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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

15 DEPARTMENT OF FAIR EMPLOYMENT
16 AND HOUSING, an agency of the State of
California,

17
18 Plaintiff,

19 v.

20 TESLA, INC., doing business in California as
TESLA MOTORS, INC., and DOES ONE
21 through FIFTY, inclusive,

22 Defendants.
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No.: 22CV006830

Assigned To The Honorable Evelio Grillo

**DEFENDANT TESLA, INC.'S ANSWER
TO FIRST AMENDED CIVIL RIGHTS
COMPLAINT FOR INJUNCTIVE AND
MONETARY RELIEF AND DAMAGES**

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1 Defendant Tesla, Inc. (“Tesla”) hereby answers the First Amended Civil Rights Complaint
2 for Injunctive and Monetary Relief and Damages (“FAC”) of Plaintiff California Civil Rights
3 Department (“CRD”) (formerly known as the California “Department of Fair Employment and
4 Housing”) as follows:

5 1. Tesla denies the allegations in Paragraph 1 of the FAC and its accompanying
6 Footnotes 1-4 as alleged. To the extent that Paragraph 1 and its accompanying Footnotes 1–4 refer
7 to various articles and public records, Tesla denies any characterization thereof, as they are writings
8 which speak for themselves.

9 2. Tesla admits that its factory in Fremont is located in the San Francisco Bay Area, and
10 that the Fremont factory is the original site of the final assembly of Tesla’s electric vehicles. Tesla
11 also admits that it has a manufacturing plant in Lathrop, California. To the extent that Paragraph 2
12 and its accompanying Footnote 5 refer to various articles and public records, Tesla denies any
13 characterization thereof, as they are writings which speak for themselves. Except as otherwise
14 admitted, Tesla denies the allegations in Paragraph 2 of the FAC and its accompanying Footnote 5.

15 3. Tesla admits that the workforce at its Fremont factory is currently non-union, and that
16 it purchased the Fremont factory in 2010 and thereafter remodeled it. To the extent that Paragraph 3
17 and its accompanying Footnotes 6–7 refer to various articles and public records, Tesla denies any
18 characterization thereof, as they are writings which speak for themselves. Except as otherwise
19 admitted, Tesla denies the allegations in Paragraph 3 of the FAC and its accompanying Footnotes 6-
20 7.

21 4. Tesla admits that the words “Our mission: to accelerate the world’s transition to
22 sustainable energy” appear on the Fremont factory. Tesla also admits that its Chief Executive
23 Officer Elon Musk has been widely recognized as a visionary. To the extent that Paragraph 4 and its
24 accompanying Footnotes 8–10 refer to various articles and public records, Tesla denies any
25 characterization thereof, as they are writings which speak for themselves. Except as otherwise
26 admitted, Tesla states that it lacks information sufficient to allow it to form a belief as to the truth of
27 the allegations in Paragraph 4 of the FAC and its accompanying Footnotes 8-10, and on that ground
28 denies those allegations.

1 5. Tesla admits that the retail pricing of its electric vehicle models varies, but denies that
2 it “markets its vehicles” to any one type of consumer. To the extent that Paragraph 5 and its
3 accompanying Footnote 11 refer to various articles and public records, Tesla denies any
4 characterization thereof, as they are writings which speak for themselves.

5 6. Tesla admits that it provides good-paying jobs and career opportunities to its
6 employees in California. Except as otherwise admitted, Tesla states that it lacks information
7 sufficient to allow it to form a belief as to the truth of the allegations in Paragraph 6 of the FAC and
8 on that ground denies those allegations.

9 7. Tesla denies the allegations in Paragraph 7 of the FAC and its accompanying
10 Footnotes 12-13. To the extent that Paragraph 7 and its accompanying Footnotes 12–13 refer to
11 various articles and public records, Tesla denies any characterization thereof, as they are writings
12 which speak for themselves.

13 8. Tesla admits that more than 15,000 individuals currently work at the factory. To the
14 extent that Paragraph 8 and its accompanying Footnotes 14–17 refer to various articles and public
15 records, Tesla denies any characterization thereof, as they are writings which speak for themselves.
16 Except as otherwise admitted, Tesla denies the allegations in Paragraph 8 of the FAC and its
17 accompanying Footnotes 14-17.

18 9. Tesla denies the allegations in Paragraph 9 of the FAC and its accompanying
19 Footnotes 18-19. To the extent that Paragraph 9 and its accompanying Footnotes 18-19 refer to
20 various articles and public records, Tesla denies any characterization thereof, as they are writings
21 which speak for themselves.

22 10. Tesla denies the allegations in Paragraph 10 of the FAC and its accompanying
23 Footnote 20. To the extent that Paragraph 10 and its accompanying Footnote 20 refer to various
24 articles and public records, Tesla denies any characterization thereof, as they are writings which
25 speak for themselves.

26 11. Tesla denies the allegations in Paragraph 11 of the FAC and its accompanying
27 Footnotes 21-22. To the extent that Paragraph 11 and its accompanying Footnotes 21–22 refer to
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1 various articles and public records, Tesla denies any characterization thereof, as they are writings
2 which speak for themselves.

