

1 LAW OFFICES OF
2 **WALKUP, MELODIA, KELLY & SCHOENBERGER**
3 A PROFESSIONAL CORPORATION

4 650 CALIFORNIA STREET, 26TH FLOOR
5 SAN FRANCISCO, CALIFORNIA 94108-2615
6 T: (415) 981-7210 · F: (415) 391-6965

E-FILED
10/8/2019 1:58 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
19CV356346
Reviewed By: Yuet Lai

7 **MICHAEL A. KELLY** (State Bar #71460)
8 mkelly@walkuplawoffice.com
9 **ANDREW P. McDEVITT** (State Bar #271371)
10 amcdevitt@walkuplawoffice.com

11 **LEWIS S. EIDSON** (Pro Hac Vice Pending)
12 mike@colson.com
13 **CURTIS B. MINER** (Pro Hac Vice Pending)
14 curt@colson.com

15 **COLSON HICKS EIDSON, P.A.**
16 255 Alhambra Circle, Penthouse
17 Coral Gables, FL 33134
18 Tel: (305) 476-7400

19 **ATTORNEYS FOR PLAINTIFF JAMES B.**
20 **RILEY, AS PERSONAL REPRESENTATIVE**
21 **OF THE ESTATE OF BARRETT RILEY,**
22 **DECEASED**

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **COUNTY OF SANTA CLARA**

25 **JAMES B. RILEY**, as personal
26 representative of the **ESTATE OF**
27 **BARRETT RILEY**, deceased,

28 Plaintiff,

v.

TESLA, INC., d/b/a **TESLA MOTORS,**
INC., and **DOES 1 through 20**,

Defendants.

Case No. 19CV356346

COMPLAINT FOR DAMAGES
1. **Negligence (Speed Limiter)**
2. **Strict Liability**
3. **Negligence**

DEMAND FOR JURY TRIAL

Action Filed: TBD
Trial Date: TBD

COMES NOW, plaintiff **JAMES B. RILEY**, as personal representative of the
ESTATE OF **BARRETT RILEY**, deceased, and alleges as follows:

1 **INTRODUCTION**

2 1. This lawsuit arises out of a fatal accident that occurred in a 2014 Tesla
3 Model S vehicle on May 8, 2018 in Fort Lauderdale, Florida. The Tesla Model S was
4 owned by James Riley and a company controlled by James Riley and was being
5 driven by his son, Barrett Riley, who was 18 years old. The accident occurred when
6 the Model S accelerated to a high rate of speed and Barrett Riley lost control of the
7 vehicle; when the vehicle impacted a wall in front of a house on the side of the road,
8 the vehicle’s lithium-ion batteries burst into an uncontrollable and fatal fire. Barrett
9 Riley was killed by the battery fire, not by the accident.

10 2. Just two months before the accident, James Riley and his wife Jenny
11 Riley requested that defendant TESLA, INC. (“TESLA”) install a speed limiter on the
12 Model S that would limit it to a maximum speed of 85 mph. Mrs. Riley specifically
13 advised TESLA that they wanted the speed limiter installed on the Model S because
14 they permitted their son to use it, because their son had recently received a speeding
15 ticket, and because they wanted to protect his safety. TESLA installed the speed
16 limiter as the Rileys requested.

17 3. However, unbeknownst to James and Jenny Riley, after the Model S
18 had to be taken in to TESLA for service just a short time later, the speed limiter was
19 removed without their consent or permission. Outrageously, TESLA never told the
20 Rileys that it had done so – until after the fatal accident. If James Riley had been
21 informed by TESLA about what it had done to his Model S, he never would have
22 permitted his son to drive the Model S. If the speed limiter had remained in place as
23 the Rileys instructed, the accident never would have happened, and Barrett Riley
24 would be alive today.

