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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

DEWITT LAMBERT, Plaintiff, v. TESLA, INC. DBA TESLA MOTORS, INC.; and DOES 1-10, inclusive, Defendants.	Case No. RG17854515 COMPLAINT FOR DAMAGES 1. Race Harassment (FEHA); 2. Race Discrimination (FEHA); 3. Sexual Harassment (FEHA); 4. Retaliation (FEHA); 5. Failure to Prevent Harassment, Discrimination and Retaliation (FEHA); 6. Threats of Violence in Violation of the Ralph Act (Cal. Civ. Code § 51.7); 7. Violation of the Bane Act (Cal. Civ. Code § 52.1); 8. Failure to Accommodate (FEHA); 9. Failure to Engage in Interactive Process (FEHA); 10. Assault; and 11. Battery (Cal. Civ. Code § 1708.5). JURY TRIAL DEMANDED

INTRODUCTION

> Nigger, we take your ass home, nigger. Shred you up in pieces, nigger. Cut you up, nigger. Send your ass so everyone in yo family so everybody can have a piece of you, nigger. Straight up, nigger. We get down like that, nigger.

1. Although one may think the above statement came from a Pre-Civil Rights Era Ku Klux Klan member; this hateful, violent and racist rhetoric actually came from a Head Lead on the assembly line at Tesla, Inc. dba Tesla Motors, Inc. ("Tesla"), a 21st century company in the heart of Silicon Valley. This Head Lead, along with another Supervisor, Lead and Production Associate continue to roam the halls of Tesla today, even though Tesla is aware that they subjected Plaintiff DeWitt Lambert to repeated racist epithets for months.

2. Mr. Lambert, who is African American, is an electrician by trade. He traveled across the country, from Alabama to California in 2012, in hopes of a brighter future. Joining Tesla in 2015 was a dream come true for Mr. Lambert, and he was excited to be building cars for a company that is at the forefront of modern day technology and innovation. Unfortunately, almost immediately after starting at Tesla, Mr. Lambert learned that although the company may be revolutionizing the world of transportation, it lagged miles behind when it came to adhering to civil rights that his ancestors fought so hard to obtain more than half a century ago.

PARTIES

3. Plaintiff DeWitt Lambert has been employed by Tesla as a Production Associate since approximately June 26, 2015. Plaintiff is, and at all times relevant herein was, a resident of Oakland, California.

4. Defendant Tesla is a publicly-traded Delaware corporation with its principal place of business in Palo Alto, California. In approximately February 2017, Tesla Motors, Inc. changed its name to Tesla, Inc. Tesla designs, manufactures, and sells electric vehicles, and operates its vehicle manufacturing factory at 45500 Fremont Blvd., Fremont, California. The harassers' conduct at issue in this case took place at the Fremont factory.

5. In addition to the Defendant named above, Plaintiff sues fictitiously Defendants DOES 1 through 10, inclusive, pursuant to Code of Civil Procedure § 474, because their names, capacities, status, or facts showing them to be liable are not presently known. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and such Defendants caused Plaintiff's damages as herein alleged. Plaintiff will amend this complaint to show their true names and capacities, together with appropriate charging language, when such information has been ascertained.

6. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned each of the Defendants were acting as the partner, agent, servant, and employee of each of the remaining Defendants, and in so doing the things alleged herein was acting within the course and scope of such agency and with the knowledge of the remaining Defendants.

JURISDICTION AND VENUE

7. Jurisdiction and venue are proper because a substantial portion of the acts giving rise to Defendant's liability occurred in this County and pursuant to California Government Code section 12965.

8. The amount in controversy exceeds limited jurisdiction.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. On or about October 26, 2016, Plaintiff filed a timely charge against Defendant Tesla with the Department of Fair Employment and Housing alleging harassment and discrimination based on race, color and sex; retaliation; failure to prevent harassment, discrimination and retaliation; failure to accommodate; and failure to engage in a good faith interactive process. The DFEH issued a right-to-sue letter regarding this charge on October 26, 2016.

FACTUAL ALLEGATIONS

10. Mr. Lambert, an African American 44-year-old, traveled across the country, from Alabama to California, in 2012, seeking gainful employment and a better future. Equipped with extensive education in the field of electrical engineering, Mr. Lambert began his career in

California by taking on electrician jobs. He subsequently landed a Production Associate position at Tesla's Fremont factory on June 26, 2015. Eager to succeed and grow through the ranks at a company that was revolutionizing the car industry, Mr. Lambert worked hard and put in long hours.