3 12. To the extent the allegations of Paragraph 12 of the FAC consist of legal conclusions,
4 no response is required. To the extent a response is required, Tesla admits that it announced in 2021
5 its plan to move its corporate headquarters from California to Texas. To the extent that Paragraph 12
6 and its accompanying Footnote 23 refer to various articles and public records, Tesla denies any
7 characterization thereof, as they are writings which speak for themselves. Except as otherwise stated
8 or admitted, Tesla denies the allegations.

9 13. The statutes and regulations cited in Paragraph 13 of the FAC and its accompanying
10 Footnote 24 speak for themselves and require no response. To the extent the allegations of
11 Paragraph 13 and its accompanying Footnote 24 consist of legal conclusions, no response is
12 required. To the extent a response is required, Tesla denies the allegations.

13 14. The statutes cited in Paragraph 14 of the FAC and its accompanying Footnote 25
14 speak for themselves and require no response. To the extent the allegations of Paragraph 14 and its
15 accompanying Footnote 25 consist of legal conclusions, no response is required. To the extent a
16 response is required, Tesla admits that CRD purports to bring this lawsuit pursuant to certain
17 statutory authority and to describe the nature of the claims pled against Tesla, but Tesla denies that
18 CRD has the statutory authority to bring this lawsuit or to assert the claims that CRD has pled
19 against Tesla.

20 15. The statutes and cases cited in Paragraph 15 of the FAC speak for themselves and
21 require no response. To the extent the allegations in Paragraph 15 consist of legal conclusions, no
22 response is required. To the extent a response is required, Tesla admits that CRD purports to
23 describe its general authority to bring lawsuits and pursue remedies pursuant to certain statutes and
24 other authority, but Tesla denies that CRD has any legal authority to bring this lawsuit against Tesla
25 or to obtain any relief from Tesla on behalf of any entity or person.

26 16. Tesla admits the allegations in Paragraph 16 of the FAC. To the extent that
27 Paragraph 16 and its accompanying Footnote 26 refer to various articles and public records, Tesla
28 denies any characterization thereof, as they are writings which speak for themselves.

1 17. Tesla denies the allegations in Paragraph 17 of the FAC.

2 18. To the extent the allegations in Paragraph 18 of the FAC consist of legal conclusions,
3 no response is required. To the extent a response is required, Tesla denies the allegations.

4 19. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
5 fully set forth herein.

6 20. Tesla admits the allegations of Paragraph 20 of the FAC.

7 21. The statutes and regulations cited in Paragraph 21 of the FAC speak for themselves
8 and require no response. The Notice of Group or Systemic Investigation and Director's Complaint
9 for Group/Class Relief against Tesla, Inc. ("Director's Complaint") cited in Paragraph 21 speak for
10 themselves and require no response. To the extent a response is required, Tesla admits that the
11 Director's Complaint alleges that Tesla engaged in discrimination related to the purported
12 harassment of Black and/or African American employees, retaliation against Black and/or African
13 American employees who complained about such racial harassment, and failure to prevent such
14 racial harassment, but makes no other allegations of unlawful conduct by Tesla. Except as otherwise
15 stated or admitted, Tesla denies the allegations.

16 22. To the extent the allegations of Paragraph 22 of the FAC consist of legal conclusions,
17 no response is required. To the extent a response is required, Tesla admits that CRD issued a "cause
18 finding" against it in January 2022. Except as otherwise stated or admitted, Tesla denies the
19 allegations.

20 23. The SEC filing cited in Paragraph 23 of the FAC speaks for itself and requires no
21 response. To the extent that Paragraph 23 and its accompanying Footnote 27 refer to an article,
22 Tesla denies any characterization thereof, as it is a writing which speaks for itself. To the extent a
23 response is required, Tesla denies that CRD attempted in good faith "to resolve this matter without
24 litigation" and/or that CRD otherwise satisfied the pre-suit obligations imposed on it by law,
25 including the obligation to engage in pre-suit conciliation and good faith mediation.

26 24. The statutes cited in Paragraph 24 of the FAC speak for themselves and require no
27 response. To the extent a response is required, Tesla admits that CRD purports to describe its
28 general authority to bring a lawsuit after satisfying certain pre-suit obligations imposed on CRD by

1 law, but denies that CRD satisfied those obligations before filing this lawsuit and/or that CRD has
2 any legal authority to bring this lawsuit against Tesla or to obtain any relief from Tesla on behalf of
3 any entity or person.

4 25. Tesla denies the allegations of Paragraph 25 of the FAC.

5 26. Tesla denies the allegations of Paragraph 26 of the FAC.

6 27. Tesla admits the allegations of Paragraph 27 of the FAC.

7 28. The statutes cited in Paragraph 28 of the FAC speak for themselves and require no
8 response. To the extent the allegations in Paragraph 28 consist of legal conclusions, no response is
9 required. To the extent a response is required, Tesla admits that CRD purports to describe its
10 general authority to bring lawsuits and pursue remedies pursuant to certain statutes, but Tesla denies
11 that CRD has any legal authority to bring this lawsuit against Tesla or to obtain any relief from Tesla
12 on behalf of any entity or person.