25 4. In addition, the accident itself was entirely survivable. The airbags in
26 the Model S deployed and Barrett Riley was essentially uninjured by the impact; he
27 was killed by the extraordinarily hot and intense fire that started in the vehicle’s
28 lithium-ion battery cells. That fire occurred because the Model S contained design

1 defects in its lithium-ion batteries and battery packs.

2 5. As TESLA well knew, their batteries were subject to “thermal runaway”
3 – a phenomenon that could result in a conflagration engulfing the car. In fact, as will
4 be discussed below, TESLA had even patented a design to prevent thermal runaway
5 before the Model S was manufactured. However, it failed to implement its patented
6 design in the subject Model S and instead waited until later years and models to
7 install this important safety measure.

8 6. This lawsuit seeks to recover damages against TESLA for the pre-death
9 damages sustained by Barrett Riley (including punitive damages) and the wrongful
10 death of Barrett Riley based on TESLA’s negligence in removing the speed limiter
11 without telling James and Jenny Riley, for TESLA’s failure to warn of the subject
12 Model S vehicle’s propensity to catch on fire due to thermal runaway in collisions
13 that were otherwise survivable, and for its negligence and based on strict products
14 liability for the defects in the subject Model S vehicle.

15 **PARTIES**

16 7. Plaintiff JAMES B. RILEY, a resident of the State of Florida, is the
17 father of Barrett Riley, who is deceased, and brings this action as the personal
18 representative of his Estate and on behalf of the statutory heirs identified in CCP §
19 377.60 – James Riley and Jenny Riley.

20 8. Barrett Riley died on May 8, 2018 as a result of injuries suffered in an
21 automobile accident in the 1300 block of Seabreeze Boulevard in Fort Lauderdale,
22 Florida. At the time of his death, Barrett Riley was 18 years old, was not married,
23 and had no children. Barrett Riley is survived by his natural parents, James and
24 Jenny Riley.

25 9. Defendant TESLA, INC. d/b/a TESLA MOTORS, INC. (“TESLA”) is a
26 Delaware corporation with its principal place of business in Palo Alto, California.

27 10. The true names, capacities or involvement, whether individual,
28 corporate, governmental or associate of the defendants named herein as DOE are

1 unknown to Plaintiffs, who therefore sues such defendants by such fictitious names.
2 Plaintiffs pray leave to amend this complaint to show their true names and capacities
3 when the same have been finally determined. Plaintiffs are informed and believe,
4 and upon such information and belief allege, that each of the defendants designated
5 as DOE is negligently, strictly or otherwise legally responsible in some manner for
6 the events and happenings herein referred to, and negligently or otherwise legally
7 caused injury and damages proximately to Plaintiffs' decedent as alleged in this
8 Complaint.

9 **GENERAL ALLEGATIONS**

10 **The Tesla Model S**

11 11. TESLA is in the business of designing, testing, inspecting,
12 manufacturing, distributing, selling, servicing, repairing and otherwise placing into
13 the stream of commerce electricity-powered vehicles. Its products include the
14 Roadster, the Model S sedan, the Model X cross-over SUV, and the Model 3 sedan.
15 TESLA designed, tested, inspected, manufactured, distributed, sold, serviced and
16 repaired the 2014 Model S vehicle (VIN: 5YJSA1H24EFP62693) owned by James
17 Riley (the "2014 Model S").

18 12. TESLA markets its Model S line of vehicles as having "the quickest
19 acceleration on earth" and represents that "improved handling and aerodynamics
20 allow for a top speed of 155 mph."

21 **James Riley's Purchase of the 2014 Model S**

22 13. Before purchasing a TESLA vehicle for the first time, James Riley, a
23 former fighter pilot, was particularly sold by TESLA's marketing about the
24 sustainability and purported safety of the vehicle. Mr. Riley first purchased a 2012
25 Model S, one of the first few hundred off TESLA's production line.

26 14. The Rileys ended up becoming loyal customers of TESLA. Persuaded by
27 TESLA's marketing that its vehicles were the safest on the road in the United States,
28 James Riley purchased the 2014 Model S. And, after an invite to TESLA's unveiling

1 event for its new Model X line, Mr. Riley purchased a Model X for his family. All told,
2 James Riley would end up purchasing a total of six vehicles from TESLA over time.

