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15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 U.S. EQUAL EMPLOYMENT
 18 OPPORTUNITY COMMISSION,

19 Plaintiff,

20 vs.

21 TESLA, INC.

22 Defendant.

) Case No.: 4:23-cv-4984

) **COMPLAINT—TITLE VII**

-) • **Race Harassment**
-) • **Retaliation**

) **JURY TRIAL DEMAND**

23 **NATURE OF THE ACTION**

24 This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I
 25 of the Civil Rights Act of 1991, to correct unlawful employment practices based on race (Black)
 26 and to provide appropriate relief to aggrieved individuals who have been adversely affected by
 27 such practices. As set forth with greater particularity below, Plaintiff United States Equal
 28 Employment Opportunity Commission (Plaintiff or Commission) alleges that since May 29,

1 2015, Defendant Tesla, Inc. (Tesla) has subjected Black employees at its manufacturing facilities
2 in Fremont, California (Fremont Factory) to severe or pervasive racial harassment and created
3 and maintained a hostile work environment because of their race, in a continuing violation of
4 Title VII. The Commission also alleges that Defendant unlawfully retaliated against Black
5 employees who opposed actions they perceived to constitute unlawful employment
6 discrimination, also in violation of Title VII.

7 **JURISDICTION AND VENUE**

8 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
9 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of
10 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) (Title
11 VII) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

12 2. The employment practices alleged to be unlawful were and are now being
13 committed at Tesla's manufacturing facilities in Fremont, California, and within the jurisdiction
14 of the United States District Court for the Northern District of California.

15 **INTRADISTRICT ASSIGNMENT**

16 3. This action is appropriate for assignment to the Oakland Division or San
17 Francisco Division of this Court because the unlawful employment practices alleged were
18 committed in Alameda County, which is in the jurisdiction of the Oakland Division.

19 **PARTIES**

20 4. Plaintiff, Equal Employment Opportunity Commission, is an agency of the United
21 States of America charged with the administration, interpretation and enforcement of Title VII.
22 The Commission is expressly authorized to bring this action by Sections 706(f)(1) and (3) of
23 Title VII. 42 U.S.C. §§ 2000e-5(f)(1) and (3).

24 5. Tesla is a company in the business of designing, manufacturing and selling
25 electric vehicles in its facilities in Fremont, California.

26 6. At all relevant times, Tesla, has been a Delaware corporation that has
27 continuously been doing business in the state of California, including within Alameda County.

28 7. At all relevant times, Tesla has continuously been an employer engaged in an

1 industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42
2 U.S.C. §§ 2000e(b), (g), and (h).

3 8. At all relevant times, Tesla has continuously had at least fifteen (15) employees.

4 **ADMINISTRATIVE PROCEDURES**

5 9. More than thirty (30) days prior to the institution of this lawsuit, Commissioner
6 Charlotte A. Burrows, now Chair, of the EEOC filed a charge of discrimination with the
7 Commission alleging violations of Title VII by Tesla (Charge of Discrimination).

8 10. On June 1, 2022, the Commission issued to Tesla a Letter of Determination
9 finding reasonable cause to believe that Tesla has from May 29, 2015, to the present, violated
10 Title VII by subjecting Black employees who worked at its Fremont, California, facilities to a
11 hostile work environment and by retaliating against Black employees who engaged in protected
12 activity.

13 11. The Commission invited Tesla to join with the Commission in informal methods
14 of conciliation to endeavor to eliminate the unlawful employment practices and provide
15 appropriate relief.

16 12. The Commission engaged in communications with Tesla to provide Tesla the
17 opportunity to remedy the discriminatory practices described in the Letter of Determination.

18 13. The Commission was unable to secure from Tesla a conciliation agreement
19 acceptable to the Commission.

20 14. On June 22, 2023, the Commission issued to Tesla a Notice of Failure of
21 Conciliation.

22 15. All conditions precedent to the institution of this lawsuit have been fulfilled.

23 **STATEMENT OF CLAIMS**

24 16. Since at least May 2015, and continuing through the present (Relevant Period),
25 Tesla has engaged in unlawful employment practices in violation of Sections 703(a) and 704(a)
26 of Title VII, 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a), by engaging and continuing to engage in
27 discrimination against Black employees at the Fremont Factory by subjecting them to severe or
28 pervasive racial harassment and by creating a hostile work environment because of their race

1 (Black), including the following.

2 17. Throughout the Relevant Period, racial slurs, chief among them, “Nigger” and
3 “Nigga,” (collectively, N-Word) as well as racist epithets and race-based stereotyping permeated
4 Tesla’s Fremont Factory subjecting Black employees to racial hostility and offenses.

5 18. Non-Black perpetrators of the racial misconduct have worked in a variety of
6 positions at Tesla, including as managers, supervisors, line leads, production leads, production
7 associates, and temporary workers.