13 29. The statutes cited in Paragraph 29 of the FAC speak for themselves and require no
14 response. To the extent the allegations in Paragraph 29 consist of legal conclusions, no response is
15 required. To the extent a response is required, Tesla admits that CRD purports to describe its
16 general authority to bring lawsuits and pursue remedies pursuant to certain statutes, but Tesla denies
17 that CRD has any legal authority to bring this lawsuit against Tesla or to obtain any relief from Tesla
18 on behalf of any entity or person.

19 30. The statutes cited in Paragraph 30 of the FAC speak for themselves and require no
20 response. Except as otherwise stated, Tesla denies the allegations.

21 31. The statutes cited in Paragraph 31 of the FAC speak for themselves and require no
22 response. To the extent the allegations in Paragraph 31 consist of legal conclusions, no response is
23 required. To the extent a response is required, Tesla admits that CRD purports to describe its
24 general authority to bring lawsuits and pursue remedies pursuant to certain statutes, but Tesla denies
25 that CRD has any legal authority to bring this lawsuit against Tesla or to obtain any relief from Tesla
26 on behalf of any entity or person.

27 32. The statutes cited in Paragraph 32 of the FAC speak for themselves and require no
28 response. To the extent the allegations in Paragraph 32 consist of legal conclusions, no response is

1 required. To the extent a response is required, Tesla admits that CRD purports to describe its
2 general authority to bring lawsuits and pursue remedies pursuant to certain statutes, as well as its
3 purpose in bringing this lawsuit, but Tesla denies that CRD has any legal authority to bring this
4 lawsuit against Tesla or to obtain any relief from Tesla on behalf of any entity or person.

5 33. The statutes and cases cited in Paragraph 33 of the FAC speak for themselves and
6 require no response. To the extent the allegations in Paragraph 33 consist of legal conclusions, no
7 response is required. To the extent a response is required, Tesla admits that CRD purports to
8 describe its general authority to bring lawsuits and pursue remedies pursuant to certain statutes, and
9 to justify this lawsuit based on such authority, but Tesla denies that CRD has any legal authority to
10 bring this lawsuit against Tesla or to obtain any relief from Tesla on behalf of any entity or person.

11 34. Tesla incorporates by reference its response to all prior paragraphs of the FAC as if
12 fully set forth herein.

13 35. Tesla denies the allegations in Paragraph 35 of the FAC and its accompanying
14 Footnote 28.

15 36. Tesla denies the allegations in Paragraph 36 of the FAC.

16 37. Tesla denies the allegations in Paragraph 37 of the FAC.

17 38. Tesla denies the allegations in Paragraph 38 of the FAC.

18 39. Tesla denies the allegations in Paragraph 39 of the FAC.

19 40. Tesla denies the allegations in Paragraph 40 of the FAC.

20 41. Tesla denies the allegations in Paragraph 41 of the FAC.

21 42. Tesla denies the allegations in Paragraph 42 of the FAC and its accompanying
22 Footnote 29. To the extent that Paragraph 42 and its accompanying Footnote 29 refers to a public
23 record, Tesla denies any characterization thereof, as it is a writing which speaks for itself.

24 43. Tesla denies the allegations in Paragraph 43 of the FAC and its accompanying
25 Footnotes 30-31. To the extent that Paragraph 43 and its accompanying Footnotes 30–31 refer to
26 public records, Tesla denies any characterization thereof, as they are writings which speak for
27 themselves.

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1 44. Tesla denies the allegations in Paragraph 44 of the FAC and its accompanying
2 Footnote 32. To the extent that Paragraph 44 and its accompanying Footnote 32 refer to a public
3 record, Tesla denies any characterization thereof, as it is a writing which speaks for itself.

4 45. To the extent the allegations in Paragraph 45 of the FAC consist of legal conclusions,
5 no response is required. To the extent a response is required, Tesla states that the allegations are
6 vague, ambiguous and unintelligible, and, on that basis, Tesla denies the allegations. To the extent
7 that Paragraph 45 and its accompanying Footnote 33 refer to a public record, Tesla denies any
8 characterization thereof, as it is a writing which speaks for itself.

9 46. Tesla denies the allegations in Paragraph 46 of the FAC.

10 47. Tesla denies the allegation in Paragraph 47 of the FAC.

11 48. Tesla denies the allegations in Paragraph 48 of the FAC.

12 49. Tesla denies the allegations in Paragraph 49 of the FAC.

13 50. Tesla denies the allegations in Paragraph 50 of the FAC.

14 51. Tesla denies the allegations in Paragraph 51 of the FAC.

15 52. To the extent the allegations in Paragraph 52 consist of legal conclusions, no response
16 is required. To the extent a response is required, Tesla states that it lacks information sufficient to
17 allow it to form a belief as to what CRD's pre-suit "investigation" purportedly revealed to CRD
18 because CRD has improperly concealed the details of that investigation from Tesla, and, upon that
19 basis, Tesla denies the allegations. To the extent that Paragraph 52 and its accompanying Footnote
20 34 refer to various articles and public records, Tesla denies any characterization thereof, as they are
21 writings which speak for themselves.