3 15. James Riley purchased the subject 2014 Model S new from TESLA in
4 Dania Beach, Florida, placing a deposit in October 2014 and taking delivery on
5 December 24, 2014. James Riley and a corporation he controlled were the registered
6 owners of the 2014 Model S; at no time was his son, Barrett Riley, a registered owner
7 of the 2014 Model S.

8 16. James Riley originally allowed his son Barrett to drive his 2012 Model
9 S, believing it to be the safest vehicle on the road for his son to drive. To even further
10 increase safety, the Rileys asked Tesla to modify the 2012 Model S so that its speed
11 was limited to 85 mph. And, Mr. Riley regularly monitored his son's driving using the
12 Tesla Toolbox app, which shows the real-time location and speed of the vehicle.

13 17. When the Rileys' daughter began driving, they allowed their son Barrett
14 to drive the 2014 Model S (so that their daughter could drive the 2012 Model S). The
15 2014 Model S did not originally have its speed limited, because Barrett had a good
16 driving record and had shown himself to be a responsible driver.

17 **The Speed Governor**

18 18. On March 3, 2018 (a Saturday), approximately two months before the
19 fatal accident, Barrett Riley received a speeding ticket while driving his father's 2014
20 Model S. Notably, he received the speeding ticket on a stretch of US1 near the Ft.
21 Lauderdale Airport, where TESLA's Dania Beach operation had told him that it did
22 test drives with customers at high speeds because the police never patrolled the
23 stretch of road.

24 19. When his parents learned of the speeding ticket, they immediately
25 sought to have TESLA limit the top speed of the vehicle in an effort to improve its
26 safety for the benefit of their son as well as any passengers in the vehicle.

27 20. On March 5, 2018 (a Monday), the Rileys contacted the TESLA location
28 where the 2014 Model S was regularly serviced, advised TESLA of the situation, and

1 requested that TESLA install a speed limiter on the 2014 Model S which would limit
2 its top speed to 85 mph.

3 21. On March 6, 2018, TESLA confirmed in writing to Jenny Riley that it
4 had installed the speed limiter, limiting any driver of the 2014 Model S to going a
5 maximum of 85 mph.

6 22. Between March 9 and April 3, 2018, the 2014 Model S had to be serviced
7 at TESLA's Dania Beach, Florida service department because it would not start. The
8 main battery pack had developed a short and needed to be removed, shipped to
9 California, serviced, and replaced, which took a lengthy period of time.

10 23. During the lengthy servicing, the Rileys were provided with a loaner
11 Tesla Model S to use. Jenny Riley asked TESLA to confirm that the loaner car would
12 also have its speed limited to 85 mph, which TESLA confirmed.

13 24. On or about April 4, 2018, after the service on the battery pack had been
14 completed, Barret Riley returned to TESLA with the 2014 Model S, and TESLA
15 improperly removed the speed limiter. This was done without the permission or
16 consent of James Riley or Jenny Riley. Again, James Riley (and a corporation
17 controlled by Mr. Riley) are the registered owners of the vehicle, and James Riley is
18 reflected as the purchaser of the vehicle and the payor for the servicing of the vehicle
19 on TESLA's own documents.

20 25. Outrageously, TESLA never told James Riley or Jenny Riley that it had
21 taken the speed limiter off the 2014 Model S. The service report, which typically
22 contained details as trivial as refilling washer fluid, contained no mention of the
23 removal of the speed limiter. TESLA only acknowledged having done so after the
24 fatal accident that would occur just weeks later.

25 **The Accident**

26 26. On May 8, 2018, around 6:45 pm, Barrett Riley was driving the 2014
27 Model S from a shopping trip with friends at a nearby mall back to the Rileys' home.
28 In the car were two friends, including his friend Edgar Monserratt, who was the front

1 seat passenger.