11. From approximately June 26, 2015 until April 2016, Mr. Lambert was assigned to Chassis Two, where he worked with Supervisor Charles Lambert, Head Lead Christian Kramer, Lead Jose Jimenez, Production Associate Crispin Rodriguez and Production Associate Treat Doan.

12. Almost immediately after Mr. Lambert began working on Chassis Two, Mr. Kramer, Mr. Jimenez, Mr. Rodriguez and Mr. Doan, who are all in their twenties, began targeting Mr. Lambert and engaging in unprofessional conduct, including: attaching vin number stickers on Mr. Lambert's back; filling Mr. Lambert's back pockets with gold nuts and screws; sticking tools in Mr. Lambert's pocket; hiding Mr. Lambert's tools; using adhesive tape to stick Mr. Lambert's tools to a table; stealing Mr. Lambert's phone, and taking photos and videos on it without his permission. Mr. Lambert pleaded for them to stop.

13. A month or two into Mr. Lambert's employment, Mr. Kramer's, Mr. Jimenez's, Mr. Rodriguez's and Mr. Doan's conduct took on a racist tone. The Chassis Two employees began calling Mr. Lambert "Nigger" on a continuous basis, and making comments, such as, "Don't this nigger look just like Samuel Jackson;" "Don't he look like this nigger [referring to Samuel Jackson in Django Unchained], these two niggers are just alike;" "Don't this nigger look like Major Payne;" and "The black version of Mr. Clean Right there." This racist behavior included threats of violence. The group would flash 408 gang signs at Mr. Lambert, and one of the employees detailed how he was going to cut Mr. Lambert up into pieces and send his body parts to his family members. The harassing conduct was part of a continuous course of conduct.

14. The group also attacked Mr. Lambert based on his sex. For example, while Mr. Lambert was bent over working on the line, Mr. Kramer stuck a drill gun into Mr. Lambert's buttocks in front of his co-workers. Comments were also made about the size of Mr. Lambert's penis, including, "I bet you my dick is bigger than yours," and "He said you got that baby

dick…is that dick so small you piss on your balls." These employees would also imitate sex between a man and a woman with fingers, imitate performing oral sex on a man with mouth and finger in front of Mr. Lambert, and make comments to Mr. Lambert, such as, "Tell your bitch to stop texting me." This conduct was in part an attack on his identity as an older African American male and on the racial and sexual stereotypes of African American males.

15. It is very difficult to imagine such blatant racism and sexism permeating the workplace in 21st century Bay Area and at a progressive company, such as Tesla. However, these unabashed harassers went out of their way to document their racist and sexist behavior by leaving several video recordings on Mr. Lambert's phone.

16. Mr. Lambert begged these Chassis Two employees to stop harassing him. On numerous occasions, and as early as Fall 2015, Mr. Lambert complained to Supervisor Charles Lambert about the hostile work environment. He also asked, "Why do they use the N-word so freely around here?" Charles Lambert's response each time was to ask Chassis Two employees to stop referring to Mr. Lambert as "Nigger." In addition to complaining to his supervisor, Mr. Lambert turned to the Human Resources Department for help. He complained to Human Resources about being called "Nigger" in the workplace, and some of the other above-described harassing conduct. He was told that Human Resources would look into it. However, the hostile work environment continued and there was no evidence human resources conducted any investigations into Mr. Lambert's complaints or took action to stop the harassment which continued.

17. Mr. Lambert then took action on his own to move out of Chassis Two by applying for numerous positions in other departments. Starting in December 2015, Mr. Lambert submitted numerous applications for various positions at Tesla. Unfortunately, none of them lead to a transfer. Mr. Lambert pleaded with Human Resources to be moved to another line.

18. Rather than promptly investigate the matter, put an end to the hostile work environment and reprimand the harassers, Tesla rewarded the harassers with promotions. In approximately February 2016, Mr. Kramer was promoted to Supervisor of Chassis Two, Mr. Jimenez was promoted to Head Lead, and Mr. Rodriguez and Mr. Doan were both promoted to

Lead positions. At the same time, Supervisor Charles Lambert, who is African America, was transferred to another line.

