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13 Alisa Blickman

14
15 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

16 **COUNTY OF ALAMEDA**

17
18 ALISA BLICKMAN,

19 Plaintiff,

20 vs.

21 TESLA, INC. WHICH WILL DO BUSINESS
IN CALIFORNIA AS TESLA MOTORS.
22 INC., a Delaware Corporation; and DOES 1
through 20, inclusive.

23 Defendants.
24 /

Case No.

21CV004025

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

FILED
ALAMEDA COUNTY

DEC 14 2021

CLERK OF THE SUPERIOR COURT
BY *Heather Allee*

BY FAX

1 Alisa Blickman complains and alleges as follows:

2 **NATURE OF THE CASE**

3 1. Although Tesla publicly claims that it fosters a safe and respectful environment
4 for its workers,¹ the truth is that for years Tesla has subjected women working in its Fremont
5 factory facilities to nightmarish conditions of rampant sexual harassment. Tesla's facilities more
6 resemble a crude, archaic construction site or frat house than a cutting-edge company in the heart
7 of the progressive San Francisco Bay Area. The pervasive culture of sexual harassment, which
8 includes a daily barrage of sexist language and behavior, is known to supervisors and managers
9 and often perpetrated by them.

10 2. Alisa Blickman worked in Tesla's seats factory in Fremont, where her Supervisor
11 would touch and rub her lower back every morning. During morning stretches, he whispered in
12 her ear, "I hear you don't like to scream loud enough." On a daily basis, she had to listen to
13 comments like, "Oh, I'd bend her over and spread her cheeks," "I'd fuck that girl from the back,"
14 "I like to spit on a girl's face when I'm fucking her," "Oh, I'd fuck her," "Oh, that bitch is bad –
15 she's a ten!" "You're cute," "You're pretty." When a man referred to her as a "pretty white girl,"
16 and hounded another female colleague for her phone number, she reported it to another
17 Supervisor multiple times and asked for help, but and although the harasser was moved, she still
18 had to interact with him, and the overall harassment remained constant.

19 3. Ms. Blickman felt like a piece of meat at Tesla's factory. She continues to feel
20 embarrassed, humiliated, uncomfortable, demeaned, disrespected, and unsafe at work. She
21 brings this case to stop to the systemic sexual harassment that plagues her and the other women at
22 Tesla.

23 **PARTIES**

24 4. Ms. Blickman was employed by Tesla beginning March 2021 at its Fremont,
25 California seats factory. She resides in the San Francisco Bay Area, California.

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28 ¹ Tesla, Inc. 2020 10-K Report to the Securities and Exchange Commission at pp. 12-13,
https://www.sec.gov/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm

5. Defendant Tesla, Inc. Which Will Do Business In California As Tesla Motors, Inc. (“Tesla” or “Defendant”), is a Delaware Corporation with its principal place of business in California.

6. The true names and capacities of Defendants named herein as Does 1 through 20, inclusive, whether individual, corporate, associate or otherwise are unknown to Plaintiff, who therefore sues said Defendants by fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will amend this Complaint to show such true names and capacities of Does 1 through 20, inclusive, when they have been determined.

VENUE AND JURISDICTION

7. Venue is proper in this Court under California Code of Civil Procedure § 395.5 because Plaintiff's employment was performed in this county and because the legal violations alleged herein took place in this county.

8. Venue is also proper in this Court under California Government Code § 12965(b) because Defendant committed the unlawful practices alleged herein in this county.

9. This Court has general jurisdiction to adjudicate this unlimited civil case, in which the total amount in controversy, exclusive of interest and costs, exceeds \$75,000.

10. This Court has jurisdiction to adjudicate Plaintiff's claims under the Fair Employment and Housing Act pursuant to California Government Code § 12965(b).

11. This Court has personal jurisdiction over Defendant because Defendant employed Plaintiff at Defendant's place of business located in this county, and because Defendant's acts allegedly giving rise to liability occurred in this county.