2 27. As the 2014 Model S was being driven southbound in the 1300 block of
3 Seabreeze Boulevard, in Fort Lauderdale, Florida, the vehicle accelerated to a high
4 rate of speed and lost control.

5 28. With the brakes being applied, the 2014 Model S went over the curb and
6 the front right side of the vehicle sideswiped a wall and then impacted with a curved
7 wall in front of a house on the right side of the road. That second impact occurred at
8 a typical highway speed (or lower) – and at a reasonably foreseeable speed for an
9 accident to occur. However, the batteries located at the front of the vehicle
10 immediately erupted in flames.

11 29. The vehicle then re-entered the roadway, went over the curb on the left
12 side of the street, and struck a metal light pole. The front of the vehicle quickly
13 became engulfed in flames.

14 30. The accident itself was entirely survivable. Barrett Riley was wearing
15 his seatbelt, and the airbags on the 2014 Model S deployed and cushioned the impact
16 to the occupants. The driver’s side of the vehicle was largely undamaged.

17 31. According to the autopsy report, Barrett Riley had no broken bones, no
18 injuries to his head, and no injuries to his body other than the fatal burns. Barrett
19 Riley died inside the 2014 Model S due to the runaway battery fire.

20 32. In addition, the 2014 Model S has door handles on the outside that are
21 flush with the door and electrically extend so that the car can be opened from the
22 outside when they sense that the driver with a key to the car is in proximity. If the
23 door handles remain flush with the car, they cannot be opened from the outside.

24 33. According to TESLA’s Emergency Response Guide, “when an airbag
25 inflates, Model S unlocks all doors . . . and extends all door handles,” so that
26 responders can open the doors.

27 34. Although the air bags deployed in the accident, and although the
28 driver’s side of the 2014 Model S was largely undamaged from the accident, the door

1 handles on the front and rear driver’s side doors did not extend, making it impossible
2 for witnesses or bystanders to the accident to open the door and help Barrett Riley
3 escape the burning vehicle.

4 35. Even though the accident occurred only two blocks from a fire station,
5 the speed and intensity of the fire, plus the failure of the door handles to extend,
6 made it impossible for firefighters to rescue the occupants.

7 **The Tesla Battery Defect**

8 36. Unlike conventional vehicles which are propelled by internal-
9 combustion engines, TESLA vehicles are propelled by electric motors powered by
10 rechargeable batteries. TESLA uses a lithium-ion battery chemistry which is widely
11 known to be prone to a condition referred to as “thermal runaway.”

12 37. TESLA was fully aware of the risk of thermal runaway in its lithium-ion
13 batteries. One of TESLA’s own patents (issued *before* the 2014 Model S was
14 manufactured) states that “[t]hermal runaway is of major concern since a single
15 incident can lead to significant property damages and, in some circumstances, bodily
16 harm or loss of life.” U.S. Patent No. US 8,263,254 B2 (issued Sept. 11, 2012)
17 (emphasis added). According to TESLA’s own Emergency Response Guide, it can take
18 3,000 gallons of water, applied directly to the battery, to fully extinguish and cool
19 down a battery fire; and, battery fires can take up to 24 hours to extinguish.

20 38. The Tesla Model S is equipped with and powered by a floor-mounted
21 battery pack consisting of approximately 7,104 lithium-ion battery cells in 16
22 modules. The lithium ion battery cells are the industry-standard 18650 form-factor (a
23 description of size) – the same type used in many laptop computers, LED flashlights
24 and power tools. However, according to Tesla’s U.S. Patent Application No.
25 2010/0136421 A1 (filed July 7, 2009) (emphasis added), TESLA eliminated industry-
26 standard features known to be essential safety mechanisms from each cell “thereby
27 reducing manufacturing cost and battery weight.”

