transcript-elon-musk-autopilot-2-conference-call/> (Oct. 19,
 2016).

1 technology that dissuaded people from using it.²⁰

2 40. According to reporting by multiple outlets, including the *Wall Street Journal* and *The*
 3 *New York Times*, Tesla's decision to promise the technology would be able to provide "Full Self
 4 Driving" and Musk's statements at the news conference "took the Tesla engineering team by surprise,
 5 and some felt that Musk was promising something that was not possible." Sterling Anderson, who
 6 was the head of Tesla's Autopilot program at the time, "told Tesla's sales and marketing teams that
 7 they should not refer to the company's technology as 'autonomous' or 'self-driving' because this
 8 would mislead the public."²¹ In a meeting after the October announcement, someone asked Mr.
 9 Anderson how Tesla could brand the product "Full Self-Driving," to which he responded, "This was
 10 Elon's decision." Two months later, in December 2016, Mr. Anderson resigned.²²

11 41. In March 2018, Apple engineer Walter Huang was killed when the Autopilot on his
 12 Tesla Model X became confused at a fork in the highway and caused the car to veer sharply to the
 13 left and crash into a concrete barrier in Mountain View, California.²³ In the aftermath of that fatal
 14 crash, Tesla publicly released crash data and blamed Huang for the accident, violating its agreement
 15 with NTSB not to comment on crashes during the course of an investigation and causing NTSB to
 16 remove Tesla as a party to its investigation.

17 42. In April 2018, a Tesla with Autopilot engaged struck and killed a pedestrian in Japan.

18 43. On May 11, 2018, a Tesla Model S with Autopilot engaged crashed into a stopped
 19 firetruck in South Jordan, Utah, prompting a NHTSA investigation into the collision.²⁴

20
 21 ²⁰ Maya Kosoff, "Elon Musk: Self-Driving Car Doubters Are Literally 'Killing
 22 People,'" *Vanity Fair* (Oct. 20, 2016), available at [https://www.vanityfair.com/news/2016/10/elon-](https://www.vanityfair.com/news/2016/10/elon-musk-self-driving-car-doubters-are-literally-killing-people)
 23 [musk-self-driving-car-doubters-are-literally-killing-people](https://www.vanityfair.com/news/2016/10/elon-musk-self-driving-car-doubters-are-literally-killing-people) ; Andrew Batiuk, "Tesla October 19th
 2016 Autopilot 2.0 Conference Call With Visuals Added," [https://www.youtube.com/watch?v=-](https://www.youtube.com/watch?v=-vjGEEF_p5E)
 24 [vjGEEF_p5E](https://www.youtube.com/watch?v=-vjGEEF_p5E) (Oct. 20, 2016).

25 ²¹ Metz & Boudette, *supra* note 2.

26 ²² Dugan & Spector, *supra* note 4.

27 ²³ Hyunjoo Jin, "Factbox: Tesla's Autopilot faces unprecedented scrutiny," *Reuters*
 28 (Nov. 1, 2022), available at [https://www.reuters.com/business/autos-transportation/teslas-](https://www.reuters.com/business/autos-transportation/teslas-autopilot-faces-unprecedented-scrutiny-2022-11-01/)
 29 [autopilot-faces-unprecedented-scrutiny-2022-11-01/](https://www.reuters.com/business/autos-transportation/teslas-autopilot-faces-unprecedented-scrutiny-2022-11-01/)

30 ²⁴ Levin, Sam, "Tesla Confirms Autopilot Involved in Utah Crash but Seeks to Blame
 31 Driver," *The Guardian* (May 17, 2018), available at
 32 [https://www.theguardian.com/technology/2018/may/16/tesla-autopilot-utah-crash-confirms -](https://www.theguardian.com/technology/2018/may/16/tesla-autopilot-utah-crash-confirms-)

1 44. In March 2019, Jeremy Banner was killed when his 2018 Tesla Model 3 with
 2 Autopilot engaged drove under a tractor-trailer in Florida.²⁵ Banner's accident was eerily similar to
 3 the 2016 accident that killed Joshua Brown when his car drove under a tractor-trailer. The Banner
 4 accident indicated that, contrary to its claims in September 2016, Tesla had not fixed this significant
 5 flaw in its ADAS technology in the roughly three years after Brown was killed.

6 45. In May 2019, Tesla released an update to its ADAS "Navigate" feature, which is
 7 designed to automate some lane-change functions. When *Consumer Reports* tested the feature, it found
 8 that it cut off other cars without leaving enough space, failed to pass in the correct lane, and
 9 sometimes struggled to merge into traffic.

10 46. In April 2019, at an event in Palo Alto, California, that Tesla dubbed "Autonomy
 11 Day," Musk took to the stage and announced that Tesla vehicles would be capable of full self-driving
 12 and autonomously navigating dense urban areas like San Francisco and New York by the end of
 13 2019, and that in two years the company would be making cars without steering wheels or pedals.²⁶
 14 Musk also stated, "If you fast forward a year, maybe a year and three months, but next year for sure,
 15 we will have over a million robo-taxis on the road," and "I feel very confident predicting autonomous
 16 robo-taxis for Tesla next year. ... I'm confident we'll have at least regulatory approval somewhere,
 17 literally next year." Musk stated the robo-taxis would be a way for Tesla owners to make money when
 18 they aren't using their vehicles, with Tesla taking 25 or 30 percent of the revenue and allowing the
 19 company to compete with popular ride-hailing services like Uber and Lyft.²⁷ A few months later,
 20 Musk doubled-down on the robo-taxi prediction, tweeting that Tesla would "have a million robotaxis
 21 by end of 2020."²⁸

22 _____
 23 investigation/

24 ²⁵ Jin, *supra* note 25.

25 ²⁶ R. Baldwin, "Tesla promises 'one million robo-taxis' in 2020,"
<https://www.engadget.com/2019-04-22-tesla-elon-musk-self-driving-robo-taxi.html> (Apr. 22,
 26 2019).

27 ²⁷ Tech Insider, "Watch Elon Musk Unveil Plans For A Tesla Ride-Hailing App,"
<https://www.youtube.com/watch?v=YiWbdZ8ItRs> (Apr. 22, 2019); Matt McFarland, "Elon Musk
 28 says Tesla will have robo-taxis operating next year," *CNN Business*,
<https://www.cnn.com/2019/04/22/tech/tesla-robotaxis> (Apr. 22, 2019).

²⁸ Elon Musk, <https://twitter.com/elonmusk/status/1148070210412265473> (July 7,

1 47. In December 2020, at the Axel Springer award ceremony in Berlin, Musk again
 2 touted the capability of Tesla vehicles stating that, “I’m extremely confident of achieving full
 3 autonomy and releasing it to the Tesla customer base next year.”²⁹ He also vouched for the safety
 4 of Tesla’s Autopilot by stating, “Now, there’s an uncertain period of time for when regulatory
 5 approval will take, how long it will take, but I think if you are able to accumulate billions of kilometers
 6 of autonomous driving, then it’s difficult to argue and, look at the accident rate when the car is
 7 autonomous versus non-autonomous and in fact, our statistics already show a massive difference
 8 when the car is on Autopilot or not on Autopilot. That the safety is much greater even with the
 9 current Autopilot software.”

10 48. Tesla’s effort to misrepresent the self-driving capabilities of its cars was not limited
 11 to affirmative misrepresentations. In addition, Tesla undertook a widespread campaign to conceal
 12 thousands of consumer reports about problems with Tesla’s “Autopilot” feature, including crashes,
 13 unintended braking, and unintended acceleration.³⁰ To that end, Tesla officers, directors, and
 14 managing agents trained employees to refrain from memorializing customer reports in writing. When
 15 Tesla employees did respond to customer reports in writing, it was only to reassure customers that
 16 the “Autopilot” feature was working as intended. In addition, Tesla—in violation of Civil Code
 17 section 1670.8—forced consumers to sign nondisclosure agreements to receive repairs under
 18 warranty.

19 **2. Giovanni died and Caleb was seriously injured when Giovanni bought a Tesla**
 20 **Model S with Autopilot from its prior owner and trusted it to drive—in reliance on**
 21 **Tesla’s misrepresentations.**

22 49. Giovanni was one of many members of the public exposed to Tesla’s long-term
 23 advertising campaign designed to persuade the public that its vehicles were capable of driving
 24 themselves. Not only was he aware that the technology itself was called “Autopilot,” he saw, heard,
 25 and/or read many of Tesla or Musk’s deceptive claims on Twitter, Tesla’s official blog, or in the news

26 2019, 8:24 PM).

27 ²⁹ Alex Springer SE, “Axel Springer Award 2020” (December 1, 2020) *available at*
<https://www.youtube.com/watch?v=AF2HXId2Xhg>

28 ³⁰ Russ Mitchell, *Huge Tesla data leak reportedly reveals thousands of safety complaint. 4 things to*
know (May 26, 2023), [https://www.latimes.com/business/story/2023-05-26/tesla-autopilot-](https://www.latimes.com/business/story/2023-05-26/tesla-autopilot-alleged-data-breach-leak)
[alleged-data-breach-leak](https://www.latimes.com/business/story/2023-05-26/tesla-autopilot-alleged-data-breach-leak)

1 media, some samples of which are alleged above. Giovanni believed those claims were true, and thus
2 believed the “Autopilot” feature with the “full self driving” upgrade was safer than a human driver,
3 and could be trusted to safely navigate public highways autonomously.

4 50. Relying on this belief-- which was the direct result of the product name itself and
5 Tesla’s long-term advertising campaign--Giovanni purchased a Tesla Model S from its prior owner,
6 Jorge Ventura, on March 4, 2021. And in further reliance on this belief, Giovanni trusted the
7 “Autopilot” feature to drive the vehicle autonomously on the freeway regularly.

8 51. When Giovanni purchased the Tesla Model S, he understood that the vehicle would
9 drive itself and he no longer needed to drive it. Based on representations Giovanni heard made by
10 Musk, Giovanni believed the vehicle was a safer driver than a human and relied on it to perceive and
11 react to traffic in front of him.

12 52. Indeed, on or around February 18, 2023, at approximately 3:54 a.m. Giovanni was
13 traveling in the Subject Vehicle with “Autopilot” engaged in the number two lane on Interstate 680
14 northbound when the Subject Vehicle collided with a fire truck, a 2016 Pierce Aerial, that was parked
15 diagonally, blocking the number one and number two lanes for traffic control due to an unrelated
16 traffic emergency. A second firetruck was on the scene as well as two CHP vehicles. Both firetrucks
17 and both CHP vehicles had their emergency lights flashing. Giovanni’s brother, Plaintiff Caleb
18 Mendoza, was the front seat passenger in the Subject Vehicle. At the time of the collision, Giovanni
19 was not controlling the Subject Vehicle, but he was instead passively sitting in the driver’s seat with
20 the “Autopilot” feature engaged. In fact, data from the Tesla itself showed that the Subject Vehicle
21 was in “Autopilot” for approximately 12 minutes prior to the crash, with no accelerator pedal or
22 brake pedal inputs from Giovanni during that time. The approximate speed of the Subject Vehicle
23 was 71 mph during the 12-minute period. Data also showed that Giovanni generally maintained
24 contact with the steering wheel until the time of the crash.