PROCEDURAL ALLEGATIONS

12. Prior to filing this Complaint, Plaintiff filed a complaint with the Department of Fair Employment and Housing against Defendant for discrimination, harassment, and retaliation on December 13, 2021. Plaintiff obtained a notice of Right-to-Sue on the same date prior to filing this lawsuit.

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1 Lead, heard that she was gay and told her that he liked to “spit on a girl’s face when [he’s]
2 fucking her.” She responded that she really did not want to hear about that. He would tell her
3 about liking to have “rough” sex, and told her he had a thing for girls with dyed hair. He would
4 grab her phone out of her pocket and try to look at information on her phone and joke that she
5 was flirting with women on her phone. Ms. Blickman heard that he tried to kiss a girl with dyed
6 hair outside of work, and she heard from other women that he talked about sex with them.

7 18. Ms. Blickman’s first Supervisor, Alex Nguyen, would place his hand on her lower
8 back at the beginning of each shift and rub her lower back, virtually every day that she worked.
9 Sometimes, she would not even see him approach – she would just suddenly feel a hand on her
10 lower back. This made her extremely uncomfortable and was clearly inappropriate and
11 physically intimate. Mr. Nguyen would sometimes place his face very close to hers when
12 showing her things. He would lavish her with attention in a way that was totally different from
13 how he treated the male employees in the area.

14 19. Ms. Blickman has been told that Mr. Nguyen had a history of sexually harassing
15 women and being “possessive” of women he had crushes on. Ms. Blickman also heard that such
16 women often ended up being transferred if they were not receptive to his attempts. She heard
17 that Mr. Nguyen had been harassing another woman and had been seen in her car, with that
18 woman ending up being transferred.

19 20. One morning during stretches, Mr. Nguyen placed his mouth within centimeters of
20 her ear and whispered in a sexual voice, “I hear you don’t like to scream loud enough.”
21 Ms. Blickman jumped back, looked appalled, and said “What?” He sheepishly tried to cover his
22 tracks by awkwardly saying – “I heard you don’t like to scream ‘teamwork’ loud enough.”
23 Mr. Nguyen was her Supervisor, so she did not know what to do.

24 21. A few days later, Mr. Nguyen approached Ms. Blickman with a new Supervisor
25 who was replacing him, George Knott, and suggested that Ms. Blickman was “not a valuable
26 team member,” and should be transferred to the “tents” – one of the least desirable working areas
27 in the extreme summer heat. She asked if the transfer was mandatory, and he shouted “We can
28 *make* it mandatory!” Mr. Knott later commented to Ms. Blickman that he did not know why

1 Mr. Nguyen was "trippin,'" and that it would be voluntary if she wanted to transfer. She replied,
2 "I think we both know why he's acting like that with me," alluding his advances toward her and
3 her negative responses. Mr. Knott said, "you're right, you're right," but failed to take any action
4 other than preventing Mr. Nguyen from transferring her.

5 22. Early on, a male co-worker named Dennis had begun harassing her. He brushed
6 against her on purpose about three times the first day they worked together – he would turn his
7 body sideways in order to touch her body. He would find opportunities to stand just behind her
8 so she backed into him, or would unnecessarily reach across her in close proximity to her breasts.
9 At various times, he referred to her as a "pretty white girl," and said she looked like a "little-ass
10 girl." He lied and told her he was a Lead, which initially dissuaded her from complaining about
11 him. He would also wave other women over aggressively to talk to him, and then make a point
12 of watching their back-sides as they walked away and would make sexual grunting sounds. On
13 two occasions, he also aggressively cursed at her. Eventually, Ms. Blickman went to her
14 Supervisor, Mr. Knott, and said that Dennis was behaving in a way that was very disrespectful to
15 women, and that Ms. Blickman did not want to have to hear it. She complained to Mr. Knott
16 about him several times. Mr. Knott eventually moved Dennis to another area, but Ms. Blickman
17 would still have to work with him occasionally. Mr. Knott asked if she wanted to make a report
18 to H.R., but Ms. Blickman was too afraid of retaliation, especially because Dennis had already
19 behaved aggressively toward her. Indeed, at one point, Dennis threatened to kill her and another
20 employee in their area. Ms. Blickman believes that at least two other women also complained to
21 their Supervisors or Leads about Dennis.