22 53. Tesla denies the allegations in Paragraph 53 of the FAC.

23 54. Tesla denies the allegations in Paragraph 54 of the FAC as alleged. To the extent that
24 Paragraph 54 and its accompanying Footnotes 35–36 refer to various articles and public records,
25 Tesla denies any characterization thereof, as they are writings which speak for themselves.

26 55. Tesla denies the allegations in Paragraph 55 of the FAC.

27 56. Tesla admits that CRD requested documents from Tesla during the pre-suit
28 administrative proceedings related to this lawsuit, and that Tesla made reasonable and good faith

1 efforts to respond to those requests. Except as otherwise admitted, Tesla denies the allegation in
2 Paragraph 56 of the FAC.

3 57. The statutes and regulations cited in Paragraph 57 of the FAC and its accompanying
4 Footnote 37 speak for themselves and require no response. To the extent a response is required,
5 Tesla states that it made reasonable, good faith efforts to respond to record requests made by CRD
6 during the pre-suit administrative proceedings related to this lawsuit. Except as otherwise stated,
7 Tesla denies the allegations.

8 58. To the extent the allegations of Paragraph 58 of the FAC consist of legal conclusions,
9 no response is required. To the extent a response is required, Tesla denies the allegations.

10 59. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
11 fully set forth herein.

12 60. The statute cited in Paragraph 60 of the FAC speaks for itself and requires no
13 response. To the extent a response is required, Tesla denies having violated the statute.

14 61. Tesla denies the allegations in Paragraph 61 of the FAC.

15 62. Tesla denies the allegations in Paragraph 62 of the FAC.

16 63. Tesla denies the allegations in Paragraph 63 of the FAC.

17 64. Tesla denies the allegations in Paragraph 64 of the FAC.

18 65. Tesla denies the allegations in Paragraph 65 of the FAC.

19 66. Tesla denies the allegations in Paragraph 66 of the FAC.

20 67. To the extent the allegations in Paragraph 67 of the FAC consist of legal conclusions,
21 no response is required. To the extent a response is required, Tesla denies the allegations.

22 68. The allegations of Paragraph 68 of the FAC require no response. To the extent a
23 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

24 69. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
25 fully set forth herein.

26 70. The statute cited in Paragraph 70 of the FAC speaks for itself and requires no
27 response. To the extent a response is required, Tesla denies having violated the statute.

28 71. Tesla denies the allegations in Paragraph 71 of the FAC.

- 1 72. Tesla denies the allegations in Paragraph 72 of the FAC.
- 2 73. Tesla denies the allegations in Paragraph 73 of the FAC.
- 3 74. Tesla denies the allegations in Paragraph 74 of the FAC.
- 4 75. Tesla denies the allegations in Paragraph 75 of the FAC.
- 5 76. Tesla denies the allegations in Paragraph 76 of the FAC.
- 6 77. Tesla denies the allegations in Paragraph 77 of the FAC.
- 7 78. Tesla denies the allegations in Paragraph 78 of the FAC.
- 8 79. To the extent the allegations in Paragraph 79 of the FAC consist of legal conclusions,
9 no response is required. To the extent a response is required, Tesla denies the allegations.
- 10 80. The allegations of Paragraph 80 of the FAC require no response. To the extent a
11 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.
- 12 81. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
13 fully set forth herein.
- 14 82. The statute cited in Paragraph 82 of the FAC speaks for itself and requires no
15 response. To the extent a response is required, Tesla denies having violated the statute.
- 16 83. Tesla denies the allegations in Paragraph 83 of the FAC.
- 17 84. Tesla denies the allegations in Paragraph 84 of the FAC.
- 18 85. Tesla denies the allegations in Paragraph 85 of the FAC.
- 19 86. Tesla denies the allegations in Paragraph 86 of the FAC.
- 20 87. Tesla denies the allegations in Paragraph 87 of the FAC.
- 21 88. Tesla denies the allegations in Paragraph 88 of the FAC.
- 22 89. Tesla denies the allegations in Paragraph 89 of the FAC.
- 23 90. Tesla denies the allegations in Paragraph 90 of the FAC.
- 24 91. To the extent the allegations in Paragraph 91 of the FAC consist of legal conclusions,
25 no response is required. To the extent a response is required, Tesla denies the allegations.
- 26 92. The allegations of Paragraph 92 of the FAC require no response. To the extent a
27 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.
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1 93. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
2 fully set forth herein.

3 94. The statute cited in Paragraph 94 of the FAC speaks for itself and requires no
4 response. To the extent a response is required, Tesla denies having violated the statute.

5 95. Tesla denies the allegations in Paragraph 95 of the FAC.

6 96. Tesla denies the allegations in Paragraph 96 of the FAC.

7 97. Tesla denies the allegations in Paragraph 97 of the FAC.

8 98. Tesla denies the allegations in Paragraph 98 of the FAC.

9 99. Tesla denies the allegations in Paragraph 99 of the FAC.

10 100. Tesla denies the allegations in Paragraph 100 of the FAC.

11 101. Tesla denies the allegations in Paragraph 101 of the FAC.