28 39. TESLA was also well aware of steps that could be taken to mitigate the

1 risk of thermal runaway in the design of its battery pack. Significantly, well before it
2 sold the 2014 Model S to James Riley, TESLA had applied for patents and obtained a
3 patent for designs to prevent thermal runaway.

4 40. For example, TESLA obtained U.S. Patent No. 8,263,254 B2 (issued
5 September 11, 2012), titled “Cell with Outer Layer of Intumescent Material.” TESLA
6 specifically recognized the risk of “thermal runaway” when using lithium-ion cells. As
7 TESLA put it: “Thermal runaway is of major concern since a single incident can lead
8 to significant property damage and, in some circumstances, bodily harm or loss of
9 life.”

10 41. TESLA’s invention to mitigate the risk of thermal runaway was a
11 battery assembly that includes a layer of intumescent material that coats the
12 sidewall and bottom surface of the cell casing. The intumescent material is a “goo”
13 that rapidly expands when exposed to heat and absorbs the heat from the battery cell
14 and prevents it from spreading.

15 42. Despite being aware of this and other safety measures (indeed applying
16 for and patenting certain of them), TESLA failed to include them in the 2014 Model
17 S. Instead, it waited until later years and other models of its vehicles to use these
18 critical safety features – too late for Barrett Riley.

19 43. TESLA also failed to include the safety measures in the replacement
20 battery pack it installed in the 2014 Model S when it was serviced between March 9
21 and April 3, 2018 at TESLA’s Dania Beach, Florida service department.

22 44. Simply put, in order to reduce its costs and get its product to market
23 more quickly, TESLA prioritized its financial interests over public safety and,
24 incredibly, removed industry-standard essential safety features from its batteries.
25 TESLA acted with willful and conscious disregard of the safety of its consumers, and
26 such conduct is sufficient to justify an additional award for punitive damages.

27 45. These decisions by TESLA were high-level corporate decisions regarding
28 the design and manufacturing of the 2014 Model S. The individuals, agents and

1 employees of TESLA and DOES 1-20 that acted with willful and conscious disregard
2 of the rights and safety of users and occupants of Model S vehicles like the 2014
3 Model S were high enough in the corporate hierarchy that their decisions constitute
4 and/or are reflective of the corporate policy of TESLA and DOES 1-20, or were
5 ratified by TESLA and DOES 1-20.

6 **FIRST CAUSE OF ACTION**
7 **[Negligence – Speed Limiter]**

8 46. Plaintiffs refer to, reallege, and incorporate by reference as though set
9 forth in full, each and every allegation set forth above, and make them a part of this
10 First Cause of Action, as though set forth in full.

11 47. TESLA owed a duty of care to James Riley, the purchaser and
12 registered owner of the 2014 Model S, not to remove the speed limiter in the vehicle
13 without his authorization. Similarly, TESLA owed a duty of care to James Riley to
14 inform him before removing this safety feature that had been installed at his request.

15 48. TESLA breached its duty of care to James Riley by removing the speed
16 limiter without his authorization and by failing to inform James Riley, the purchaser
17 of the vehicle and the registered owner of the vehicle, about what TESLA had done to
18 his 2014 Model S.

19 49. If the speed limiter had remained in place – instead of being removed
20 without James Riley’s knowledge or consent – the accident would not have happened.
21 Among other reasons, the 2014 Model S would not have exceeded 85 mph, and
22 Barrett Riley would not have lost control of the vehicle.

23 50. And, if James Riley had been informed by TESLA about what it had
24 done to his 2014 Model S, James Riley would not have permitted his son to drive the
25 2014 Model S.

26 51. As a direct and proximate result of TESLA’s negligence and breach of its
27 duties, the accident occurred and Barrett Riley died. Immediately prior to Barrett
28 Riley’s death, personal property of Barrett Riley was destroyed as a legal result of

1 TESLA's wrongful acts. The amount of said property is unknown at present.

2 52. By reason of the death of Barrett Riley, and as a direct and legal result
3 thereof, James and Jenny Riley have been deprived of a kind and loving son and of
4 his loving care, comfort, companionship, society, protection, financial support, as well
5 as his emotional support.