22 23. Ms. Blickman was also harassed by another female employee. The female
23 employee told a group of men (with Ms. Blickman present) that she would "have [Ms. Blickman]
24 in lingerie" and would be "fucking" her "from behind." One of the men replied, "No, she's going
25 to be at home with me – I want her." The female employee would get Ms. Blickman's attention
26 and then make sexual thrusting motions against shelves, or would come up behind Ms. Blickman
27 and grasp her neck in a sexual way. She whistled and cat-called at Ms. Blickman and other
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1 women. Ms. Blickman told her to stop and that the behavior was inappropriate, but it did not
2 stop.

3 **B. Sexual Harassment at Tesla Severely Harmed Plaintiff and Resulted in the**
4 **Loss of Her Job.**

5 24. Ms. Blickman was constantly anxious and uncomfortable at Tesla. Although she
6 had quit smoking more than three years before working at Tesla, after a month-and-a-half of
7 working at Tesla, the stress caused her to start smoking again. She also drank more alcohol to try
8 to cope with what she was experiencing. She would call her girlfriend during breaks and say she
9 wanted to leave. She felt embarrassed, demeaned, and unsafe. She talked to her therapist about
10 the negative effects that sexual harassment at Tesla, including Mr. Nguyen's conduct toward her,
11 was having on her.

12 25. In October she went on COVID leave. She could not bear the thought of returning
13 to the environment at Tesla, and she sent her H.R. representative, Ellen Welty, a request to go on
14 stress leave, including a description of the sexual harassment she and other women were
15 experiencing that was causing her anxiety. She sent Ms. Welty several other emails asking if she
16 could transfer to a different area upon her return so that she would not have to work near Dennis.
17 She does not believe Ms. Welty responded to those requests.

18 26. In November, she received a letter dated November 9, 2021 telling her that Tesla's
19 policy was to automatically terminate employees who did not come to work for two consecutive
20 work days without notification, and that if she did not contact H.R. or her manager by 5:00 pm on
21 November 11, 2021, she might be terminated for job abandonment. Ms. Blickman was not
22 willing to return to her prior position, so did not return to work.

23 **FIRST CAUSE OF ACTION**

24 **(Sexual Harassment in Violation of FEHA, Gov. Code §§ 12940 *et seq.*)**

25 27. Plaintiff hereby incorporates by reference the previous paragraphs as if fully set
26 forth herein and alleges as follows:

27 28. Ms. Blickman is a woman who was employed by Tesla.

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1 29. Ms. Blickman was subjected to severe and pervasive harassing conduct from her
2 colleagues and managers because she is a woman.

3 30. As detailed above, this severe, pervasive, and harassing conduct included near-
4 daily obscene comments and catcalls of an objectifying, demeaning, and sexual nature, ogling,
5 propositioning, and unwanted touching.

6 31. Ms. Blickman's circumstances constituted a hostile work environment.

7 32. The sexual advances and comments directed to Ms. Blickman were unwelcome.

8 33. Ms. Blickman reported the sexually harassing conduct directed at her to
9 Supervisors, Leads, and HR, and took all reasonable steps to avoid the conduct at work.

10 34. Tesla is strictly liable for the sexual harassment because it was conducted by
11 Tesla's Supervisors and Leads, who had authority to direct Ms. Blickman's work activities,
12 evaluate her performance, and discipline her.

13 35. Tesla knew or should have known of the rampant sexual harassment directed at
14 Ms. Blickman, both through her complaints, and because the behavior was committed and/or
15 witnessed by Supervisors and Leads. Yet Tesla failed to take immediate and appropriate
16 corrective action.