12 102. Tesla denies the allegations in Paragraph 102 of the FAC.

13 103. To the extent the allegations in Paragraph 103 of the FAC consist of legal
14 conclusions, no response is required. To the extent a response is required, Tesla denies the
15 allegations.

16 104. The allegations of Paragraph 104 of the FAC require no response. To the extent a
17 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

18 105. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
19 fully set forth herein.

20 106. The statute cited in Paragraph 106 of the FAC speaks for itself and requires no
21 response. To the extent a response is required, Tesla denies having violated the statute.

22 107. Tesla denies the allegations in Paragraph 107 of the FAC.

23 108. Tesla denies the allegations in Paragraph 108 of the FAC.

24 109. Tesla denies the allegations in Paragraph 109 of the FAC.

25 110. Tesla denies the allegations in Paragraph 110 of the FAC.

26 111. Tesla denies the allegations in Paragraph 111 of the FAC.

27 112. Tesla denies the allegations in Paragraph 112 of the FAC.

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1 113. To the extent the allegations in Paragraph 113 of the FAC consist of legal
2 conclusions, no response is required of Tesla. To the extent a response is required, Tesla denies the
3 allegations of Paragraph 113.

4 114. Tesla denies the allegations in Paragraph 114 of the FAC.

5 115. To the extent the allegations in Paragraph 115 of the FAC consist of legal
6 conclusions, no response is required. To the extent a response is required, Tesla denies the
7 allegations.

8 116. The allegations of Paragraph 116 of the FAC require no response. To the extent a
9 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

10 117. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
11 fully set forth herein.

12 118. The statute cited in Paragraph 118 of the FAC speaks for itself and requires no
13 response. To the extent a response is required, Tesla denies having violated the statute.

14 119. Tesla denies the allegations in Paragraph 119 of the FAC.

15 120. Tesla denies the allegations in Paragraph 120 of the FAC.

16 121. Tesla denies the allegations in Paragraph 121 of the FAC.

17 122. Tesla denies the allegations in Paragraph 122 of the FAC.

18 123. Tesla denies the allegations in Paragraph 123 of the FAC.

19 124. Tesla denies the allegations in Paragraph 124 of the FAC.

20 125. Tesla denies the allegations in Paragraph 125 of the FAC.

21 126. Tesla denies the allegations in Paragraph 126 of the FAC.

22 127. To the extent the allegations in Paragraph 127 of the FAC consist of legal
23 conclusions, no response is required. To the extent a response is required, Tesla denies the
24 allegations.

25 128. The allegations of Paragraph 128 of the FAC require no response. To the extent a
26 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

27 129. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
28 fully set forth herein.

1 130. The statute cited in Paragraph 130 of the FAC speaks for itself and requires no
2 response. To the extent a response is required, Tesla denies having violated the statute.

3 131. Tesla denies the allegations in Paragraph 131 of the FAC.

4 132. Tesla denies the allegations in Paragraph 132 of the FAC.

5 133. Tesla denies the allegations in Paragraph 133 of the FAC.

6 134. Tesla denies the allegations in Paragraph 134 of the FAC.

7 135. Tesla denies the allegations in Paragraph 135 of the FAC.

8 136. Tesla denies the allegations in Paragraph 136 of the FAC.

9 137. Tesla denies the allegations in Paragraph 137 of the FAC.

10 138. Tesla denies the allegations in Paragraph 138 of the FAC.

11 139. To the extent the allegations in Paragraph 139 of the FAC consist of legal
12 conclusions, no response is required. To the extent a response is required, Tesla denies the
13 allegations.

14 140. The allegations of Paragraph 140 of the FAC require no response. To the extent a
15 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

16 141. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
17 fully set forth herein.

18 142. The statute cited in Paragraph 142 of the FAC speaks for itself and requires no
19 response. To the extent a response is required, Tesla denies having violated the statute.

20 143. Tesla denies the allegations in Paragraph 143 of the FAC.

21 144. Tesla denies the allegations in Paragraph 144 of the FAC.

22 145. Tesla denies the allegations in Paragraph 145 of the FAC.

23 146. Tesla denies the allegations in Paragraph 146 of the FAC.

24 147. Tesla denies the allegations in Paragraph 147 of the FAC.

25 148. To the extent the allegations in Paragraph 148 of the FAC consist of legal
26 conclusions, no response is required. To the extent a response is required, Tesla denies the
27 allegations.

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1 149. The allegations of Paragraph 149 of the FAC require no response. To the extent a
2 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

3 150. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
4 fully set forth herein.

5 151. The statute cited in Paragraph 151 of the FAC speaks for itself and requires no
6 response. To the extent a response is required, Tesla denies having violated the statute.

7 152. Tesla denies the allegations in Paragraph 152 of the FAC.

8 153. Tesla denies the allegations in Paragraph 153 of the FAC.

9 154. Tesla denies the allegations in Paragraph 154 of the FAC.

10 155. Tesla denies the allegations in Paragraph 155 of the FAC.

11 156. To the extent the allegations in Paragraph 156 of the FAC consist of legal
12 conclusions, no response is required. To the extent a response is required, Tesla denies the
13 allegations.