6 WHEREFORE, Plaintiffs pray judgment against the defendants, and each of
7 them, as hereinafter set forth.

8 **SECOND CAUSE OF ACTION**
9 **[Strict Liability]**

10 53. Plaintiffs refer to, reallege, and incorporate by reference as though set
11 forth in full, each and every allegation set forth above, and make them a part of this
12 Second Cause of Action, as though set forth in full.

13 54. The 2014 Model S was designed, manufactured, distributed and sold by
14 TESLA.

15 55. The 2014 Model S was defective when it left the possession of TESLA,
16 because its design was a substantial factor in causing the death of Barrett Riley, and
17 because it did not perform as safely as an ordinary consumer would have expected it
18 to perform when used or misused in an intended or reasonably foreseeable way.

19 56. The 2014 Model S was defective and unreasonably dangerous at the
20 time it was designed, manufactured, distributed and sold for the following reasons:

- 21 a. The 2014 Model S's batteries were inadequately protected and shielded
22 to protect them from reasonably foreseeable impacts that could
23 compromise their structure and lead to fire or thermal runaway;
- 24 b. The 2014 Model S's battery cells had critical safety features removed
25 from them that were designed to prevent thermal runaway and fire;
- 26 c. The 2014 Model S's battery cells and battery pack failed to include
27 materials to mitigate or contain thermal runaway or fire, including,
28 among other things, an intumescent material to provide protection
against the propagation of thermal runaway from one cell to adjacent
cells;
- d. The 2014 Model S was subject to extremely hot and intense fires in the
event of a reasonably foreseeable accident and had inadequate measures

- 1 to contain or extinguish any such fire;
- 2 e. The 2014 Model S was not reasonably escapable in the event of a
- 3 foreseeable accident resulting in battery fire and loss of power;
- 4 f. The 2014 Model S door handles were improperly designed which
- 5 prevented rescuers from extracting occupants after an accident;
- 6 g. The 2014 Model S was not crashworthy; and
- 7 h. The 2014 Model S failed to contain adequate warnings to users and
- 8 their passengers of the defective and unreasonably dangerous condition
- 9 of the vehicle.

10 57. The above defects existed at the time of the design, manufacture, and

11 sale of the 2014 Model S, continued to remain an integral characteristic of the vehicle

12 at the time it was sold by TESLA, and remained as such up to the time of the

13 accident.

14 58. Neither the Plaintiffs nor the decedent, Barrett Riley, were aware of the

15 defects and dangerousness of the 2014 Model S, which made the product unsafe for

16 its intended and foreseeable use.

17 59. The 2014 Model S's failure to perform safely was a substantial factor in

18 causing Barrett Riley's death.

19 60. Barrett Riley's death and the injuries suffered by plaintiffs were the

20 legal result of defects in the 2014 Model S. Immediately prior to Barrett Riley's

21 death, personal property of Barrett Riley was destroyed as a legal result of TESLA's

22 wrongful acts. The amount of said property is unknown at present.

23 61. By reason of the death of Barrett Riley, and as a direct and legal result

24 thereof, James and Jenny Riley have been deprived of a kind and loving son and were

25 caused to suffer and sustain the injuries and damages as herein-above set forth.

26 WHEREFORE, Plaintiffs pray judgment against the defendants, and each of

27 them, as hereinafter set forth.

THIRD CAUSE OF ACTION
[Negligence]

28 62. Plaintiffs refer to, reallege, and incorporate by reference as though set

1 forth in full, each and every allegation set forth above, and make them a part of this
2 Third Cause of Action, as though set forth in full.

3 63. At all relevant times, TESLA had a duty to exercise due care in the
4 design, manufacture, assembly, distribution, and/or sale of the 2014 Model S, and in
5 placing such product into the stream of commerce, so that the 2014 Model S would be
6 reasonably safe for its intended use and for other uses that were reasonably
7 foreseeable.