19. After Supervisor Charles Lambert's transfer, the new Supervisor Christian Kramer threatened Mr. DeWitt Lambert with, "Your ass is outta here now. Charles isn't here to protect you anymore." Mr. Dewitt Lambert complained to Supervisor Charles Lambert about the hostile statements, however, the hostile comments continued.

20. Shortly after Mr. Kramer became the Supervisor of Chassis Two, the employees began taking active steps to get Mr. Lambert fired. They tried to provoke Mr. Lambert by intensifying the harassment. Mr. Lambert would respond with, "I'm not losing my job for one of you kids." In approximately February 2016, a Lead from another line told Mr. Kramer, "You trying to set that man up. That man has a family. You don't do shit like that." Mr. Kramer also issued Mr. Lambert a write up for eating a snack bar on the line. Not only were other employees not reprimanded for eating food on the line, but just a few days prior, donuts were passed around the line and no one was reprimanded for eating the donuts on the line. Mr. Lambert complained to Assistant Manager Alfonso Franco about the harassment and the retaliation. In response, Mr. Franco stated, "You all need to get along."

21. After enduring months of harassment, Mr. Lambert was finally transferred out of Chassis Two to Station 40 in April 2016. However, the retaliatory conduct of the harassers did not stop there. In approximately July 2016, one of the harassers brought up to Human Resources' attention a photograph of Mr. Lambert taken inside the Tesla Fremont factory and posted on Facebook. As a result, Mr. Lambert received a final written warning. Other employees, who had photographs of themselves at the Tesla Fremont factory on their Facebook profiles, were not reprimanded. Mr. Lambert addressed this final warning with Human Resources. During this meeting, Human Resources Representative Rose Sanson observed the hateful, violent and racist videos created by Chassis Two employees, including Mr. Kramer and Mr. Rodriguez. Even after viewing the videos, however, Tesla failed to investigate and reprimand the harassers. Rather, again, it promoted one of the harassers – Jose Jimenez – to Supervisor.

22. During this time period, Tesla also continued to discriminate against Mr. Lambert by refusing to promote him. Mr. Lambert was initially turned down for a promotion because he had not met the alleged six-month requirement period, although, at least one of the harassers, who also did not meet the six-month requirement period, received a promotion. Later, Mr. Lambert was again denied a promotion because he was issued the above-described retaliatory write-ups.

23. Tesla also retaliated against Mr. Lambert by refusing to properly rotate him, thereby causing a serious injury to his back. Because Production Associates often engage in repetitive work, Tesla's policies require that they rotate their Production Associates every two hours to avoid injuries. Tesla failed to rotate Mr. Lambert. Mr. Lambert complained on multiple occasions about not being rotated and developing pain in his lower back due to the repetitive motion. He complained to Human Resources and his Supervisor. He told them, "tell them to rotate me," "you need to rotate me," and "my back is killing me." Human Resources Representative Erin Garcia stated she would speak to Supervisor Cole Buchner about this matter. However, Mr. Lambert continued to work on the same station and was refused alternative work. In fact, employee Jared (last name unknown) told Mr. Lambert that the last employee that performed Mr. Lambert's job incurred a back injury.

24. After working in a confined space for 12 hours a day, 6 days a week, and without being rotated for three months, Mr. Lambert suffered a lumbar back strain that caused radiating pain starting from his lower back down to his upper buttocks, and resulted in a visit to the emergency room. On July 29, 2016, the Tesla Health Center conducted a physical of Mr. Lambert and issued work restrictions, that limited lifting, pushing and pulling to 10 pounds or less, prohibited stooping and bending, and limited standing or sitting to a maximum of 4 hours per day.

25. Despite the doctor's orders, Supervisor John Maestre refused to accommodate Mr. Lambert and instead forced Mr. Lambert to continue working 12 hours per day, and engage in the same repetitive motion that caused the back injury. Mr. Maestre refused to take Mr.

Lambert's injury and accommodations request seriously, and told Mr. Lambert that if he could not do the work, then he should go home.