25 53. As a result of the collision, the Subject Vehicle sustained major frontal damage,
26 crushing Giovanni’s body. Giovanni survived, at least momentarily, but subsequently died from the
27 injuries he sustained in the collision.

28 //

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1 **3. Tesla continues to misrepresent the self-driving capabilities of its cars, motorists**
 2 **continue to die, and regulators have ongoing investigations into Tesla for fraud.**

3 54. Despite the numerous accidents, news reports, and investigations exposing the
 4 danger of Tesla's ADAS technology—including the incident that forms the basis of this case—Tesla
 5 continues its deceptive and misleading marketing practices concerning its ADAS technology in
 6 conscious disregard for the public's safety.

7 55. In October 2019, *Consumer Reports* tested Tesla's "Smart Summon" feature, which
 8 Tesla claimed would allow owners to use a smartphone app to "summon" their Tesla vehicle to
 9 drive itself across a parking lot without any occupants inside the vehicle. *Consumer Reports'* testing
 10 revealed that the feature had difficulty navigating a parking lot, with the summoned car crossing lane
 11 lines and wandering erratically "like a drunken or distracted driver."³¹ This was nearly four years after
 12 Musk's January 2016 tweet that Tesla was two years away from its customers being able to use
 13 Summon to have their car come to them even if it was thousands of miles away.

14 56. Tesla's deceptive marketing is so egregious that it has drawn scrutiny from
 15 governmental regulators at the state, federal, and international level.

16 57. In February 2020, the NTSB called on NHTSA to set stricter standards on Autopilot,
 17 citing the high number of Autopilot-related collisions and deaths.

18 58. In August 2020, a couple was killed in Saratoga, California, after their Tesla veered
 19 off a highway while Autopilot was active.

20 59. In September 2020, *Consumer Reports* published the first in a series of evaluations of
 21 Tesla's "Full Self-Driving Capability" technology, finding that the technology caused vehicles to
 22 engage in unusual and unsafe behavior, such as stopping at green lights, driving through stop signs,
 23 slamming on the brakes for yield signs when the merge was clear, and stopping at every exit while
 24 going around a traffic circle.³²

25 ³¹ Jeff Plungis, "Tesla's Smart Summon Performance Doesn't Match Marketing
 26 Hype," *Consumer Reports* (Oct. 8, 2019), available at <https://www.consumerreports.org/automotive-technology/teslas-smart-summon-performance-doesnt-match-marketing-hype/>

27 ³² Mike Monticello & Keith Barry, "Tesla's 'Full Self-Driving Capability' Falls Short of
 28 Its Name," *Consumer Reports* (Sept. 4, 2020) (last updated May 19, 2021), available at <https://www.consumerreports.org/autonomous-driving/tesla-full-self-driving-capability-review-falls-short-of-its-name-a1224795690/>

1 60. In a January 2021 earnings call during which Tesla reported \$721 million in profit for
2 2020,³³ Musk stated that the company had made “massive progress on Full Self-Driving,” and that it
3 “will become obvious later this year” that “Tesla Autopilot is capable of full self-driving.” Musk also
4 stated, “I’m highly confident the car will drive itself for the reliability in excess of a human this year.
5 This is a very big deal.” When a financial analyst asked Musk why he was confident Tesla would
6 achieve SAE Level 5 autonomy in 2021, Musk responded, “I’m confident based on my understanding
7 of the technical roadmap and the progress that we’re making between each beta iteration.”³⁴

8 61. Six weeks later, on a March 9, 2021, phone call with California DMV regulators,
9 Tesla’s director of Autopilot software, CJ Moore, contradicted Musk. According to an internal DMV
10 memo memorializing the call, “DMV asked CJ to address, from an engineering perspective, Elon’s
11 messaging about L5 [Level 5] capability by the end of the year. Elon’s tweet does not match
12 engineering reality per CJ.” In response to a question from DMV regulators about “how Tesla
13 evaluates the potential advancement of levels of autonomy,” Tesla representatives “indicated they
14 are still firmly in L2 [Level 2].” Tesla further told DMV that “[t]he ratio of driver interaction would
15 need to be in the magnitude of 1 or 2 million miles per driver interaction to move into higher levels
16 of automation [i.e., Level 3 and higher].”³⁵ In other words, drivers would need to intervene only
17 once per 1 to 2 million miles before Tesla would proceed to Level 3 software. Tesla’s ADAS software,
18 which routinely makes mistakes, is not even remotely close to this level of reliability.

19 62. In May 2021, under pressure from the Transportation Committee of the California
20 Senate, the California Department of Motor Vehicles launched an investigation into whether Tesla
21 is deceptively marketing its ADAS technology as making its cars capable of autonomous driving.³⁶

22
23 ³³ Chris Isidore, “Tesla just proved all its haters wrong. Here’s how,” *CNN Business*,
<https://www.cnn.com/2020/01/31/investing/tesla-cash-crunch/index.html> (Jan. 31, 2020).

24 ³⁴ Tesla (TSLA) Q4 2020 Earnings Call Transcript (Jan. 27, 2021), *available at*
25 <https://www.fool.com/earnings/call-transcripts/2021/01/27/tesla-tsla-q4-2020-earnings-call-transcript/>

26 ³⁵ Memorandum to File by Miguel Acosta (DMV) Re: Tesla AP City Streets Update
27 (Mar. 9, 2021), *available*
28 *at* <https://www.plainsite.org/documents/28jcs0/california-dmv-tesla-robotaxi-ADAS-notes/>

³⁶ Russ Mitchell, “DMV probing whether Tesla violates state regulations with self-
driving claims,” *Los Angeles Times* (May 17, 2021), *available at*

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1 63. In June 2021, in what was widely seen as a response to motor vehicle collisions
2 involving Tesla’s ADAS technology, NHTSA issued an unprecedented order requiring automobile
3 manufacturers to report any crash involving an injury, fatality, or property damage that happens while
4 or immediately after a vehicle is automating some driving tasks.

5 64. In early July 2021, Tesla released the Beta 9 version of its “Full Self-Driving” (or
6 “FSD”) software to certain Tesla vehicle owners. Following the release, Tesla owners took videos of
7 the software in action that show vehicles missing turns, scraping against bushes, and veering toward
8 parked cars.

9 65. In August 2021, NHTSA opened a preliminary safety defect investigation (PE21-020)
10 into Autopilot, based on eleven incidents involving Tesla vehicles, operating with Autopilot engaged,
11 striking stationary first responder vehicles that were tending to prior collision scenes.

12 66. Also in August of 2021, U.S. Senators called for the Federal Trade Commission to
13 investigate what they referred to as Tesla’s potentially deceptive marketing practices surrounding its
14 FSD technology, including Tesla’s use of the phrase “full self-driving” to describe and market a
15 feature that does not make the vehicle fully self-driving.

16 67. On August 31, 2021, NHTSA ordered Tesla to produce documents and information
17 regarding the design of its FSD technology, crashes involving that technology, and marketing
18 materials that make representations about that technology. On the date that was the deadline for
19 compliance, Tesla submitted only a partial response to NHTSA, claiming that the documents and
20 information it had requested was confidential business information.

21 68. Tesla has long been aware of limitations in Autopilot’s ability to use the current vision
22 system, and the fact that these limitations may lead to missed detections of first responder/law
23 enforcement vehicles. Specifically, in the Subject Vehicle, Telsa knew that its vision system did not
24 differentiate emergency vehicles with activated caution lights from other vehicles on the road during
25 the day or night. Tesla’s vision system in the Subject Vehicle was based on single frames, which
26 means that it sees each moment of time individually, and using each single frame, tries to detect a
27 vehicle in only that frame. When flashing lights exist at a scene, the frames alternate between

28 _____
<https://www.latimes.com/business/story/2021-05-17/dmv-tesla-california-fsd-autopilot-safety>

1 extremely saturated frames and extremely dark frames. The Autopilot system sees the frames as either
2 very bright or very dark, rather than interpreting the changing light intensity as a caution signal as a
3 human would. This limitation based on the single frame interpretation leads to missed detections in
4 the system.

5 69. In September of 2021, approximately eighteen months before the crash involving
6 Messrs. Mendoza Tesla made a software update to enhance system detectability for caution lights
7 associated with emergency vehicles. Despite this update, Teslas continued to crash into first
8 responder/law enforcement vehicles, causing injury and death.

9 70. Following Tesla's software update, NHTSA made two additional requests to Tesla,
10 one of which was an information request letter "to obtain information on the company's chances to
11 subject vehicles' functionality through software updates intended to improve the detection of
12 emergency vehicle lights in low light conditions."

13 71. Regarding its updates, Tesla has acknowledged that while its updates may improve
14 the system's detection and response capabilities for caution lights, they would not work for all Tesla
15 vehicles. In fact, for nearly a year and a half before the subject crash Tesla knew that its over-the-
16 air software fix to improve detection of caution lights would not work on the Subject Vehicle. The
17 software fix was simply not compatible with Tesla's operating on its earlier operating system known
18 as Hardware 1.

19 72. By way of analogy with another ubiquitous consumer device, Apple routinely updates
20 its IOS software such earlier versions of the iPhone are no longer capable of running the latest
21 software. In other words the software for an iPhone 16 doesn't work on iPhone 3. However, while
22 that planned obsolescence is an inconvenience for phone users, here Tesla decided that hundreds of
23 thousands of vehicles operating on Hardware 1 would continue to pose a threat to emergency
24 responders because of the vehicles' inability to perceive and react to caution lights.

25 73. Autopilot system in the Subject Vehicle did not differentiate the emergency vehicles
26 with activated caution lights from other vehicles on the road on the night of February 18, 2023. The
27 Autopilot system saw single frames in the vision system that were either very dark or very bright,
28 leading to the missed detection of the emergency vehicles with activated caution lights, causing the

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1 Tesla Model S to crash into the emergency vehicles, killing Giovanni, severely injuring Caleb and
 2 injuring several first responders on-scene.