14 157. The allegations of Paragraph 157 of the FAC require no response. To the extent a
15 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

16 158. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
17 fully set forth herein.

18 159. The statute cited in Paragraph 159 of the FAC speaks for itself and requires no
19 response. To the extent a response is required, Tesla denies having violated the statute.

20 160. Tesla denies the allegations in Paragraph 160 of the FAC.

21 161. Tesla denies the allegations in Paragraph 161 of the FAC.

22 162. Tesla denies the allegations in Paragraph 162 of the FAC.

23 163. To the extent the allegations in Paragraph 163 of the FAC consist of legal
24 conclusions, no response is required. To the extent a response is required, Tesla denies the
25 allegations.

26 164. The allegations of Paragraph 164 of the FAC require no response. To the extent a
27 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

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1 165. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
2 fully set forth herein.

3 166. The statute cited in Paragraph 166 of the FAC speaks for itself and requires no
4 response. To the extent a response is required, Tesla denies having violated the statute.

5 167. Tesla denies the allegations in Paragraph 167 of the FAC.

6 168. Tesla denies the allegations in Paragraph 168 of the FAC.

7 169. Tesla denies the allegations in Paragraph 169 of the FAC.

8 170. Tesla denies the allegations in Paragraph 170 of the FAC.

9 171. Tesla denies the allegations in Paragraph 171 of the FAC.

10 172. To the extent the allegations in Paragraph 172 of the FAC consist of legal
11 conclusions, no response is required. To the extent a response is required, Tesla denies the
12 allegations.

13 173. The allegations of Paragraph 173 of the FAC require no response. To the extent a
14 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

15 174. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
16 fully set forth herein.

17 175. The statute cited in Paragraph 175 of the FAC speaks for itself and requires no
18 response. To the extent a response is required, Tesla denies having violated the statute.

19 176. The statute cited in Paragraph 176 of the FAC speaks for itself and requires no
20 response. To the extent a response is required, Tesla denies having violated the statute.

21 177. Tesla denies the allegations in Paragraph 177 of the FAC.

22 178. The statute cited in Paragraph 178 of the FAC speaks for itself and requires no
23 response. To the extent a response is required, Tesla denies having violated the statute.

24 179. Tesla denies the allegations in Paragraph 179 of the FAC.

25 180. Tesla denies the allegations in Paragraph 180 of the FAC.

26 181. Tesla denies the allegations in Paragraph 181 of the FAC.

27 182. Tesla denies the allegations in Paragraph 182 of the FAC.

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1 183. To the extent the allegations in Paragraph 183 of the FAC consist of legal
2 conclusions, no response is required. To the extent a response is required, Tesla denies the
3 allegations.

4 184. The allegations of Paragraph 184 of the FAC require no response. To the extent a
5 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

6 185. Tesla incorporates by reference its responses to all prior paragraphs of the FAC as if
7 fully set forth herein.

8 186. The statutes cited in Paragraph 186 of the FAC and its accompanying Footnote 38
9 speak for themselves and require no response. To the extent a response is required, Tesla denies
10 having violated the statutes.

11 187. The Document Retention Notice cited in Paragraph 187 of the FAC speaks for itself
12 and requires no response. To the extent a response is required, Tesla admits that CRD provided
13 Tesla a document retention notice during the pre-suit administrative proceedings related to this
14 lawsuit. Except as otherwise stated or admitted, Tesla denies the allegations.

15 188. To the extent that the allegations of Paragraph 188 of the FAC consist of legal
16 conclusions, no response is required. To the extent a response is required, Tesla admits that CRD
17 requested documents from Tesla during the pre-suit administrative proceedings related to this
18 lawsuit, and that Tesla made reasonable, good faith efforts to respond to those requests. Except as
19 otherwise stated or admitted, Tesla denies the allegations.

20 189. Tesla denies the allegations in Paragraph 189 of the FAC.

21 190. Tesla denies the allegations in Paragraph 190 of the FAC.

22 191. To the extent the allegations in Paragraph 191 of the FAC consist of legal
23 conclusions, no response is required. To the extent a response is required, Tesla denies the
24 allegations.

25 192. The allegations of Paragraph 192 of the FAC require no response. To the extent a
26 response is required, Tesla denies that CRD is entitled to the relief it requests or to any relief at all.

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1 **AFFIRMATIVE DEFENSES**

2 Tesla sets forth below its affirmative defenses to the FAC, and to each and every cause of
3 action or claim for relief alleged therein, without assuming or undertaking any burden of proof not
4 otherwise assigned to Tesla by law. Nothing stated herein is intended to be, nor shall be, construed
5 as an express or implied admission by Tesla of the validity or merits of any of the causes of action,
6 claims or allegations asserted by CRD in the FAC, or of any liability on the part of Tesla for the
7 same. Tesla preserves all of its potential defenses to CRD’s claims and causes of action, including
8 such defenses as may become apparent through discovery or upon further clarification of CRD’s
9 claims and causes of action.