17 36. As a direct, foreseeable, and proximate result of Tesla's unlawful actions,
18 Ms. Blickman has suffered physical injury, pain, and suffering and continues to suffer severe
19 emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to her
20 damage in an amount to be proven at the time of trial. As a result of the conduct she has missed
21 work and lost wages.

22 37. Tesla committed the aforementioned acts despicably, maliciously, and willfully,
23 with the wrongful intention of injuring Ms. Blickman, from an improper and evil motive
24 amounting to malice, and in conscious disregard of her rights and safety. Tesla managing agents
25 were on notice of and ratified the offending conduct. Ms. Blickman is thus entitled to recover
26 punitive damages from Tesla in an amount according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **(Failure to Prevent Sexual Harassment in Violation of FEHA, Gov. Code § 12940(k))**

3 38. Plaintiff hereby incorporates by reference the previous paragraphs as if fully set
4 forth herein and alleges as follows:

5 39. Tesla failed to take immediate preventative and corrective steps reasonably
6 calculated to prevent the sexual harassment of Ms. Blickman.

7 40. Tesla failed to act on Ms. Blickman's reports of sexual harassment.

8 41. Tesla knew or should have known of the rampant sexual harassment in its
9 workplace.

10 42. As a direct, foreseeable, and proximate result of Tesla's unlawful actions,
11 Ms. Blickman has suffered physical injury, pain, and suffering and continues to suffer severe
12 emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to her
13 damage in an amount to be proven at the time of trial.

14 43. Tesla committed the aforementioned acts despicably, maliciously, and willfully,
15 with the wrongful intention of injuring Ms. Blickman, from an improper and evil motive
16 amounting to malice, and in conscious disregard of her rights and safety. Tesla managing agents
17 were on notice of and ratified the offending conduct. Ms. Blickman is thus entitled to recover
18 punitive damages from Tesla in an amount according to proof.

19 **THIRD CAUSE OF ACTION**

20 **(Retaliation in Violation of FEHA, Gov. Code § 12940(h))**

21 44. Plaintiff hereby incorporates by reference the previous paragraphs as if fully set
22 forth herein and alleges as follows:

23 45. FEHA makes it unlawful for an employer to discriminate against a person because
24 she has opposed practices that are unlawful under the FEHA.

25 46. As set forth above, Ms. Blickman engaged in protected activity by opposing and
26 reporting complaints of sexual harassment. Ms. Blickman also rebuffed the sexual advances or
27 invitations by her Supervisor and made it clear that she objected to this inappropriate conduct.

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47. The conduct that Ms. Blickman reported, complained of, and objected to constituted unlawful sexual harassment and discrimination under the FEHA.

48. After making these complaints and objecting to the above inappropriate conduct, Ms. Blickman was retaliated against in various ways. She was denied certain privileges and benefits that were afforded to women who did not object to Supervisors' sexual advances and flirtations.

49. When Ms. Blickman resisted Mr. Nguyen's advance, he threatened her with mandatory transfer to an undesirable area. This negatively affected her conditions of employment, ability to succeed in her job, and prospects for career advancement.

50. As a direct, foreseeable, and proximate result of Tesla's unlawful actions, Ms. Blickman has suffered physical injury, pain, and suffering and continues to suffer severe emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to her damage in an amount to be proven at the time of trial.

51. Tesla committed the aforementioned acts despicably, maliciously, and willfully, with the wrongful intention of injuring Ms. Blickman, from an improper and evil motive amounting to malice, and in conscious disregard of her rights and safety. Tesla managing agents were on notice of and ratified the offending conduct. Ms. Blickman is thus entitled to recover punitive damages from Tesla in an amount according to proof.