3 74. Tesla's updates have a history causing problems. An update to the FSD Beta software
 4 in October 2021 caused a major increase in "phantom braking" incidents, in which the software
 5 identifies a non-existent threat that triggers the vehicle's emergency braking system. The result is that
 6 Tesla vehicles, traveling at various speeds, were suddenly slamming on the brakes for no apparent
 7 reason. Tesla initially claimed it had identified the source of the problem and fixed it with a software
 8 update released on October 25, 2021, but subsequently issued a formal recall over the issue for the
 9 more than 11,000 vehicles using the FSD Beta software in an effort to head off adverse action by
 10 U.S. regulators.³⁷

11 75. Tesla's claims of having fixed the problem turned out to be false, as there were 107
 12 NHTSA driver complaints in the three-month period of November 2021 through January 2022 about
 13 "phantom braking" issues (compared with only 34 such complaints in the preceding 22 months). The
 14 NHTSA complaints included everything from phantom braking incidents that were "happening with
 15 NOTHING present in front of my vehicle, and sometimes with nothing around me at all," to an
 16 incident where Tesla software slammed on the brakes in response to a plastic bag.³⁸

17 76. On November 18, 2021, CNN Business reported that it spent a morning testing
 18 Tesla's FSD technology on the streets of New York City and "watched the software nearly crash into
 19 a construction site, try to turn into a stopped truck and attempt to drive down the wrong side of the
 20 road." The FSD software reportedly "needed plenty of human interventions to protect us and
 21 everyone else on the road," including a driver intervention "every couple of blocks or so" and
 22 multiple instances in which the driver "quickly jerked the wheel to avoid a crash."³⁹

23
 24 ³⁷ Tom Krisher, "Tesla software recall may head off fight with US regulators,"
 25 *Associated Press* (Nov. 2, 2021), available at <https://apnews.com/article/technology-business-software-d3e2107435f432fd9b36ba14898166a0>

26 ³⁸ Faiz Siddiqui & Jeremy B. Merrill, "Tesla drivers report a surge in 'phantom
 27 braking,'" *The Washington Post* (Feb. 2, 2022), available at
 28 <https://www.washingtonpost.com/technology/2022/02/02/tesla-phantom-braking/>

³⁹ Matt McFarland, "We tried Tesla's 'full self-driving.' Here's what happened," CNN
 Business, <https://www.cnn.com/2021/11/18/cars/tesla-full-self-driving-brooklyn/index.html>
 (Nov. 18, 2021); CNN, "CNN tests a 'full self-driving' Tesla,"

1 77. On December 6, 2021, *The New York Times* published an article about its investigation
2 into the failures of Tesla's ADAS technology based on interviews with 19 Tesla employees who had
3 worked on design, developing, and testing that technology at Tesla over the prior decade. The article
4 reported that interviews with the employees indicated that Musk "repeatedly misled" the public about
5 the abilities of Tesla's ADAS technology.⁴⁰

6 78. As of May 15, 2022, nearly a year after the NHTSA issued its unprecedented order
7 requiring automobile manufacturers to report any crash that happens while or immediately after a
8 vehicle is automating some driving tasks, auto manufacturers reported 392 accidents in total. Tesla
9 accounted for 70 percent of those reports, reporting 273 accidents from June of 2021 to May 15,
10 2022. Honda was second with 90 accidents, followed by Subaru at 10, and Ford at five.⁴¹

11 79. On June 8, 2022, NHTSA upgraded its Preliminary Evaluation (PE) 21-020 to
12 Engineering Analysis (EA) 22-002 to study the potential for driver misuse when Autopilot is engaged.
13 NHTSA listed additional collisions between Tesla vehicles and vehicles stopped at first responder
14 scenes to the eleven collisions reported between January 2018 and July 2021 that it was already
15 investigating. The subject collisions investigated by NHTSA include, but are not limited to, the
16 following collisions:

- 17 a. A collision in January of 2018 in which a Tesla Model S struck a firetruck parked
18 along Interstate 405 in Culver City, California. NTSB conducted an investigation into
19 the crash, determining that the driver was overly reliant on the system and that
20 Autopilot's design let him disengage from driving.⁴²
- 21 b. A collision in December of 2019 in Norwalk, Connecticut in which a Telsa Model 3

22
23 <https://www.youtube.com/watch?v=2PMu7MD9GvI> (Nov. 18, 2021).

24 ⁴⁰ Metz & Boudette, *supra* note 2; Tesla, "Tesla Self-Driving Demonstration" (Nov.
25 18, 2016), <https://www.tesla.com/videos/autopilot-self-driving-hardware-neighborhood-long>

26 ⁴¹ Michael Wayland, "U.S. safety agency says Tesla accounts for most driver-assist
27 crashes, but warns data lacks context" *CNBC* (June 15, 2022) *available at*
<https://www.cnbc.com/2022/06/15/data-shows-tesla-accounts-for-most-reported-driver-assist-crashes-but-officials-warn-report-lacks-context.html>

28 ⁴² National Transportation Safety Board, Highway Accident Brief, "Rear End Collision
Between a Car Operating with Advanced Driver Assistance Systems and a Stationary Fire Truck,
Culver City, California, January 22, 2018," Report Date: August 22, 2019.

1 on Autopilot crashed into the back of a police cruiser that was parked on the highway
2 with its emergency lights on and flares placed behind it.⁴³ The trooper was assisting
3 another driver that had been involved in an unrelated crash.

- 4 c. A collision in December of 2019, in which a Telsa Model 3 on Autopilot crashed into
5 the rear of a parked fire truck in on a highway in Cloverdale, Indiana, killing the front
6 seat passenger and seriously injuring the driver. The fire truck was parked in the
7 passing lane on the highway with its emergency lights on.⁴⁴
- 8 d. A collision in January of 2020 in which a Telsa operating on Autopilot crashed into
9 a Massachusetts State Police cruiser that was stopped on in the left lane of a highway
10 in Bridgewater around 10 p.m.⁴⁵
- 11 e. A collision in July of 2020 in Cochise County, Arizona in which a Tesla Model S on
12 Autopilot slammed into the back of a state trooper's SUV that was parked on the
13 shoulder of the highway with its emergency lights activated.⁴⁶
- 14 f. A collision in August of 2020 in North Carolina in which a Tesla on Autopilot crashed
15 into patrol cars from the Nash County Sheriff's Office and State Highway Patrol
16 parked along Highway 64.⁴⁷ The incident occurred at night while another traffic crash
17 was being investigated. The patrol cars had their emergency lights activated.

18
19 ⁴³ Torres, Ella. "Tesla on Autopilot Slams into Police Cruiser, Driver Claims He Was
20 Checking on His Dog." ABC News. ABC News Network, December 7, 2019.
[https://abcnews.go.com/US/tesla-autopilot-slams-police-cruiser-driver-claims-
checking/story?id=67570199](https://abcnews.go.com/US/tesla-autopilot-slams-police-cruiser-driver-claims-checking/story?id=67570199)

21 ⁴⁴ Slaby, MJ. "One Dead after Vehicle Hits Firetruck Parked on I-20." Indianapolis Star.
22 December 29, 2019. [https://www.indystar.com/story/news/2019/12/29/one-dead-after-tesla-hits-
parked-fire-truck-70/2771593001/](https://www.indystar.com/story/news/2019/12/29/one-dead-after-tesla-hits-parked-fire-truck-70/2771593001/)

23 ⁴⁵ Kath, Ryan. "Federal Government Investigating Tesla Crash in Massachusetts."
24 10Boston. November 13, 2020. [https://www.nbcboston.com/investigations/federal-government-
investigating-tesla-crash-in-massachusetts/2229521/?os=vb&ref=app](https://www.nbcboston.com/investigations/federal-government-investigating-tesla-crash-in-massachusetts/2229521/?os=vb&ref=app)

25 ⁴⁶ Minkler, Alana. "Tesla on Autopilot Crashes into DPS Patrol Car on I-10." The
26 Arizona Republic. Arizona Republic, July 15, 2020.
[https://www.azcentral.com/story/news/local/arizona-breaking/2020/07/14/tesla-autopilot-hits-
dps-patrol-car-10-near-benson/5439368002/](https://www.azcentral.com/story/news/local/arizona-breaking/2020/07/14/tesla-autopilot-hits-dps-patrol-car-10-near-benson/5439368002/)

27 ⁴⁷ "Dash Cam Video Released from 2020 Tesla Autopilot Crash that Injured 2 Law
28 Enforcement Officers." 11ABC Eyewitness News. February 9, 2022. [https://abc11.com/tesla-tesla-
crash-car-accident-dash-camera-nash-county-officers-police/11548699/](https://abc11.com/tesla-tesla-crash-car-accident-dash-camera-nash-county-officers-police/11548699/)

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- g. A collision in February of 2021 in which a Tesla Model X with Autopilot engaged crashed into a cruiser working an active scene with flashing lights on the freeway in Montgomery County, Texas.⁴⁸
- h. A collision in March of 2021 in which a Tesla on Autopilot crashed into a parked police car with flashing lights on Interstate 96 near Lansing, Michigan. The trooper was investigating a car crash at approximately 1:10 a.m. when the Tesla struck his car.⁴⁹
- i. A collision in Florida in May of 2021 in which a Tesla slammed into a Road Ranger truck with emergency lighting that was being used by police to block an express lane on the highway for a previous crash.⁵⁰
- j. A collision in July of 2021 in which a Tesla on Autopilot drove through a freeway closure at approximately 1:45 a.m. and slammed into the back of a California Highway Patrol officer’s car in San Diego, California.
- k. A collision in August of 2021 in which a Tesla Model 3 on Autopilot struck a stopped Florida Highway Patrol car and a disabled car that the Florida state trooper had stopped to assist on the highway.⁵¹

80. On July 13, 2022, the Dawn Project, an organization dedicated to increasing the software safety, published a paper regarding its testing of a Tesla Model 3 equipped with FSD Beta 10.12.2 (released on June 1, 2022) on a closed racetrack. The purpose of the testing was to determine

⁴⁸ Campbell, Dawn and Andy Cerota. “Lawsuit Filed Against Tesla After Accident that Injured 5 Police Officers.” Click2Houston.com. September 27, 2021. <https://www.click2houston.com/news/local/2021/09/27/lawsuit-filed-against-tesla-after-accident-that-injured-5-police-officers/>

⁴⁹ Associated Press. “Tesla on Autopilot Drives into Michigan Trooper’s Patrol Car.” ABC News. ABC News Network, March 17, 2021. <https://abcnews.go.com/US/wireStory/tesla-autopilot-drives-michigan-troopers-patrol-car-76524732>

⁵⁰ Batchelor, Amanda. “3 Injured After Tesla Collides with Road Ranger Truck on I-95.” Local 10.com. May 19, 2021. <https://www.local10.com/news/local/2021/05/19/3-injured-after-tesla-collides-with-road-ranger-truck-on-i-95/>

⁵¹ Associated Press. “Tesla on Part-Automated Drive System Slams into Police Car.” <https://wagmtv.com>, August 28, 2021. <https://www.wagmtv.com/2021/08/28/tesla-part-automated-drive-system-slams-into-police-car/>