8 19. The racial misconduct was frequent, ongoing, inappropriate, unwelcome and
9 occurred across all shifts, departments, and positions, including but not limited to the Production
10 Associate position.

11 20. Black employees have endured hearing workers from other races use “Nigger” or
12 “Nigga”¹ “almost every day.” One Black worker observed that “people were using the N-Word
13 all the time, especially men, and particularly White men.” Another worker described her non-
14 Black colleague repeatedly saying the N-Word, “a lot.”

15 21. Non-Black managers and non-Black non-managerial employees, and temporary
16 workers alike directly addressed Black employees individually and collectively as N-Words.

17 22. One worker described the N-Word as both his White co-workers’ and
18 supervisor’s preferred pronoun on the production line and said they rebuked him and other Black
19 employees, saying ““Nigga, you are crazy,” “Y’all niggas need help,” and “What is y’all niggas
20 doing?!”.

21 23. Non-Black employees have begun otherwise innocuous interactions with Black
22 employees with phrases, such as, “Hey, Nigger, can you hand me that...?” A Black worker
23 explained that such slurs were, “casual and normal.”

24 24. Black employees faced other race-based slurs and insults, as well. Non-Black
25 workers have referred to Black employees as “Black bitch,” “Black ass bitch,” “boy,” and
26
27

28 ¹ These epithets are masked as “N-Word”, except where cited in quotations.

1 “monkey,” among other slurs. Non-Black workers have also mocked Black employees by
2 making “monkey” noises.

3 25. Tesla’s Black employees have also withstood offensive, racial stereotyping, such
4 as being called by “lazy” and “smelly.” A worker described how her White co-worker would
5 claim, “Niggas always be late,” after a Black co-worker arrived five minutes late.

6 26. Throughout the Relevant Period, Black employees also encountered displays of
7 racist graffiti, including swastikas, threats, and nooses. They found such graffiti on a variety of
8 surfaces, including on desks, in elevators, and on equipment, including vehicles rolling off the
9 production lines.

10 27. Black employees have described the prevalence of racist imagery as “frequent,”
11 “constant,” “a regular thing,” and occurring “too many times to count.”

12 28. Black employees couldn’t escape the hostility, even while using bathrooms where
13 they encountered racial slurs such as “F**k n**gers” and references to the KKK “all over the
14 walls.”

15 29. One Black worker recalled seeing death threats in the bathroom during breaks,
16 explaining,

17 I saw KKK epithets, a swastika, and the N-Word all over the bathroom. It was so
18 gross and racist I don’t want to discuss it. It would say ‘kill black people,’ ‘kill N-
19 Words,’ ‘hang black people,’ ‘hang N-Words.’

20 30. Throughout the Relevant period, Black employees found the slurs, insults, graffiti
21 and racial misconduct described in paragraphs 17 through 29 above to be offensive and
22 unwelcome.

23 31. Throughout the Relevant period, the slurs, insults, graffiti and misconduct
24 described in paragraphs 17 through 29 adversely affected Black employees and altered the terms
25 and conditions of their employment.

26 32. Throughout the Relevant period, Tesla knew or should have known about
27 aforementioned slurs, insults graffiti and misconduct.
28

1 33. Non-Black offenders bandied slurs and epithets openly, in high-traffic work areas
2 and at worker hubs, including where employees stood or sat while working, and around or on the
3 vehicle production lines.

4 34. Supervisors and managers witnessed racially offensive conduct but failed or
5 refused to intercede.

6 35. Black employees reported the slurs, insults, graffiti and misconduct to Tesla's
7 human resources, employee relations, and managerial personnel.

8 36. Despite having actual or constructive knowledge of racial harassment and
9 misconduct, Tesla failed and refused to take steps to address the behavior.

10 37. Tesla failed to investigate complaints of racial misconduct.

11 38. Tesla failed to adopt policies or practices to ensure that its temporary workforce
12 did not perpetrate racial harassment at the Fremont Factory.

13 39. As a result, Tesla has failed throughout the Relevant Period to take prompt and
14 effective remedial action reasonably calculated to end the ongoing slurs, insults, graffiti and
15 misconduct, and the harassment continued unabated.

16 40. Throughout the Relevant Period, Black employees have faced retaliation for
17 engaging in activity protected by Title VII including, but not limited to, opposing, rejecting
18 and/or complaining about racial harassment and/or race-based discrimination.

19 41. Tesla has fired Black employees within weeks of them reporting or opposing
20 racial harassment. Tesla fired one Black employee who had opposed harassment right after
21 advising her of Tesla's policy not to retaliate.

22 42. After Black employees complained to Tesla, and as a result of their protected
23 activity, Tesla's supervisors and human resources officials retaliated against them through
24 schedule changes, less desirable duties, reassignments, unjustified write-ups, and discharge.

25 43. One Black employee explained, "After I voiced my unhappiness [about the
26 harassment], I started getting written up for every little thing that was acceptable before like
27 listening to music while working." Another Black worker recalled that after reporting her Lead
28 for repeatedly telling Black employees not to stand together and saying that "Niggers are lazy,"

1 her supervisor moved her to a more demanding part of her assembly line.