FOURTH CAUSE OF ACTION

(Discrimination in Violation of FEHA, Gov. Code §§ 12940 *et seq.*)

52. Plaintiff hereby incorporates by reference the previous paragraphs as if fully set forth herein and alleges as follows:

53. Under California Government Code § 12940, it is an unlawful employment practice for an employer to discharge an employee or to discriminate against an employee in terms, conditions, or privileges of employment, because of her sex.

54. Tesla discriminated against Plaintiff by subjecting her to working conditions to which men were not subjected – including the above-described unlawful treatment – based upon

1 her sex. Plaintiff was denied terms and privileges granted to men – *i.e.*, a workplace free of sex-
2 motivated negative treatment.

3 55. Ms. Blickman requested stress leave from H.R., citing these working conditions.
4 In response, she received a letter that appeared to terminate her. She did not feel that she could
5 safely return to work. Tesla, through its officers, managing agents, and/or supervisory
6 employees, intentionally created and knowingly permitted sexual harassment of Plaintiff that was
7 so intolerable that a reasonable person in Plaintiff's position would have had no reasonable
8 alternative except to refuse to return to work. Therefore, Tesla either constructively discharged
9 Plaintiff, or forced her to refrain from returning to work, resulting in Tesla terminating her.

10 56. As a direct, foreseeable, and proximate result of Tesla's unlawful actions,
11 Ms. Blickman has suffered economic loss, pain and suffering and severe emotional distress,
12 including shame, anxiety, embarrassment, stress, and indignity, all to her damage in an amount to
13 be proven at the time of trial.

14 57. Tesla committed the aforementioned acts despicably, maliciously, and willfully,
15 with the wrongful intention of injuring Ms. Blickman, from an improper and evil motive
16 amounting to malice, and in conscious disregard of her rights and safety. Tesla managing agents
17 were on notice of and ratified the offending conduct. Ms. Blickman is thus entitled to recover
18 punitive damages from Tesla in an amount according to proof.

19 **FIFTH CAUSE OF ACTION**

20 **(Wrongful Termination in Violation of Public Policy)**

21 58. Plaintiff hereby incorporates by reference the previous paragraphs as if fully set
22 forth herein and alleges as follows:

23 59. Defendants' termination and/or constructive discharge of Ms. Blickman violated
24 the fundamental public policy of the State of California embodied by FEHA that employers shall
25 not discriminate against or harass employees on the basis of sex.

26 60. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
27 Ms. Blickman has suffered economic loss, physical injury, pain and suffering and severe
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1 emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to her
2 damage in an amount to be proven at the time of trial.

3 61. Tesla committed the aforementioned acts despicably, maliciously, and willfully,
4 with the wrongful intention of injuring Ms. Blickman, from an improper and evil motive
5 amounting to malice, and in conscious disregard of her rights and safety. Tesla's managing
6 agents were on notice of and ratified the offending conduct. Ms. Blickman is thus entitled to
7 recover punitive damages from Tesla in an amount according to proof.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Ms. Blickman prays for judgment against Tesla as follows:

- 10 1. For compensatory damages, including but not limited to, lost back pay (including,
11 but not limited to, salary and bonus wages), equity, fringe benefits, future lost earnings, and
12 emotional distress;
- 13 2. For punitive damages as allowed by law;
- 14 3. For an award to Ms. Blickman of costs of suit incurred herein and reasonable
15 attorneys' fees;
- 16 4. For prejudgment interest and post-judgment interest permitted by law; and
- 17 5. For an award of such other and further relief as the Court deems just and proper.
- 18

19 DATED: December 14, 2021

Respectfully submitted,

20 RUDY, EXELROD, ZIEFF & LOWE, LLP

21
22 By: 

23 DAVID A. LOWE
24 MEGHAN F. LOISEL

25 THE JHAVERI-WEEKS FIRM

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28 *Attorneys for Plaintiff Alisa Blickman*


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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all causes of action and/or issues so triable.

DATED: December 14, 2021

Respectfully submitted,
RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 
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