1 the FSD software’s safety in terms of its ability to detect and avoid hitting small children. The testing
 2 was performed on a closed racetrack with the Tesla driving itself between a long row of cones with
 3 a child-sized mannequin placed in plain view at the end of the row—i.e., conditions significantly less
 4 complex and more favorable to the FSD software than those that would be encountered in the real
 5 world. Nevertheless, the testing found Tesla’s FSD software consistently failed to detect the
 6 stationary child-size mannequins and “d[id] not avoid the child or even slow down,” but instead
 7 “repeatedly struck the child mannequin in a manner that would be fatal to an actual child.”⁵²

8 81. On July 14, 2022, the editor-in-chief of Electrek, a website that covers electric
 9 vehicles, published an article reviewing his experience of using Tesla’s FSD Beta software over the
 10 course of two months. His ultimate conclusion was that, despite years of development and updates
 11 by Tesla, FSD Beta’s “decision-making is still the equivalent of a 14-year-old who has been learning
 12 to drive for the last week and sometimes appears to consume hard drugs.”⁵³

13 82. On July 28, 2022, following a year-long investigation, the California DMV, which
 14 licenses motor vehicle manufacturers and dealerships in California (including Tesla’s Fremont factory
 15 and dozens of Tesla retail stores), brought two related administrative enforcement actions against
 16 Tesla for “untrue,” “misleading,” and “deceptive” marketing of its Autopilot and FSD technology.
 17 The DMV specifically alleged that Tesla’s use of the product labels “Autopilot” and “Full Self Driving
 18 Capability,” as well as statements about those technologies that have appeared on Tesla’s website in
 19 2022, “represent that vehicles equipped with those ADAS [advanced driver assistance system]
 20 features will operate as an autonomous vehicle, but vehicles equipped with those ADAS features
 21 could not at the time of those advertisements, and cannot now, operate as autonomous vehicles.”
 22 For relief, the DMV seeks restitution and the revocation or suspension of Tesla’s California vehicle
 23 manufacturer license and vehicle dealer license.⁵⁴

24 _____
 25 ⁵² The Dawn Project, *In Scientific Test, Tesla “Full Self-Driving” Technology Consistently
 26 Strikes Child-Sized Mannequins* (July 13, 2022), available at [https://dawnproject.com/wp-
 27 content/uploads/2022/08/The Dawn Project Tesla FSD Test 8 .pdf](https://dawnproject.com/wp-content/uploads/2022/08/The-Dawn-Project-Tesla-FSD-Test-8.pdf)

28 ⁵³ Fred Lambert, “Elon Musk does the impossible and manages expectations on
 Tesla’s next Full Self-Driving update,” *Electrek* (July 14, 2022), available at
[https://electrek.co/2022/07/14/elon-musk-manages-expectations-tesla-next-big-full-self-driving-
 update/](https://electrek.co/2022/07/14/elon-musk-manages-expectations-tesla-next-big-full-self-driving-update/)

⁵⁴ See *In the Matter of the Accusation Against Tesla Inc. dba Tesla Motors, Inc., a Vehicle*

1 83. All told, Tesla received thousands of customer reports regarding problems with
 2 Tesla's "Autopilot" system between 2015 and 2022, including over 1,000 crashes; over 1,500
 3 complaints about sudden, unintentional braking; and 2,400 complaints about sudden acceleration.⁵⁵

4 84. On December 2023, Tesla acknowledged the defective nature of its ADAS
 5 technology by issuing a recall of every vehicle it had ever manufactured pursuant to Part 573 Safety
 6 Recall Report 23V-838. On the heels of the 'over the air' software 'fix' that Tesla pushed out in
 7 response to the recall, NHTSA opened a recall query in May 2024 to analyze the efficacy of Tesla's
 8 recall efforts. Tesla's response to NHTSA's further investigation into Tesla's defective ADAS
 9 technology is on-going.

10 85. At all relevant times, Defendant TESLA and DOES 1-30 were and are engaged in
 11 the business of manufacturing, engineering, fabricating, designing, assembling, importing,
 12 distributing, selling, inspecting, servicing, repairing, marketing, advertising, warranting, modifying,
 13 equipping, and leasing, renting, wholesaling, and selling the Subject Vehicle. Defendants knew, or in
 14 the exercise of reasonable care should have known, the Subject Vehicle would be used in the manner
 15 described herein, without inspection for defects in its function, parts, or design, including, but not
 16 limited to, as to Autopilot mode, for use in the State of California and elsewhere. At all relevant times,
 17 the Subject Vehicle, and similar vehicles, were designed, manufactured, marketed, advertised, and
 18 placed into the stream of commerce by TESLA and DOES 1-30, and each of them, and their officers,
 19 directors, employers, salespeople, contractors, and/or managing agents.

20 86. At all relevant times, the Subject Vehicle contained design, manufacturing, and
 21 warning defects which posed an unreasonable risk of injury or death to consumers, and others
 22 similarly situated, and to other motorists sharing the road with TESLA's vehicles, including the
 23 Subject Vehicle. The Subject Vehicle and each of its component parts was unsafe and dangerous
 24 when used for its intended use and reasonably foreseeable misuses by reason of defects in its design

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 26 *Manufacturer, Case No. 21-02188, Accusation (July 28, 2022); In the Matter of the Accusation Against
 Tesla Inc. dba Tesla Motors, Inc., a Vehicle Dealer, Case No. 21-02189, Accusation (July 28, 2022).*

27 ⁵⁵ Russ Mitchell, *Huge Tesla data leak reportedly reveals thousands of safety complaint. 4 things to
 28 know* (May 26, 2023), [https://www.latimes.com/business/story/2023-05-26/tesla-autopilot-
 alleged-data-breach-leak](https://www.latimes.com/business/story/2023-05-26/tesla-autopilot-alleged-data-breach-leak)

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1 and/or manufacturing and/or failure to warn by said Defendants, and each of them.

2 87. The Subject Vehicle was used by Giovanni on or about February 18, 2023, as intended
3 and in a reasonably foreseeable manner. The Subject Vehicle did not perform as TESLA and DOES
4 1-30 claimed the vehicle would perform and as ordinary consumers expect these vehicles to perform.
5 The Subject Vehicle was travelling in excess of the speed limit and at a speed that was unsafe for
6 traffic conditions. TESLA's Autopilot did not timely perceive, sense, or react to changing traffic
7 conditions in front of the Subject Vehicle; did not perceive, react, and avoid commonly occurring
8 roadway and traffic conditions and hazards, including but not limited to the presence of first
9 responder/emergency vehicles; and did not brake or otherwise take evasive action to prevent the
10 collision with the first responder/emergency vehicles.

11 88. The Subject Vehicle and similar vehicles manufactured and/or sold by TESLA and
12 DOES 1-30 are deceptive and unsafe, including but not limited to, as a result of TESLA conferring
13 to their customers a false sense of security that Autopilot has autonomous functionality or is
14 otherwise safe in all traffic collisions, including freeway conditions and in excess of freeway speeds.
15 As a foreseeable consequence, TESLA's customers believe they are operating an "autonomous"
16 vehicle and are less attentive to roadway conditions and hazards, are less focused on driving, and
17 have a diminished attention to the roadway and to avoid collisions. Ordinary consumers and users
18 do not appreciate, and are not properly informed of, the potential risks, dangers, and limitations of
19 TESLA's Autopilot functionality and ability.

20 89. Plaintiff is informed and believes and herein alleges that prior to February 18, 2023,
21 Defendants knew and were aware of the manufacturing, design, and warning defects, including but
22 not limited to those related to Autopilot. Defendants knew or should have known of the dangerous
23 and defective nature of the Subject Vehicle from their own internal inspections, testing, and quality
24 control procedures, and from prior collisions, lawsuits, warranty claims, and/or news articles.
25 Defendants should have put in place features to limit the use and/or protect their consumers and
26 others on the roadway against these dangers.

27 90. Despite their awareness of the defects in the Subject Vehicle, Defendants, and each
28 of them, failed to warn Giovanni and/or other purchaser and users of TESLA's vehicles of said

1 dangers, defects, and limitations of the Subject Vehicle, and failed to properly inform their consumers
2 and others of the limitations of Autopilot. To the contrary, TESLA misleadingly promotes the
3 functionality, safety, and autonomy of Autopilot as alleged herein.

4 91. As a direct and legal result of the conduct of Defendants and each of them, and of
5 the defects inherent in the Subject Vehicle, Plaintiff Caleb Mendoza sustained serious personal
6 injuries and his brother, Giovanni, died in the collision.

7 **First Cause of Action**
8 **Strict Products Liability**
(Against Defendant Tesla and Does 1–50)

9 92. Plaintiffs incorporate herein each and every allegation set forth in the preceding
10 paragraphs as though fully set forth herein.

11 93. Plaintiffs were harmed by the Subject Vehicle, a product that is manufactured,
12 distributed, marketed, advertised, and sold by Defendants TESLA and DOES 1–50.

13 94. At the time Defendants sold the Subject Vehicle, the Subject Vehicle was dangerous,
14 hazardous, and unsafe both for its intended use and/or for its reasonably foreseeable misuses. The
15 Subject Vehicle contained inherent vices and defects both in design and manufacturing, and by
16 Defendants’ failures to warn of the Subject Vehicle’s defects and limitations, all of which Defendants
17 were aware at all relevant times.

18 95. At all relevant times, Defendant TESLA and DOES 1–50 directly and/or indirectly
19 claims Autopilot is a combination of hardware and software that performs the dynamic driving task.
20 Defendant TESLA and DOES 1–50 advertise, market, and claim that Autopilot is safe and as good
21 as or better than a human driver at detecting hazards, changing conditions, and traffic. Consumers
22 are informed and expect that TESLA’s “Autopilot” vehicles will drive safely and autonomously, and
23 will steer, maneuver, brake, accelerate, lane keep, detect, avoid, and adapt to hazards and changing
24 traffic conditions in real time without human input. At all relevant times, TESLA distributed
25 promotional materials and videos that depict TESLA’s vehicles without a natural person in the
26 vehicle. TESLA’s advertising, marketing, and promotions depict Autopilot as an autonomous
27 function that is safe in any traffic conditions.

28 96. At all relevant times, Defendant TESLA and DOES 1–50 did not place reasonable

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1 parameters or limitations on their customers for the use of Autopilot. Owners are allowed to use
2 Autopilot in any manner, traffic, or conditions, including on metropolitan freeways and at speeds in
3 excess of the speed limit.