8 64. TESLA breached this duty in the following ways:

- 9 a. The 2014 Model S's batteries were inadequately protected and shielded
10 to protect them from reasonably foreseeable impacts that could
compromise their structure and lead to fire or thermal runaway;
- 11 b. The 2014 Model S's battery cells had critical safety features removed
12 from them that were designed to prevent thermal runaway and fire;
- 13 c. The 2014 Model S's battery cells and battery pack failed to include
14 materials to mitigate or contain thermal runaway or fire, including,
among other things, an intumescent material to provide protection
15 against the propagation of thermal runaway from one cell to adjacent
cells;
- 16 d. The 2014 Model S was subject to extremely hot and intense fires in the
event of a reasonably foreseeable accident and had inadequate measures
17 to contain or extinguish any such fire;
- 18 e. The 2014 Model S was not reasonably escapable in the event of a
foreseeable accident resulting in battery fire and loss of power;
- 19 f. The 2014 Model S door handles were improperly designed which
20 prevented rescuers from extracting occupants after an accident;
- 21 g. The 2014 Model S was not crashworthy; and
- 22 h. The 2014 Model S failed to contain adequate warnings to users and
23 their passengers of the defective and unreasonably dangerous condition
of the vehicle.

24 65. TESLA knew, or with the exercise of reasonable care should have
25 known, that the 2014 Model S was negligently designed and knew or should have
26 known the vehicle, when used for the purposes for which it was designed,
27 manufactured, and intended to be used, was unreasonably dangerous.

28 66. Alternatively, to the extent TESLA became aware of the defects after

1 the 2014 Model S was sold, TESLA had a duty to recall or retrofit the 2014 Model S.
2 TESLA, however, breached these duties and failed to recall or retrofit the 2014 Model
3 S. Among other opportunities to do so. TESLA could have and should have retrofitted
4 the 2014 Model S when it serviced the battery in March and April of 2018.

5 67. Neither the Plaintiffs nor the decedent, Barrett Riley, were aware of the
6 defects and dangerousness of the Model S, which made the product unsafe for its
7 intended and foreseeable use.

8 68. As a direct and proximate result of TESLA's negligence and breach of its
9 duties, the accident occurred and Barrett Riley died. Immediately prior to Barrett
10 Riley's death, personal property of Barrett Riley was destroyed as a legal result of
11 TESLA's wrongful acts. The amount of said property is unknown at present.

12 69. By reason of the death of Barrett Riley, and as a direct and legal result
13 thereof, James and Jenny Riley have been deprived of a kind and loving son and were
14 caused to suffer and sustain the injuries and damages as herein-above set forth.

15 WHEREFORE, Plaintiffs prays judgment against the defendants, and each of
16 them, as hereinafter set forth.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, plaintiff JAMES B. RILEY, as personal representative of the
19 ESTATE OF BARRETT RILEY, deceased, prays for judgment against the
20 Defendants, and each of them, jointly and severally, as follows:

- 21 a. For special damages (economic) according to proof;
- 22 b. For general damages (non-economic) according to proof;
- 23 c. For punitive damages according to proof [for survival action only];
- 24 d. For prejudgment interest as permitted by law;
- 25 e. For costs of suit; and
- 26 f. For such other and further relief as the Court may deem proper.

27
28

1 Dated: October 8, 2019

WALKUP, MELODIA, KELLY & SCHOENBERGER

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: 
MICHAEL A. KELLY
ANDREW P. McDEVITT
Attorneys for Plaintiff
JAMES B. RILEY, as personal representative
of the ESTATE OF BARRETT RILEY,
deceased

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: October 8, 2019

WALKUP, MELODIA, KELLY & SCHOENBERGER

By: 

MICHAEL A. KELLY
ANDREW P. McDEVITT
Attorneys for Plaintiff
JAMES B. RILEY, as personal representative
of the ESTATE OF BARRETT RILEY,
deceased