10 **FIRST AFFIRMATIVE DEFENSE**

11 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
12 or in part, because CRD has failed to state facts sufficient to constitute a cause of action or claim
13 upon which relief may be granted against Tesla.

14 **SECOND AFFIRMATIVE DEFENSE**

15 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
16 or in part, because CRD failed to exhaust all administrative remedies available to CRD, and/or
17 comply with all or some of the pre-suit requirements for filing this action imposed on CRD by the
18 California Fair Employment and Housing Act (“FEHA”). Cal. Gov’t Code §§ 12940, *et seq.*

19 **THIRD AFFIRMATIVE DEFENSE**

20 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
21 or in part, because CRD brings this action in reliance and based on its adoption and general
22 application of rules, regulations and/or procedural standards promulgated in violation of the
23 California Administrative Procedure Act (“APA”). Cal. Gov’t Code §§ 11340.5(a), 11342.600.
24 These rules, regulations and/or standards constitute invalid underground regulations under the APA,
25 and include the following: (1) CRD initiates investigations of alleged employer misconduct under
26 the FEHA without providing notice to employers of the particulars for those investigations; (2) CRD
27 issues cause findings against employers without providing any information to support those
28 determinations; (3) CRD files civil suits against employers without first engaging in good faith

1 conciliation and mediation; (4) CRD files civil suits against employers on claims not previously
2 and/or fully investigated and/or concerning which the employers were not provided pre-suit notice;
3 and (5) CRD demands that employers waive their legal rights and protections as a condition
4 precedent for CRD performing its statutorily-required acts, including conciliation and mediation.

5 **FOURTH AFFIRMATIVE DEFENSE**

6 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
7 or in part, by the applicable statutes of limitations. Cal. Gov't Code § 12960(d); Cal. Civ. Proc.
8 Code § 338.

9 **FIFTH AFFIRMATIVE DEFENSE**

10 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
11 or in part, because the Court lacks jurisdiction over this matter due to CRD's failure to comply with
12 all or some of the pre-suit requirements imposed on CRD by the FEHA. Cal. Gov't Code §§ 12960,
13 12961, 12963.

14 **SIXTH AFFIRMATIVE DEFENSE**

15 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
16 or in part, because the claims asserted in the FAC are highly individualized and involve tens of
17 thousands of workers employed at different times, in different positions, under different managers,
18 and in different circumstances and contexts, such that this action as pled is unmanageable and cannot
19 be prosecuted and/or tried without violating Tesla's due process rights under the United States and
20 California Constitutions.

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
23 or in part, because Tesla did not engage in the discriminatory, retaliatory, harassing or other
24 unlawful conduct alleged in the FAC, and no unlawful criterion was a substantial motivating factor
25 in any conduct engaged in by Tesla. Even if CRD were able to prove that an improper criterion was
26 a substantial motivating factor for Tesla's conduct, CRD's claims would be barred because Tesla
27 would have engaged in such conduct for legitimate, non-discriminatory, non-retaliatory, non-
28 harassing and otherwise lawful reasons.

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
3 or in part, because any and all of Tesla's actions as they relate to CRD's claims, which are expressly
4 denied, were taken for legitimate business reasons unrelated to race or any other protected
5 characteristic through the lawful exercise of managerial discretion, and are thus legally privileged.

6 **NINTH AFFIRMATIVE DEFENSE**

7 To the extent that CRD alleges that one or more of Tesla's employees allegedly
8 discriminated against, harassed, or retaliated against anyone, Tesla expressly denies such allegations
9 and states that such alleged conduct, if any, (1) was outside the course and scope of those
10 employees' employment; (2) was not condoned by Tesla; and/or (3) was undertaken without the
11 knowledge or consent of Tesla.

12 **TENTH AFFIRMATIVE DEFENSE**

13 The FAC, and each and every cause of action alleged therein, are barred, in whole or in part,
14 to the extent that CRD failed to name and join indispensable parties, including but not limited to the
15 employers of any and all members of the group CRD purports to represent, and on whose behalf
16 CRD seeks relief.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
19 or in part, for lack of standing to the extent CRD seeks relief on behalf of or with respect to
20 individuals who were not employed by Tesla.

21 **TWELFTH AFFIRMATIVE DEFENSE**

22 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
23 or in part, to the extent any purported harm, injury and/or damages suffered by members of the
24 group CRD purports to represent, and on whose behalf CRD seeks relief, was caused by members of
25 the group and/or persons or entities other than Tesla.

26 **THIRTEENTH AFFIRMATIVE DEFENSE**

27 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
28 or in part, by the doctrine of avoidable consequences to the extent members of the group CRD

1 purports to represent, and on whose behalf CRD seeks relief, failed to avail themselves of Tesla's
2 internal complaint procedures, failed to take timely advantage of preventable or corrective measures
3 provided by Tesla, or otherwise failed to exercise reasonable care and diligence to avoid harm or
4 injury.

5 **FOURTEENTH AFFIRMATIVE DEFENSE**

6 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
7 or in part, to the extent that any member of the group CRD purports to represent, and on whose
8 behalf CRD seeks relief, has entered into a settlement agreement and/or release covering any claims
9 alleged in this action. Tesla avers that CRD cannot recover monetary relief for any claims waived or
10 released by members of said group.