4 97. TESLA refuses to implement technology that would warn drivers to remain focused
5 on driving. For example, other companies have implemented technology to ensure drivers are still
6 engaged when utilizing SAE Level 2 ADAS technology, since evidence shows the average driver
7 tends to rely too much on ADAS technology. To that end, General Motors and Ford use infrared
8 cameras that closely track the driver's eyes and sound warning chimes if a driver looks away from the
9 road for more than two or three seconds. TESLA did not initially include such a driver monitoring
10 system in its vehicles, and later added only a standard camera that is much less precise than infrared
11 cameras in eye tracking.⁵⁶

12 98. As a foreseeable consequence, TESLA's customers believe they are operating an
13 "autonomous" vehicle and are less attentive to roadway conditions and hazards, less focused on
14 driving, and have a diminished attentiveness and capacity to avoid collisions. Ordinary consumers
15 and users are not properly informed of, and otherwise do not fully appreciate, the potential risks,
16 dangers, and limitations of Autopilot's functionality and ability.

17 99. At all relevant times, Defendant TESLA and DOES 1-50, knew or with reasonable
18 due care should have known, that their consumers were operating Tesla's vehicles without the human
19 operator's active dynamic input. TESLA knew or with reasonable due care should have known, that
20 numerous crashes, including fatal crashes, have occurred as a result of their customers belief that
21 Tesla's vehicles are autonomous or that Autopilot is an autonomous mode. These foreseeable uses
22 were a direct and proximate result of TESLA's representations that "Autopilot" is an autonomous
23 mode and/or was safe for use without active human dynamic input and supervision.

24 100. As a result of and based upon TESLA's representations, Tesla's customers regularly
25 transfer complete control of their vehicles to TESLA, including at times when it is dangerous to do
26 so. Similarly, Giovanni used Autopilot and transferred complete control of the Subject Vehicle to

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28 ⁵⁶ Neal E. Boudette, "Federal safety agency expands its investigation of Tesla's
Autopilot system," *The New York Times* (June 9, 2022), available at
<https://www.nytimes.com/2022/06/09/business/tesla-autopilot-nhtsa-investigation.html>

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1. TESLA at the time of the crash.

2 101. Defendants knew the Subject Vehicle was to be purchased and used without
3 inspection for defects by the users of the vehicle, including but not limited to Giovanni. Defendants
4 did not include sufficient instructions and/or warnings of the potential safety hazards, including but
5 not limited to Giovanni.

6 102. In manufacturing, distributing, marketing, advertising, and selling its vehicles,
7 including the Subject Vehicle, TESLA acted with conscious disregard for the safety of others.
8 Specifically, TESLA represented to others—including Giovanni—that the Tesla Model S was capable
9 of fully autonomous driving even though TESLA knew the vehicle was not safe for fully autonomous
10 driving. Moreover, TESLA knew that others—including Giovanni—would rely on TESLA’s
11 “Autopilot” feature to operate their vehicles on public roadways in their stead, and that this presented
12 a significant risk to others’ safety, including other motorists and their passengers.

13 103. TESLA’s conscious decision to expose members of the general public to its
14 defectively designed product is despicable conduct. TESLA made a conscious decision to
15 manufacture, distribute, market, advertise, and sell a defectively designed product it knew exposed
16 members of the general public to a significant risk of harm purely out of a desire to maximize profits.
17 Indeed, TESLA knew that disclosing the true capabilities of its ADAS software would conflict with
18 its desire to improve its financial condition and establish itself as a dominant player in the electric
19 vehicle market, and/or would increase costs and thereby reduce its profit margins. That a major auto
20 manufacturer would expose members of the general public to a significantly increased risk of serious
21 injury or death on public roadways simply to maximize profit is loathsome, contemptable, and/or
22 vile conduct that would be looked down upon by most reasonable, ordinary people.

23 104. Further, TESLA intentionally misrepresented the safety of their vehicles and ADAS
24 software. TESLA did so to generate excitement about the company’s vehicles and thereby improve
25 its financial condition by, among other things, attracting investment, increasing sales, avoiding
26 bankruptcy, driving up TESLA’s stock price, and helping to establish TESLA as a dominant player
27 in the electric vehicle market, all at the expense of the public’s safety.

28 105. The Subject Vehicle’s failure to perform safely and as expected and the Defendants’

1 malice, oppression, and/or fraud was a substantial factor in—and a direct and proximate cause of—
2 the collision between the Subject Vehicle and the parked first responder/emergency vehicle, the fire
3 truck.

4 106. As a result of that collision, Plaintiffs suffered damages in an amount to be proven at
5 trial.

6 **Second Cause of Action**
7 **Negligent Products Liability**
(Against Defendant Tesla and Does 1–30)

8 107. Plaintiffs incorporate herein each and every allegation set forth in the preceding
9 paragraphs as though fully set forth herein.

10 108. Plaintiffs were harmed by the Subject Vehicle, a product that is manufactured,
11 distributed, marketed, advertised and sold by Defendants TESLA and DOES 1–50.

12 109. At the time Defendants sold the Subject Vehicle, the Subject Vehicle was dangerous,
13 hazardous, and unsafe both for its intended use and/or for its reasonably foreseeable misuses. The
14 Subject Vehicle contained inherent vices and defects both in design and manufacturing, and by
15 Defendants’ failures to warn of the Subject Vehicle’s defects and limitations, of which they were
16 aware at all relevant times.

17 110. Defendants knew the Subject Vehicle was to be purchased and used without
18 inspection for defects by the users of the vehicle, including but not limited to Giovanni. Defendants
19 did not include sufficient instructions and/or warnings of the potential safety hazards, including but
20 not limited to Giovanni.

21 111. Defendants were negligent in the design, manufacturing, installation, promotion,
22 instructions, and warnings related to the Subject Vehicle, including but not limited to the functionality
23 and limitations of Autopilot. Said negligence includes, but is not limited to, Defendants’ failures to
24 place reasonable limitations on the Subject Vehicle’s autonomous features, and/or to reasonably
25 warn and advise Tesla’s customers about the limitations of Autopilot. As a result, TESLA’s
26 customers, including Giovanni, used Autopilot by transferring complete control to TESLA in any
27 manner, traffic, or conditions, including at speeds in excess of the speed limit.

28 112. TESLA refuses to implement technology that would warn drivers to remain focused

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1 on driving. For example, other companies have implemented technology to ensure drivers are still
 2 engaged when utilizing SAE Level 2 ADAS technology, since evidence shows the average driver
 3 tends to rely too much on ADAS technology. To that end, General Motors and Ford use infrared
 4 cameras that closely track the driver's eyes and sound warning chimes if a driver looks away from the
 5 road for more than two or three seconds. TESLA did not initially include such a driver monitoring
 6 system in its vehicles, and later added only a standard camera that is much less precise than infrared
 7 cameras in eye tracking.⁵⁷

8 113. In manufacturing, distributing, marketing, advertising, and selling its vehicles,
 9 including the Subject Vehicle, TESLA acted with conscious disregard for the safety of others.
 10 Specifically, TESLA represented to others—including Giovanni—that the Tesla Model S was capable
 11 of fully autonomous driving even though Tesla knew the vehicle was not safe for fully autonomous
 12 driving. Moreover, TESLA knew that others—including Giovanni—would rely on Tesla's
 13 "Autopilot" feature to operate their vehicles on public roadways in their stead, and that this presented
 14 a significant risk to others' safety, including other motorists and their passengers.

15 114. TESLA's conscious decision to expose members of the general public to its
 16 defectively designed product is despicable conduct. TESLA made a conscious decision to
 17 manufacture, distribute, market, advertise, and sell a defectively designed product it knew exposed
 18 members of the general public to a significant risk of harm purely out of a desire to maximize profits.
 19 Indeed, TESLA knew that disclosing the true capabilities of its ADAS software would conflict with
 20 its desire to improve its financial condition and establish itself as a dominant player in the electric
 21 vehicle market, and/or would increase costs and thereby reduce its profit margins. That a major auto
 22 manufacturer would expose members of the general public to a significantly increased risk of serious
 23 injury or death on public roadways simply to maximize profit is loathsome, contemptable, and/or
 24 vile conduct that would be looked down upon by most reasonable, ordinary people.

25 115. Further, TESLA intentionally misrepresented the safety of their vehicles and ADAS
 26 software. TESLA did so to generate excitement about the company's vehicles and thereby improve

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 28 ⁵⁷ Neal E. Boudette, "Federal safety agency expands its investigation of Tesla's
 Autopilot system," *The New York Times* (June 9, 2022), available at
<https://www.nytimes.com/2022/06/09/business/tesla-autopilot-nhtsa-investigation.html>

1 its financial condition by, among other things, attracting investment, increasing sales, avoiding
2 bankruptcy, driving up TESLA’s stock price, and helping to establish TESLA as a dominant player
3 in the electric vehicle market, all at the expense of the public’s safety.

4 116. The Subject Vehicle’s failure to perform safely and as expected and the Defendants’
5 malice, oppression, and/or fraud was a substantial factor in—and a direct and proximate cause of—
6 the collision between the Subject Vehicle and the parked first responder/emergency vehicle, the fire
7 truck.

8 117. As a result of that collision, Plaintiffs suffered damages in an amount to be proven at
9 trial.

10 **Third Cause of Action**
11 **Negligent Misrepresentation**
(Against Defendant Tesla and Does 1–100)

12 118. Plaintiffs incorporate herein each and every allegation set forth in the preceding
13 paragraphs as though fully set forth herein.

14 119. TESLA represented to members of the general public—including Giovanni—on
15 Twitter, on its blog, in advertising, in promotional materials, and on its website—that the TESLA
16 “Autopilot” feature was capable of “full-self driving” (i.e., capable of safely driving autonomously).

17 120. This representation was false; the TESLA “Autopilot” feature was not capable of
18 “full self-driving” (i.e., capable of safely driving autonomously). To the contrary, the “Autopilot”
19 feature has only ever been capable of SAE Level 2 automation (i.e., limited driver assistance), even
20 with the so-called “Full Self Driving” upgrade.

21 121. At the time it made these representations, TESLA did not have reasonable grounds
22 to believe the TESLA “Autopilot” feature was capable of “full self-driving” (i.e., capable of safely
23 driving autonomously). To the contrary, Tesla knew—from the many publicized fatalities, thousands
24 of customer reports, its own internal testing, and from third-party testing—that the TESLA
25 “Autopilot” feature was not capable of “full self-driving” (i.e., capable of safely driving
26 autonomously).

27 122. Tesla intended members of the public to rely on its misrepresentations in regarding
28 the TESLA’s “Autopilot” feature as capable of “full self-driving” (i.e., capable of safely driving

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1 autonomously), and intended members of the public to rely on its “Autopilot” feature to operate
2 their vehicles on public roadways in their stead.

3 123. Giovanni reasonably relied on those representations when he purchased the Subject
4 Vehicle and used TESLA’s “Autopilot” feature to operate his vehicle on public roadways in his stead.