26. Mr. Lambert brought Mr. Maestre a Work Status Recommendation from his medical provider requiring that he perform mostly seated work and limit standing/walking to no more than 10 minutes per hour. Mr. Maestre initially provided Mr. Lambert with a plastic crate with no back support as an accommodation. Other employees had regular chairs with back support. When Mr. Lambert asked for a chair with back support he was told that this request would not be accommodated because it was not specified in the Work Status Recommendation. Mr. Lambert's doctor issued a *new* Work Status Recommendation limiting Mr. Lambert to, "Mostly seated with *back support.* Limit standing to no more than 10 minutes/hour." This time, Mr. Maestre refused to accommodate Mr. Lambert because no chairs were allegedly allowed on the line, although other employees were using chairs. Mr. Maestre ordered Mr. Lambert to go home. Mr. Lambert complained to Human Resources Representative Elyse Elliott for being forced to go on leave when he was more than capable of performing the job with the assistance of a chair. In response, Ms. Elliott instructed Mr. Lambert to go home, and notified him that the company would contact him when it had light duty available. As a result, from September 1, 2016 until November 22, 2016, Mr. Lambert was forced to go on leave because Tesla refused to accommodate his simple request for a chair with back support.

27. After Plaintiff raised his concerns, Defendant reacted by attacking Plaintiff and his conduct. Defendant falsely accused Plaintiff of fighting and threatening other workers, of using profanity in the workplace and investigating him for conduct in the distant past. Many of these accusations originally came from the harassers. This appears to be part of a campaign to threaten, bully and smear Plaintiff in an effort to victimize the victim for exercising his rights.

28. As a result of the acts and omissions of Defendant, Plaintiff has suffered, and continues to suffer, emotional distress and psychological damage including, but not limited to: depression, anxiety, stress, insomnia, loss of confidence and self-esteem, and uncertainty regarding the future. Defendant's actions have also resulted in past wage and benefit loss, and are expected to result in economic loss in the future.

29. As a result of Defendant's actions, Plaintiff hired private counsel to prosecute his claims. Pursuant to California Government Code section 12965(b), and Civil Code sections 52(b)(3) and 52.1(h), Plaintiff is entitled to recover attorney's fees and costs associated with the prosecution of these claims.

30. Defendant's acts were malicious, oppressive, or fraudulent with intent to vex, injure, annoy, humiliate and embarrass Plaintiff, and in conscious disregard of the rights or safety of Plaintiff and other employees of Defendant. Plaintiff is informed and believes that managing agents, officers or directors of Defendant ratified the wrongful conduct of the employees and managers of Defendant by knowing of the conduct and failing to take immediate remedial action and by retaining the errant employees in their employment with Defendant after knowing of the conduct and about which Plaintiff became aware.

FIRST CAUSE OF ACTION

(Racial Harassment)
Cal. Govt. Code § 12940, *et seq.*

31. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

32. Plaintiff at all times was an employee covered by the Fair Employment and Housing Act ("FEHA"), California Government Code §§ 12940(a) and (j), which prohibits an employer from discriminating and harassing an employee on the basis of color and race.

33. Defendant Tesla was at all times an employer defined under the FEHA as explained above.

34. The above described actions of Supervisor Christian Kramer, Head Lead Jose Jimenez, Lead Crispin Rodriguez, Lead Treat Doan, and Defendant Tesla, in its capacity as an employer, constitute racial harassment and discrimination in violation of the FEHA. Plaintiff was subjected to working in a severe, persistent and/or pervasive racially hostile work environment, which interfered with his work performance, denied him employment privileges, and adversely affected the terms and conditions of his job on the basis of his race.

35. The harassing conduct to which Plaintiff was subjected to was so severe, widespread, and/or persistent that a reasonable African American in Plaintiff's circumstances would have considered the work environment to be hostile or abusive.

36. Plaintiff considered the work environment to be hostile and/or abusive.

37. Supervisor Kramer, along with other Chassis Two employees, engaged in the racially harassing conduct as set forth herein. Defendant Tesla failed to take prompt, remedial and effective action to stop the harassers.

38. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth above.

39. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

40. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

41. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

SECOND CAUSE OF ACTION

(Race Discrimination)
Cal. Govt. Code § 12940, *et seq.*

42. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

43. Plaintiff at all times was an employee covered by the FEHA, California Government Code §§ 12940(a) and (j), which prohibits an employer from discriminating against an employee on the basis of color and race.

44. Defendant Tesla was at all times an employer defined under the FEHA as explained above.

45. Tesla failed to promote Plaintiff because of his color and race.

46. Defendant's practice was a substantial factor in causing Plaintiff's harm.

47. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth above.

48. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

49. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

50. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

THIRD CAUSE OF ACTION

(Sexual Harassment)
Cal. Govt. Code § 12940, *et seq.*

51. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

52. The above conduct by Plaintiff's supervisor Kramer, Rodriguez, and other Chassis Two employees, was unwelcome, severe, and/or pervasive, directed towards Plaintiff, and part of an ongoing and continuing pattern of conduct.

53. The above conduct caused Plaintiff to perceive his work environment as intimidating, hostile, abusive, or offensive, and a reasonable person in Plaintiff's position would perceive the work environment as intimidating, hostile, abusive, or offensive.

54. Complaints and/or information regarding such harassing conduct were made to Defendant Tesla.

55. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth above.

56. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

57. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

58. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

FOURTH CAUSE OF ACTION

(Retaliation)
Cal. Govt. Code 12940(h)

59. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

60. Plaintiff complained of harassment and discrimination that violated the FEHA.

61. Defendant Tesla took no action to ensure that Plaintiff was not retaliated against or threatened for having complained. After his complaints, the harassment intensified; the harassers attempted to force Plaintiff to quit and to have his job terminated; he was unfairly written up; he was prevented from receiving promotions; he was not properly rotated, which resulted in an injury; and he was denied accommodations for his injury.

62. Defendant Tesla failed to take appropriate action to protect Plaintiff.

63. As a result of Defendant Tesla's action or inaction, Plaintiff was subject to retaliation and additional harassment.

64. Plaintiff's complaint was a motivating reason for the retaliatory actions of Defendant Tesla.

65. Defendant's violations of the FEHA caused Plaintiff to suffer harm as set forth above.

66. As a result of Defendant Tesla's unlawful acts, Plaintiff is entitled to damages as set forth herein.

67. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

68. Defendant Tesla did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

FIFTH CAUSE OF ACTION

(Failure to Prevent Discrimination, Harassment and Retaliation)
Cal. Govt. Code § 12940, *et seq.*

69. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

70. Defendant Tesla failed to take all reasonable steps to prevent the harassment, discrimination and retaliation described above. Defendant knew or should have known that Mr. Kramer, Mr. Rodriguez and others had engaged in racially offensive behavior in the past and failed to stop it.

71. Despite being on notice of Mr. Kramer's, Mr. Rodriguez's and other employees' propensity to engage in harassing conduct, Defendant failed to act to prevent Mr. Kramer, Mr. Rodriguez and other employees from harassing Plaintiff and failed to prevent the further harassment and retaliation that occurred following Plaintiff's complaint.

72. Defendant Tesla also failed to enact an anti-discrimination policy and/or failed to distribute it appropriately and failed to effectively train its employees on racial and/or sex harassment or discrimination.

73. As a result of Defendant Tesla's violations of the FEHA, Plaintiff suffered harm as set forth above.

74. As a result of Defendant Tesla's unlawful acts, Plaintiff is entitled to damages as set forth herein.

75. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

76. Defendant Tesla did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

SIXTH CAUSE OF ACTION

(Threats of Violence in Violation of Cal. Civ. Code §§ 51.7, 52(b))

77. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

78. Crispin Rodriguez threatened to commit violent acts against Plaintiff.

79. A substantial motivating reason for Rodriguez's conduct was Plaintiff's race.

80. Rodriguez interfered with Plaintiff's right to be free from discrimination or violence on the basis of race, by threatening Plaintiff.

81. Defendant Tesla adopted the conduct, through its officers, directors, managing agents, or supervisory employees. It further ratified the conduct by failing to take appropriate prompt remedial action.

82. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

83. As a result of these Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

84. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

85. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

SEVENTH CAUSE OF ACTION

(Interference with Constitutional Rights in Violation of Cal. Civ. Code § 52.1)

86. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

87. Crispin Rodriguez interfered with Plaintiff's constitutional right entitling him to equal protection.

88. Defendant Tesla adopted the conduct, through its officers, directors, managing agents, or supervisory employees. It further ratified the conduct by failing to take appropriate prompt remedial action.

89. A substantial motivating reason for Defendant's conduct was Plaintiff's race.

90. Defendant interfered with Plaintiff's right to be free from discrimination or violence on the basis of race as set forth above. Plaintiff reasonably believed that because Plaintiff exercised his right to be free from racial harassment, Rodriguez threatened to commit violence against him and/or his property and Defendant Tesla permitted working conditions that denied Plaintiff his constitutional right entitling him to equal protection.

91. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

92. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

93. By reason of the conduct of Defendant and each of them as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

94. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

EIGHTH CAUSE OF ACTION

(Failure to Accommodate)
Cal. Govt. Code 12940, *et seq.*

95. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

96. Defendant had an affirmative duty to make a reasonable accommodation for Plaintiff's disability. The duty arises even if Plaintiff did not request an accommodation. Defendant failed to accommodate Plaintiff's disability.

97. At all relevant times, Defendant had actual and constructive knowledge of the failure to accommodate described and alleged herein, and condoned, ratified and participated in the failure to accommodate Plaintiff's disability.

98. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

99. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

100. By reason of the conduct of Defendant, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

101. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

NINTH CAUSE OF ACTION

(Failure to Engage in the Interactive Process)
Cal. Govt. Code 12940, *et seq.*

102. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

103. Defendant was required to engage in a timely, good faith interactive process to attempt to accommodate Plaintiff. Defendant failed to engage in a timely good faith interactive process with Plaintiff and did not make any attempt to accommodate his disability.

104. At all relevant times, Defendant had actual and constructive knowledge of the failure to engage in the interactive process described and alleged herein, and condoned, ratified and participated in the failure to engage in the interactive process.

105. Defendant's conduct caused Plaintiff to suffer, and continue to suffer damages as set forth above.

106. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages set forth herein.

107. By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

108. Defendant did the acts alleged herein maliciously, fraudulently, and oppressively, and/or with the wrongful intention of injuring Plaintiff, and/or with the conscious disregard of the rights and safety of Plaintiff, and/or with an improper and evil motive amounting to malice. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

TENTH CAUSE OF ACTION

(Assault)

109. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

110. Plaintiff is informed and believes and thereon alleges that Defendant, by and through its principals, agents and employees, conducted itself unlawfully in violation of public policy and applicable law as described above with conscious disregard of the result or outcome of such conduct.

111. Rodriguez, Kramer and several other Tesla employees committed an act with the intent to cause apprehension of immediate harmful or offensive contact with Plaintiff, and Plaintiff had a reasonable apprehension of a contact by these employees. This conduct was committed during the course of and scope of employment.

112. At all relevant times, Defendant had actual or constructive knowledge of the conduct described herein, and condoned, ratified and participated in such acts.

113. As a result of Defendant's actions, Plaintiff was harmed as set forth above.

114. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

ELEVENTH CAUSE OF ACTION

(Battery in Violation of Cal. Civ. Code § 1708.5)

115. Plaintiff realleges and hereby incorporates by reference the foregoing paragraphs, as though fully set forth herein.

116. Plaintiff is informed and believes and thereon alleges that Defendant, by and through their principals, agents and employees, conducted themselves unlawfully in violation of

public policy and applicable law as described above with conscious disregard of the result or outcome of such conduct.

117. Rodriguez touched Plaintiff's person with the intent to cause a harmful or offensive contact with an intimate part of Plaintiff. Plaintiff did not consent to the contact. Plaintiff was harmed or offended by Rodriguez's conduct. Rodriguez's conduct was committed during the course of and scope of employment.

118. At all relevant times, Defendant had actual or constructive knowledge of the conduct described herein, and condoned, ratified and participated in such acts.

119. As a result of Defendant's actions, Plaintiff was harmed as set forth above.

120. As a result of Defendant's unlawful acts, Plaintiff is entitled to damages as set forth herein.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant Tesla as follows:

1. General damages according to proof, however, no less than the jurisdictional limit of this court;

2. Special damages in amounts according to proof, together with prejudgment interest;

3. Exemplary and punitive damages in amounts according to proof;

4. Civil penalties pursuant to Civil Code section 51.7;

5. Attorneys' fees and costs pursuant to Government Code section 12965, Civil Code sections 52(b)(3) and 52.1(h), and any other applicable statute;

6. Interest as provided by law;

7. Costs of suit incurred herein;

8. Injunctive relief to require Defendant Tesla to better train its staff on race and sex harassment, discrimination, retaliation, and its duty to accommodate and engage in a good faith interactive process as well as conduct more thorough investigations; and

9. For such other and further relief as the Court deems just and proper.

Dated: March 27, 2017

CALIFORNIA CIVIL RIGHTS LAW GROUP

LAWRENCE A. ORGAN
NAVRUZ AVLONI
Attorneys for Plaintiff
DEWITT LAMBERT

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a jury trial on all issues.

Dated: March 27, 2017

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