11 **FIFTEENTH AFFIRMATIVE DEFENSE**

12 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
13 or in part, by the doctrines of res judicata and/or collateral and/or judicial estoppel with respect to
14 any claims previously adjudicated in favor of Tesla and against any member of the group CRD
15 purports to represent, and on whose behalf CRD seeks relief.

16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 The FAC, and each and every purported cause of action alleged therein, are barred, in whole
18 or in part, to the extent that Tesla's compensation of members of the group CRD purports to
19 represent, and on whose behalf CRD seeks relief, was determined based on a seniority system, a
20 merit system, a system that measures earnings by quantity or quality of production, and/or a bona
21 fide factor other than race that is job-related and consistent with legitimate business needs.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 Insofar as CRD alleges that a Tesla employee discriminated and/or retaliated against a
24 member or members of the group CRD purports to represent, and on whose behalf CRD seeks relief,
25 and/or harassed any member of that group, Tesla denies those allegations and states that any such
26 alleged conduct was not directed, authorized, ratified, encouraged, condoned, or assisted by Tesla.

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EIGHTEENTH AFFIRMATIVE DEFENSE

Insofar as CRD alleges that Tesla’s compensation, assignment, promotion, discipline, termination and/or other personnel policies, procedures or practices had or have an adverse impact on members of the group CRD purports to represent, and on whose behalf CRD seeks relief, Tesla denies any such adverse impact or that any difference in impact is statistically meaningful, and states that its personnel policies, procedures or practices are job-related, consistent with legitimate business needs, and otherwise lawful.

NINETEENTH AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, by the doctrine of estoppel.

TWENTIETH AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, by the doctrine of laches.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, by the doctrine of unclean hands.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, by the after-acquired evidence doctrine.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, to the extent that members of the group CRD purports to represent, and on whose behalf it seeks relief, have failed to make reasonable efforts to mitigate their alleged damages, if any.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, and/or the relief sought thereby, are barred, in whole or in part, to the extent that such claims and relief are subject to offset.

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TWENTY-FIFTH AFFIRMATIVE DEFENSE

The FAC, and each and every cause of action alleged therein, are barred, in whole or in part, to the extent any member of the group CRD purports to represent, or on whose behalf CRD seeks relief, has initiated his or her own legal action against Tesla based on one or more of the claims alleged in the FAC.

PRESERVATION OF ADDITIONAL AFFIRMATIVE DEFENSES

Tesla presently has insufficient knowledge or information upon which to form a belief as to whether it has additional affirmative defenses, and Tesla therefore reserves its right to assert additional defenses should discovery or further investigation indicate that such defenses exist.

WHEREFORE, Tesla prays for judgment against CRD as follows:

- 1. That CRD take nothing by way of the FAC, and that the FAC be dismissed with prejudice and in its entirety;
- 2. That judgment be entered in favor of Tesla and against CRD;
- 3. That Tesla be awarded costs of suit and reasonable attorneys’ fees; and
- 4. That Tesla be awarded such other and further relief as the Court deems just and proper.

DATED: September 22, 2022

Respectfully submitted,
HOLLAND & KNIGHT LLP

By: /s/ Thomas E. Hill
Thomas E. Hill
Christina T. Tellado

Attorneys for Defendant
TESLA, INC.

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VERIFICATION

I, Nicole White, declare as follows:

I am the Director, People Operations at Tesla, Inc., the Defendant in this action, and I am authorized to execute this verification on its behalf. I declare that I have read the foregoing DEFENDANT TESLA, INC.'S ANSWER TO FIRST AMENDED CIVIL RIGHTS COMPLAINT FOR INJUNCTIVE RELIEF AND MONETARY DAMAGES and know the contents thereof. I declare that the matters stated therein are either true of my own knowledge or that I am informed and believe the matters stated therein are true and on that ground allege that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22nd day of September 2022, at Austin, Texas.



Nicole White

Holland & Knight LLP
400 South Hope Street, 8th Floor
Los Angeles, CA 90071
Tel: 213.896.2400 Fax: 213.896.2450

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PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 400 S. Hope Street, 8th Floor, Los Angeles, California 90071.

On **September 22, 2022**, I caused the foregoing document described as **DEFENDANT TESLA, INC.’S ANSWER TO FIRST AMENDED CIVIL RIGHTS COMPLAINT FOR INJUNCTIVE AND MONETARY RELIEF AND DAMAGES** to be served on the interested parties in this action as follows:


Alexis McKenna
Sirithon Thanasombat
California Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758-7178
Email: alexis.mckenna@dfeh.ca.gov

(BY E-MAIL) I e-mailed above-listed document(s) to the e-mail addressee(s) on the attached Service List. A true and correct copy of the e-mail transmittal will be attached to the above-listed document(s) and produced if requested by any interested party.

(BY ELECTRONIC SERVICE) Pursuant to California Rule of Court rule 8.212(c) and the Court’s order authorizing electronic service, an electronic copy of such document was served through CASEANYWHERE.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **September 22, 2022**, at Los Angeles, California.



Yvonne Ceballos