5 124. As a result of Giovanni’s reliance on the Subject Vehicle’s “Autopilot” feature to self-
6 drive, Giovanni’s TESLA vehicle struck the parked emergency vehicle, causing fatal injuries to
7 Giovanni and serious injuries to Caleb.

8 125. As a result of that collision, Plaintiffs suffered damages in an amount to be proven at
9 trial.

10 **Fourth Cause of Action**
11 **Fraudulent Misrepresentation**
(Against Defendant Tesla and Does 1–50)

12 126. Plaintiffs incorporate herein each and every allegation set forth in the preceding
13 paragraphs as though fully set forth herein.

14 127. TESLA represented to members of the general public—including —on Twitter, on
15 its blog, in advertising, in promotional materials, and on its website—that the TESLA “Autopilot”
16 feature was capable of “full-self driving” (i.e., capable of safely driving autonomously).

17 128. This representation was false; the TESLA “Autopilot” feature was not capable of
18 “full self-driving” (i.e., capable of safely driving autonomously). To the contrary, the “Autopilot”
19 feature has only ever been capable of SAE Level 2 automation (i.e., limited driver assistance), even
20 with the so-called “Full Self Driving” upgrade.

21 129. At the time it made these representations, TESLA knew—from the many publicized
22 fatalities, thousands of customer reports, its own internal testing, and from third-party testing—that
23 the TESLA “Autopilot” feature was not capable of “full self-driving” (i.e., capable of safely driving
24 autonomously). Indeed, TESLA knew that numerous crashes, including fatal crashes, occurred as a
25 result of their customers belief that TESLA’s vehicles are autonomous or that Autopilot is an
26 autonomous mode.

27 130. TESLA intended members of the public—including Giovanni—to rely on its
28 misrepresentations in regarding the TESLA’s “Autopilot” feature as capable of “full self-driving”

1 (i.e., capable of safely driving autonomously), and intended members of the public to rely on its
2 “Autopilot” feature to operate their vehicles on public roadways in their stead.

3 131. Giovanni reasonably relied on those representations when he purchased a TESLA
4 with the “Autopilot” and “Full Self Driving” upgrades, and when he used TESLA’s “Autopilot”
5 feature to operate his vehicle on public roadways in his stead.

6 132. As a result of Giovanni’s reliance on the Subject Vehicle’s “Autopilot” feature to self-
7 drive, Giovanni’s TESLA vehicle struck the parked emergency vehicle, causing fatal injuries to
8 Giovanni and serious injuries to Caleb.

9 133. As a result of that collision, Plaintiffs suffered damages in an amount to be proven at
10 trial.

11 134. TESLA’s conscious decision to deceive members of the public regarding the self-
12 driving capabilities of its “Autopilot” feature despite an awareness that customers would rely on the
13 feature for autonomous driving for which it was not designed, and that this had—and would continue
14 to have—dangerous and often deadly consequences purely out of a desire to maximize profits is
15 fraudulent, malicious, and oppressive conduct. Indeed, TESLA knew that disclosing the true
16 capabilities of its ADAS software would conflict with its desire to improve its financial condition and
17 establish itself as a dominant player in the electric vehicle market, and/or would increase costs and
18 thereby reduce its profit margins. That a major auto manufacturer would expose members of the
19 general public to a significantly increased risk of serious injury or death on public roadways simply
20 to maximize profit is loathsome, contemptible, and/or vile conduct that would be looked down
21 upon by most reasonable, ordinary people.

22 **Fifth Cause of Action**
23 **Concealment**

(Against Defendant Tesla and Does 1–50)

24 135. Plaintiffs incorporate herein each and every allegation set forth in the preceding
25 paragraphs as though fully set forth herein.

26 136. TESLA disclosed to Giovanni—on Twitter, on its blog, in advertising, in
27 Promotional materials, and on its website—that his Tesla Model S was equipped with an “Autopilot”
28 feature that was purportedly “full-self driving.”

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1 137. But TESLA did not disclose to Giovanni material information that rendered that
2 disclosure deceptive by conveying the false impression the TESLA “Autopilot” feature was capable
3 of safely driving autonomously. Specifically, TESLA did not disclose that the “Autopilot” feature
4 was only SAE Level 2, that only SAE Level 3 or above can be considered safely fully autonomous,
5 that the Tesla Model S lacked the necessary hardware to ever function beyond Level 2, that TESLA’s
6 marketing video purportedly showing “Autopilot” self-driving TESLA was staged, and that there had
7 been thousands of crashes when users allowed the “Autopilot” to self-drive.

8 138. Giovanni did not know these facts when he chose to purchase a Tesla Model S with
9 the “Autopilot” feature from the Subject Vehicle’s prior owner, or when he chose to rely on those
10 features to drive the Tesla in his stead on public roadways.

11 139. TESLA intended to deceive members of the public—including Giovanni—regarding
12 whether TESLA’s “Autopilot” feature was capable of “full self-driving” (i.e., capable of safely driving
13 autonomously), by concealing these facts.

14 140. Had TESLA told Giovanni that the “Autopilot” feature was only SAE Level 2, that
15 only SAE Level 3 or above can be considered safely fully autonomous, that the Tesla Model S lacked
16 the necessary hardware to ever function beyond Level 2, that TESLA’s marketing video purportedly
17 showing “Autopilot” self-driving Tesla was staged, and that there had been thousands of crashes
18 when users allowed the “Autopilot” to self-drive, Giovanni either would not have purchased the
19 Telsa Model S in the first place, and certainly would not have relied on “Autopilot” to operate his
20 Tesla Model S in his stead on a public roadway.

21 141. As a result of Giovanni’s reliance on the Subject Vehicle’s “Autopilot” feature to self-
22 drive, Giovanni’s vehicle struck the parked emergency vehicle, causing a major frontal impact and
23 Giovanni’s death, and causing Caleb to sustain serious injuries.

24 142. As a result of that collision, Plaintiffs suffered damages in an amount to be proven at
25 trial.

26 143. TESLA’s conscious decision to deceive members of the public regarding the self-
27 driving capabilities of its “Autopilot” feature despite an awareness that customers would rely on the
28 feature for autonomous driving for which it was not designed, and that this had—and would continue

1 to have—dangerous and often deadly consequences purely out of a desire to maximize profits is
2 fraudulent, malicious, and oppressive conduct. Indeed, TESLA knew that disclosing the true
3 capabilities of its ADAS software would conflict with its desire to improve its financial condition and
4 establish itself as a dominant player in the electric vehicle market, and/or would increase costs and
5 thereby reduce its profit margins. That a major auto manufacturer would expose members of the
6 general public to a significantly increased risk of serious injury or death on public roadways simply
7 to maximize profit is loathsome, contemptible, and/or vile conduct that would be looked down
8 upon by most reasonable, ordinary people.

9
10 **Sixth Cause of Action**
Negligent Infliction of Emotional Distress
(Against Defendant Tesla and Does 1–100)

11 144. Plaintiffs incorporate herein each and every allegation set forth in the preceding
12 paragraphs as though fully set forth herein.

13 145. Through the acts and omissions alleged herein, Defendants, and each of them,
14 failed to exercise a reasonable degree of skill and care in their conduct towards Plaintiff. Defendants,
15 and each of them, breached and failed in their obligations and duties and otherwise breached their
16 duty of reasonable care and were negligent.

17 146. Plaintiff CALEB MENDOZA is the brother of Decedent Giovanni Mendoza and
18 was present when Giovanni sustained fatal injuries in the subject motor vehicle collision and died at
19 the scene of the crash.

20 147. As a direct and proximate result of the collision and of witnessing the unexpected,
21 untimely, and horrific death of his brother, Plaintiff CALEB MENDOZA experienced severe
22 emotional distress, including but not limited to shock, anguish, horror, anxiety, worry and grief.

23 **Seventh Cause of Action**
Wrongful Death
24 (Against Defendant Tesla and Does 1-100)

25 148. Plaintiffs incorporate herein each and every allegation set forth in the preceding
26 paragraphs as though fully set forth herein.

27 149. As a direct and proximate result of the actions and inactions of Defendants as alleged
28 herein, Eduardo and Maria’s son, Genesis Giovanni Mendoza Martinez, died an untimely death at

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1 the scene of the crash on February 18, 2023, at the age of 31 years old, from fatal injuries sustained
2 in the subject motor vehicle collision.

3 150. Plaintiffs Eduardo and Maria Mendoza have suffered and will suffer damages for the
4 wrongful death of their son, including, but not limited to, loss of society, comfort, companionship,
5 services, and affection, and other general damages.

6 **Prayer for Relief**

7 WHEREFORE Plaintiffs pray for judgment against Defendants as follows:

- 8 1. For economic damages according to proof at the time of trial;
- 9 2. For noneconomic damages according to proof at the time of trial;
- 10 3. For punitive damages against Tesla in an amount to be proven at trial;
- 11 4. For costs of suit;
- 12 5. For pre-judgement interest in accordance with Civil Code sections 3287, 3288, and
13 3291; and
- 14 6. For such other relief as is fair, just, equitable and as the Court may deem proper.

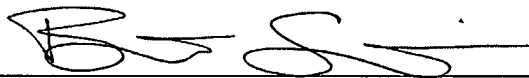
15
16 **DEMAND FOR JURY TRIAL**

17 Plaintiff demands trial by jury on all issues for which the right to a jury trial is guaranteed by
18 the U.S. Constitution, California Constitution, and/or California law.