2 **FIRST CLAIM FOR RELIEF—HARASSMENT/HOSTILE WORK ENVIRONMENT**
3 **BECAUSE OF RACE**
4 **(Title VII)**

5 44. The Commission incorporates by reference all other paragraphs as set forth
6 herein, including paragraphs 1-43.

7 45. Since at least May 29, 2015, Tesla has engaged and continues to engage in
8 unlawful employment practices at its Fremont Factory in violation of Title VII by subjecting
9 Black employees to harassment and/or a hostile work environment because of their race, failing
10 to prevent and promptly correct the harassment and/or hostile work environment.

11 46. The harassment and/or hostile work environment has been sufficiently severe
12 and/or pervasive to alter the terms and conditions of Black employees' employment with Tesla.

13 47. Tesla's management employees knew or should have known of the harassment
14 and/or racially hostile work environment.

15 48. Tesla failed to take appropriate actions to prevent or promptly correct the racial
16 harassment and racially hostile environment.

17 49. The effect of the practices complained of in paragraphs 1 through 43, above has
18 been to deprive Black employees of equal employment opportunities and otherwise adversely
19 affect their employment status because of their race.

20 50. The unlawful employment practices complained of in paragraphs 1 through 43,
21 above adversely affected Black employees and caused them to suffer damages, including
22 emotional distress.

23 51. The unlawful employment practices complained of in paragraphs 1 through 43,
24 above were done with malice or in reckless indifference to the federally protected rights of the
25 Tesla's Black employees.

26 **SECOND CLAIM FOR RELIEF—RETALIATION**
27 **(Title VII)**

28 52. The Commission incorporates by reference all other paragraphs as set forth
herein, including paragraphs 1-43.

53. Since at least May 29, 2015, Tesla has engaged in and continues to engage in unlawful employment practices at its Fremont Factory in violation of Title VII by subjecting Black employees to adverse employment actions, including discharge, in retaliation for their opposition to the unlawful practices described above.

54. The effect of the practices complained of in paragraphs 1 through 43, above has been to deprive Black employees of equal employment opportunities and otherwise adversely affect their employment status because of their race.

55. The unlawful employment practices complained of in paragraphs 1 through 43, above adversely affected Black employees and caused them to suffer damages, including lost wages and emotional distress.

56. The unlawful employment practices complained of in paragraphs 1 through 43, above were intentional.

57. The unlawful employment practices complained of in paragraphs 1 through 43, above were done with malice or in reckless indifference to the federally protected rights of the Charging Parties.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Tesla, its officers, successors, agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with each of them, from engaging in racial harassment, and creating a hostile work environment, and any other employment practices which discriminate based on race (Black).

B. Grant a permanent injunction enjoining Tesla, its officers, successors, agents, servants, employees, attorneys, assigns, and all persons in active concert or participation with each of them, from retaliating against employees or former employees who engage in protected activity, and from engaging in any other retaliatory employment practices.

C. Order Tesla to institute and carry out policies, practices, and programs to ensure equal employment opportunities for Black employees, and which eradicate the effects of its past

1 and present unlawful employment practices and to ensure that it does not engage in further
2 unlawful practices in violation of Sections 703(a) and 704(a) of Title VII.

3 D. Order Tesla to make the aggrieved individuals whole by providing appropriate
4 back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative
5 relief necessary to eradicate the effects of its unlawful employment practices, including but not
6 limited to back pay, reinstatement, or front pay in lieu thereof.

7 E. Order Tesla to make the aggrieved individuals whole by providing compensation
8 for past and future pecuniary losses, including but not limited to out-of-pocket expenses suffered
9 by them which resulted from the unlawful employment practices described above in the amounts
10 to be determined at trial.

11 F. Order Tesla to make the aggrieved individuals whole by providing compensation
12 for non-pecuniary losses resulting from the unlawful employment practices described above,
13 including but not limited to emotional pain, suffering, inconvenience, mental anguish, humiliation
14 and loss of enjoyment of life, in amounts to be determined at trial.

15 G. Order Tesla to pay the aggrieved individuals punitive damages for its malicious
16 and reckless conduct as described above in amounts to be determined at trial.

17 H. Order Tesla to make whole the aggrieved individuals adversely affected by the
18 unlawful practices described above, by providing the affirmative relief necessary to eradicate the
19 effects of its unlawful practices, including but not limited to reinstatement, reinstatement, or front
20 pay in lieu thereof.

21 I. Grant such further relief as the Court deems necessary and proper in the public
22 interest.

23 J. Award the Commission its costs for this action.

24 **JURY TRIAL DEMAND**

25 The Commission requests a jury trial on all questions of fact raised by its Complaint.

26
27 Dated: September 28, 2023

Respectfully Submitted

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