19 Dated: September 25, 2024

SINGLETON SCHREIBER, LLP

20
21 By:



22 Brett Schreiber, Esq.
23 Attorneys for Plaintiffs CALEB MENDOZA, EDUARDO
24 AND MARIA MENDOZA, and the ESTATE OF
25 GENESIS GIOVANNI MENDOZA MARTINEZ, by
26 and through its personal representatives Eduardo and Maria
27 Elena Mendoza
28

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CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Brett J. Schreiber, Esq. (SBN 239707) Singleton Schreiber, LLP, 591 Camino de la Reina, Ste. 1025, San Diego, CA 92108 TELEPHONE NO.: (619) 771-3473 FAX NO.: (619) 255-1515 EMAIL ADDRESS: bschreiber@singletonschreiber.com ATTORNEY FOR (Name): Caleb Mendoza, et al.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA STREET ADDRESS: 725 Court Street MAILING ADDRESS: 725 Court Street CITY AND ZIP CODE: Martinez, CA 94553 BRANCH NAME: Wakefield Taylor Courthouse	
CASE NAME: Caleb Mendoza, et al. v. Tesla Inc., et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$35,000) <input type="checkbox"/> Limited (Amount demanded is \$35,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: C24-02690 JUDGE: DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

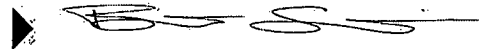
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 1. Strict Products Liability; 2. Negligent Products Liability; 3. Negligent Misrepresentation
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/09/2024

Brett J. Schreiber, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**CM-010**

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice

Other PI/PD/WD (23)

Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress

Other PI/PD/WD**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
CASE MANAGEMENT STATEMENT (Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$35,000)	<input type="checkbox"/> LIMITED CASE (Amount demanded is \$35,000 or less)
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): _____	

CASE NUMBER:

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by party (name):
 - b. This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

4. b. Provide a brief statement of the case, including any damages (if personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings; if equitable relief is sought, describe the nature of the relief):

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. **Trial date**

- a. The trial has been set for (date):
- b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. **Estimated length of trial**

The party or parties estimate that the trial will take (check one)

- a. days (specify number):
- b. hours (short causes) (specify):

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. Email address:
- f. Fax number:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference (specify code section):

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

- (1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

- (1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

10. c. In the table below, indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete mediation by <i>(date)</i> : <input type="checkbox"/> Mediation completed on <i>(date)</i> :
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete settlement conference by <i>(date)</i> : <input type="checkbox"/> Settlement conference completed on <i>(date)</i> :
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete neutral evaluation by <i>(date)</i> : <input type="checkbox"/> Neutral evaluation completed on <i>(date)</i> :
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete judicial arbitration by <i>(date)</i> : <input type="checkbox"/> Judicial arbitration completed on <i>(date)</i> :
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete private arbitration by <i>(date)</i> : <input type="checkbox"/> Private arbitration completed on <i>(date)</i> :
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for <i>(date)</i> : <input type="checkbox"/> Agreed to complete ADR session by <i>(date)</i> : <input type="checkbox"/> ADR completed on <i>(date)</i> :

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$35,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):*

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference *(specify):*

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court *(if not, explain):*
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following *(specify):*

20. Total number of pages attached *(if any)*: _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

 (TYPE OR PRINT NAME)

▲ _____
 (SIGNATURE OF PARTY OR ATTORNEY)

 (TYPE OR PRINT NAME)

▲ _____
 (SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

Electronically Filed Superior Court of CA County of Contra Costa 10/18/2024 2:23 PM By: A. Stewart, Deputy

1 Brett J. Schreiber, Esq. (SBN 239707)
2 J. Domenic Martini, Esq. (SBN 324064)
Singleton Schreiber, LLP
3 591 Camino de la Reina, Ste. 1025
San Diego, California 92108
4 Tel: (619) 488-6699 Fax: (619) 488-6699
bschreiber@singletonschreiber.com
5 dmartini@singletonschreiber.com

6 Attorneys for Plaintiff Estate of Genesis G. Mendoza-Martinez
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF CONTRA COSTA**
10

11 **Eduardo Mendoza and Maria Elena**
12 **Mendoza, as successors in interest to**
13 **Decedent Genesis G. Mendoza-**
14 **Martinez,**

15 Plaintiff,

16 **Tesla Motors, Inc., and Does 1 through**
17 **50, inclusive,**

18 Defendants.

Case No.: C24-02690

Declaration of Eduardo Mendoza and Maria
Elena Mendoza Per Code Civ. Proc. §377.32

19 We, **Eduardo Mendoza and Maria Elena Mendoza**, declare as follows:

- 20 1. We are the successors in interest to decedent Genesis G. Mendoza-Martinez, our son.
- 21 2. This declaration is based on our personal knowledge. If called to testify as to these
- 22 matters, we could and would competently testify to the following.
- 23 3. Pursuant to Code of Civil Proc. §377.32:
 - 24 a. Decedent's name: **Genesis G. Mendoza-Martinez**. Decedent died on
 - 25 February 18, 2023, in Contra Costa, California.
 - 26 b. No proceeding is now pending in California for administration of the
 - 27 decedent's estate.
 - 28 c. The affiants or declarants are the decedent's successors in interest (as defined

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1 in Section 377.11 of the California Code of Civil Procedure) and succeed to the decedent's
2 interest in the action or proceeding.

3 d. No other person has a superior right to commence the action or proceeding
4 or to be substituted for the decedent in the pending action or proceeding.

5 e. A true and correct certified copy of the decedent's death certificate is attached
6 to this Declaration as **EXHIBIT A**.

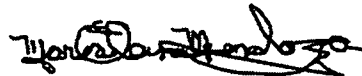
7
8 The affiants or declarants affirm or declare under penalty of perjury under the laws of the State of
9 California that the foregoing is true and correct.

10
11 Dated: March 8, 2023



12 _____
13 Eduardo Mendoza, executed in Bethel Island,
14 California

15 Dated: March 8, 2023



16 _____
17 Maria Elena Mendoza, executed in Bethel Island,
18 California

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EXHIBIT A

STATE OF CALIFORNIA

CERTIFICATION OF VITAL RECORD

COUNTY OF CONTRA COSTA

MARTINEZ, CALIFORNIA

3052023051211

CERTIFICATE OF DEATH

3202307001485

STATE FILE NUMBER		CERTIFICATE OF DEATH				LOCAL REGISTRATION NUMBER	
1. NAME OF DECEDENT - FIRST (Given)		2. MIDDLE		3. LAST (Family)			
GENESIS		GIOVANNI		MENDOZAMARTINEZ			
4. DATE OF BIRTH		5. AGE Yrs		6. SEX		7. HOURS	
06/21/1991		31		M		M	
8. BIRTH STATE/FOREIGN COUNTRY							
CA							
9. EDUCATION - Highest Level/Type		13. WAS DECEDENT HISPANIC/LATINO/SPANISH? (If yes, see worksheet on back)		14. DECEDENT'S RACE - Up to 3 races may be listed (See worksheet on back)		15. MARRIAGE STATUS/TYPE at Time of Death	
HS GRADUATE		<input checked="" type="checkbox"/> YES MEXICAN AMERICAN		<input type="checkbox"/> NO HISPANIC		NEVER MARRIED	
16. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED		17. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, real construction, employment agency, etc.)		18. YEARS IN OCCUPATION			
PERSONAL BANKER		BANKING		8			
19. DECEDENT'S RESIDENCE (Street and number, or locality)							
1200 MONTEZUMA STREET							
20. CITY		21. COUNTY/PROVINCE		22. ZIP CODE		23. YEARS IN COUNTY	
PITTSBURG		CONTRA COSTA		94565		6	
24. DECEASED'S NAME RELATIONSHIP		25. DECEASED'S MARITAL ADDRESS (Street and number, or business number, city or town, state and zip)					
EDUARDO MENDOZA, FATHER		1689 TAYLOR ROAD, BETHEL ISLAND, CA 94511					
26. NAME OF SURVIVING SPOUSE/SPOPE - FIRST		27. MIDDLE		28. LAST (BIRTH NAME)			
29. NAME OF FATHER/MOTHER - FIRST		30. MIDDLE		31. LAST		32. BIRTH STATE	
EDUARDO				MENDOZA		MEXICO	
33. NAME OF MOTHER/MOTHER - FIRST		34. MIDDLE		35. LAST (BIRTH NAME)		36. BIRTH STATE	
MARIA		E.		MARTINEZ		CA	
37. DISPOSITION DATE		38. PLACE OF FINAL DISPOSITION					
03/15/2023		RESIDENCE OF EDUARDO MENDOZA 1689 TAYLOR ROAD, BETHEL ISLAND, CA 94511					
39. TYPE OF DISPOSITION		40. SIGNATURE OF EMBALMER		41. LICENSE NUMBER		42. DATE	
CREMATION/RESIDENCE		DARRELL SINGLETARY		EMB8533		03/09/2023	
43. NAME OF FUNERAL ESTABLISHMENT		44. LICENSE NUMBER		45. SIGNATURE OF LOCAL REGISTRAR		46. DATE	
PITTSBURG FUNERAL CHAPEL		FD510		ORI TZVIELI, MD		03/09/2023	
47. PLACE OF DEATH		48. IF HOSPITAL, SPECIFY ONE		49. IF OTHER THAN HOSPITAL, SPECIFY ONE			
PUBLIC ROADWAY		<input type="checkbox"/> IP <input type="checkbox"/> FNCLP <input type="checkbox"/> USA <input type="checkbox"/> Hosp In <input type="checkbox"/> NURS <input type="checkbox"/> HOME/TC <input type="checkbox"/> DECEDENT'S HOME <input checked="" type="checkbox"/> Other					
50. COUNTY		51. FACILITY ADDRESS OF LOCATION WHERE FOUND (Street and number, or locality)		52. CITY			
CONTRA COSTA		37.91614, -122.06511		WALNUT CREEK			
53. CAUSE OF DEATH		54. TIME INTERVAL BETWEEN ONSET AND DEATH (H)		55. DEATH REQUIRED TO CORONER?		56. MEDICAL EXAMINATION PERFORMED?	
IMMEDIATE CAUSE - BLUNT IMPACT HEAD, THORACO ABDOMINAL AND LEFT LEG INJURIES		IMMED		2023-0913		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
MOTOR VEHICLE COLLISION		IMMED				<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
57. UNDERLYING CAUSE (Sequence or injury that influenced the events resulting in death)		58. AUTOPSY PERFORMED?		59. USED IN DETERMINING CAUSE?			
		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
60. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE (List in ICD)		61. WAS OPERATION PERFORMED FOR ANY CONDITION IN ICDM 102 OR 112? (If yes, list type of operation and date)		62. OCCURRING PROGRAM IN LAST YEAR?			
		UNK		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK			
63. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSE STATED.		64. SIGNATURE AND TITLE OF CORONER		65. LICENSE NUMBER		66. DATE	
		CHAD G PRYOR				03/02/2023	
67. MANNER OF DEATH		68. TYPE OF INJURY		69. INFO AT WORK?		70. INJURY DATE	
<input type="checkbox"/> Accidental <input checked="" type="checkbox"/> Accidental <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input type="checkbox"/> Pending <input type="checkbox"/> Collision by <input type="checkbox"/> Other		DRIVER OF MOTOR VEHICLE CRASHED INTO SIDE OF PARKED FIRE TRUCK		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		02/18/2023	
71. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.)		72. DATE		73. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER		74. HOUR (24 hours)	
OTHER: PUBLIC ROADWAY		03/02/2023		CHAD G PRYOR, DEP CORONER		0354	
75. LOCATION OF INJURY (Street and number, or location, and city and zip)		76. SIGNATURE OF CORONER / DEPUTY CORONER		77. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER		78. HOUR (24 hours)	
37.91614, -122.06511 WALNUT CREEK, CA 94596		CHAD G PRYOR		CHAD G PRYOR, DEP CORONER		0354	
79. STATE REGISTRAR		80. FAX AUTH.		81. COUNTY TRACT			
A		B		C		D	



CERTIFIED COPY OF VITAL RECORD
STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA

000059787

This is a true and exact reproduction of the document officially registered and placed on file in the office of the Contra Costa County Department of Health Services.

DATE ISSUED 03/15/2023 JD

Chad G Pryor
ORI TZVIELI, MD
HEALTH OFFICER

This copy is not valid unless prepared on an engraved border, displaying the date, seal and signature of the County Health Officer.

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

Plaintiff(s) / Cross Plaintiff(s)

vs.

ADR Case Management Stipulation and Order
(Unlimited Jurisdiction Civil Cases)

Defendant(s) / Cross Defendant(s)

CASE NO: _____

▶ ALL PARTIES STIPULATING TO ADR AND DELAYING THEIR CASE MANAGEMENT CONFERENCE 90 DAYS MUST **SUBMIT THE ORDER FOR THE JUDGE'S SIGNATURE AND FILE THIS FORM AT LEAST 15 DAYS BEFORE THEIR CASE MANAGEMENT CONFERENCE.** (NOT AVAILABLE IN COMPLEX LITIGATION CASES.)

▶ PARTIES MUST ALSO SEND A COPY OF THIS **FILED STIPULATION AND ORDER TO THE ADR OFFICE:**
EMAIL adrweb@contracosta.courts.ca.gov FAX: (925) 608-2109 MAIL: P.O. BOX 911, MARTINEZ, CA 94553

Counsel and all parties agree to delay their case management conference 90 days to attend ADR and complete pre-ADR discovery as follows:

1. Selection and scheduling for Alternative Dispute Resolution (ADR):

- a. The parties have agreed to ADR as follows:
 - i. Mediation (Court-connected Private)
 - ii. Arbitration (Judicial Arbitration (non-binding) Private (non-binding) Private (binding))
 - iii. Neutral case evaluation
- b. The ADR neutral shall be selected by (date): _____ (no more than 14 days after filing this form)
- c. ADR shall be completed by (date): _____ (no more than 90 days after filing this form)

2. The parties will complete the following discovery plan:

- a. Written discovery: (Additional page(s) attached)
 - i. Interrogatories to:
 - ii. Request for Production of Documents to:
 - iii. Request for Admissions to:
 - iv. Independent Medical Evaluation of:
 - v. Other:
- b. Deposition of the following parties or witnesses: (Additional page(s) attached)
 - i. _____
 - ii. _____
 - iii. _____
- c. No Pre-ADR discovery needed

3. The parties also agree: _____

4. Counsel and self-represented parties represent they are familiar with and will fully comply with all local court rules related to ADR as provided in Title Three; Chapter 5, will pay the fees associated with these services, and understand that if they do not, without good cause, comply with this stipulation and all relevant local court rules, they may be subject to sanctions.

Counsel for Plaintiff (print)		Fax
Signature		
Counsel for Plaintiff (print)		Fax
Signature		

Counsel for Defendant (print)		Fax
Signature		
Counsel for Defendant (print)		Fax
Signature		

Pursuant to the Stipulation of the parties, and subject to the *Case Management Order* to be filed, **IT IS SO ORDERED** that the Case Management Conference set for _____ is vacated and rescheduled for _____ at (8:30 a.m. / _____) **Plaintiff / Plaintiff's counsel must notify all parties of the new case management conference.**

Dated: _____ _____ Judge of the Superior Court



CONTRA COSTA COUNTY SUPERIOR COURT ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

All judges in the Civil Trial Delay Reduction Program agree that parties should consider using Alternative Dispute Resolution (ADR) to settle their cases. To tell the court you will use ADR:

- Choose ADR on the *Case Management Form (CM-110)*;
- File a *Stipulation and Order to Attend ADR and Continue First Case Management Conference 90-Days* (local court form); or
- Agree to ADR at your first court appearance.

Questions? Email adrweb@contracosta.courts.ca.gov or call (925) 608-2075

MEDIATION

Mediation is often faster and less expensive than going to trial. Mediators help people who have a dispute talk about ways they can settle their case. Parties email, fax or visit the ADR Programs office to get a list of mediators. After parties have agreed on a mediator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the mediator at least 5 court days before mediation starts.

ALL parties and attorneys must go to mediation. Mediation can be held whenever and wherever the parties and the mediator want, as long as they finish before the court deadline. In some kinds of court cases, parties have the chance to mediate in the courthouse on their trial day.

Most mediators begin by talking with the parties together, helping them focus on the important issues. The mediator may also meet with each party alone. Mediators often ask parties for their ideas about how to settle the case. Some mediators tell the parties how much money they think a case is worth, or tell them what they think might happen if the case went to trial. Other mediators help the parties decide these things for themselves. No matter what approach a mediator takes, decisions about settling a case can only be made when all the parties agree.

If the parties go through the court ADR program, mediators do not charge fees for the first half hour spent scheduling or preparing for mediation. They also do not charge fees for the first two hours of mediation. If parties need more time, they must pay the mediators regular fees. Some mediators ask for a deposit before mediation starts. Mediators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the mediation. A party whose court fees have been waived (cancelled) may ask if their mediation fees or deposit can be waived.

If parties agree about how they will settle their case, they can choose to keep it private, write it up as a contract, or ask the judge to make it a court order. What parties say and agree to in mediation is confidential (private).

PRIVATE MEDIATION

Private mediation works in the same way as judicial mediation, but the parties do not go through the ADR Programs office. Parties choose a mediator on their own, and pay the mediator's normal fees.

JUDICIAL ARBITRATION (non-binding)

In judicial arbitration, an independent attorney (arbitrator) looks at the evidence, listens to the parties and their witnesses, and decides how the case will be settled. Judicial arbitration is less formal than court. Parties email, fax or visit the ADR Programs office to get a list of arbitrators. If they cannot agree on an arbitrator, the court will assign one. The judge can send cases to arbitration if there is less than \$50,000 in dispute. The person who started the court case can make sure the case goes to arbitration if they agree to limit the amount they are asking for to \$50,000. Parties can also agree they want to use judicial arbitration. The arbitrator must send their decision (award) to the court within 10 days of the last hearing. The award becomes a court judgment unless a party asks the court to review the case within 60 days. Parties must use the ADR-102 form to ask for a new court hearing (called a trial de novo.) Judicial arbitrators charge \$150 per case or per day.

PRIVATE ARBITRATION (non-binding and binding)

Private, non-binding arbitration is the same as judicial arbitration, except that the parties do not go through the ADR Programs office to choose an arbitrator, and the arbitrator's award will not become a judgment of the court unless all parties agree. Parties must pay the arbitrator's normal fees.

Binding arbitration is different from judicial or private non-binding arbitration because the arbitrator's decision is final. Parties give up their right to have a judge review their case later (except for reasons listed in California Code of Civil Procedure, Section 1286.2.) Binding arbitration rules are listed in California Code of Civil Procedure, Sections 1280-1288.8. Parties may also agree any time before the judge has made a decision that ends the case to switch to binding arbitration. Parties choose the arbitrator on their own, and must pay the arbitrator's normal (not \$150) fees.

SETTLEMENT MENTOR CONFERENCE

Settlement mentors are independent, experienced trial attorneys that a judge has assigned to help parties look for ways to settle their case. The conference is free and is held in the courthouse. It is often held on the morning of trial, but it can be scheduled anytime. These conferences usually last two or three hours. Parties do not present evidence and do not call witnesses. Parties can ask the settlement mentor to keep some information confidential (private) from the other party, but not from the judge. The settlement mentor can share any information with the judge, or involve the judge in settlement discussions. All principals, clients, and claims representatives must attend the settlement mentor conference.

NEUTRAL CASE EVALUATION

In neutral case evaluation, an independent attorney (evaluator) reviews documents and listens to each party's side of the case. The evaluator then tells the parties what they think could happen if the case went to trial. Many people use the evaluator's opinion to reach an agreement on their own, or use this information later in mediation or arbitration to settle their case.

Parties email, fax or visit the ADR Programs office to get a list of evaluators. After parties have agreed on an evaluator, they must write a summary (5 pages or less) explaining the facts, legal arguments, and legal authority for their position. They must send this summary to the other parties and the evaluator at least 5 court days before evaluation starts. ALL parties and their attorneys must go to neutral case evaluation. The evaluation can be held whenever and wherever the parties and the evaluator want, as long as they finish before the court deadline. If the parties go through the court's ADR program, evaluators do not charge any fees for the first half hour spent scheduling or preparing for the evaluation conference. They also do not charge fees for the first two hours of the evaluation. If parties need more time, they must pay that evaluators regular fees. Some evaluators ask for a deposit before evaluation starts. Evaluators who do this must give back whatever is left after counting the time he or she spent preparing for or doing the evaluation. A party whose court fees have been waived (cancelled) may ask if their evaluation fees or deposit can be waived.

TEMPORARY JUDGE

Some parties want a trial, but want to choose who will decide the case and when the trial will take place. Parties can agree on an attorney that they want the court to appoint as a temporary judge for their case. (See Article 6, Section 21 of the State Constitution and Rule 2.830 of the California Rules of Court.) Temporary judges have nearly the same authority as a superior court judge to conduct a trial and make decisions. As long as the parties meet the court deadline, they can schedule the trial at their own and the temporary judge's convenience.

Each of the temporary judges on the court's panel has agreed to serve at no charge for up to 5 court days. If the parties need more time, they must pay that person's regular fees. All parties and their lawyers must attend the trial, and provide a copy of all briefs or other court documents to the temporary judge at least two weeks before the trial. These trials are similar to other civil trials, but are usually held outside the court. The temporary judge's decision can be appealed to the superior court. There is no option for a jury trial. The parties must provide their own court reporter.

SPECIAL MASTER

A special master is a private lawyer, retired judge, or other expert appointed by the court to help make day-to-day decisions in a court case. The special master's role can vary, but often includes making decisions that help the discovery (information exchange) process go more smoothly. He or she can make decisions about the facts in the case. Special masters can be especially helpful in complex cases. The trial judge defines what the special master can and cannot do in a court order.

Special masters often issue both interim recommendations and a final report to the parties and the court. If a party objects to what the special master decides or reports to the court, that party can ask the judge to review the matter. In general, the parties choose (by stipulation) whom they want the court to appoint as the special master, but there are times (see California Code of Civil Procedure Section 639), when the court may appoint a special master or referee without the parties' agreement. The parties are responsible to pay the special master's regular fees.

COMMUNITY MEDIATION SERVICES

Mediation Services are available through non-profit community organizations. These low-cost services are provided by trained volunteer mediators. For more information about these programs contact the ADR Program at adrweb@contracosta.courts.ca.gov