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14 *Attorneys for Plaintiffs*

Pro Hac Vice Forthcoming
Attorneys for Plaintiffs

15
16 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF ALAMEDA**

18 KRISTIAN EDWARDS and JASON
19 EDWARDS,

20 Plaintiffs,

21 v.

22 TESLA, INC.,

23 Defendant.

Case No. _____

COMPLAINT FOR DAMAGES FOR
PRODUCT LIABILITY AND
PERSONAL INJURY

DEMAND FOR JURY TRIAL

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26 Plaintiffs, Kristian Edwards and Jason Edwards, by and through undersigned
27 counsel, file this Complaint against Defendant Tesla, Inc., and allege as follows:
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Parties

1. Plaintiff Kristian Edwards is a citizen of Maryland, residing in Prince George’s County, and is otherwise *sui juris*.

2. Plaintiff Jason Edwards is a citizen of Maryland, residing in Prince George’s County, and is otherwise *sui juris*.

3. Defendant Tesla, Inc. (“Tesla”) is a company incorporated under the laws of Delaware with its corporate headquarters located at 3500 Deer Creek Road, Palo Alto, Alameda County, CA 94304, and a manufacturing facility in Fremont, Alameda County, CA 94538. Tesla is qualified and authorized to do, has regularly done, and is doing business in the State of California, and has systematically conducted business on a regular basis in California, under and by virtue of California law.

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Jurisdiction and Venue

4. This is a civil action for product liability seeking damages in excess of \$25,000, exclusive of attorneys’ fees and costs. The Court has jurisdiction over the parties and the subject matter.

5. Venue is proper in Alameda County, CA, where Tesla’s principal place of business is situated, under California Civil Code of Procedure 395.5.

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General Allegations

6. In October 2018, Tesla completed its manufacture of the subject Model 3 automobile (VIN No. 5YJ3E1EB9JF113446) (“subject Model 3”).

1 7. In December 2018, the Plaintiffs completed their purchase of the subject
2 Tesla Model 3.

3 8. The subject Model 3 was tested, designed, developed, manufactured,
4 and/or placed into the stream of commerce by Tesla in California.

5
6 9. On or about July 1, 2019, Plaintiff Jason Edwards was driving the subject
7 Model 3 on I-95 South in Cecil County, Maryland, when he was hit by another vehicle
8 driven by Shawnet Backus who failed to maintain her lane of travel (hereinafter
9 referred to as “the accident”).
10

11 10. During the accident, Plaintiff Kristian Edwards was a properly seated,
12 fully restrained front seat passenger.
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14 11. At all relevant times, the subject Model 3 was being used in an intended
15 and/or reasonably foreseeable manner.
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17 12. At all relevant times, the subject Model 3 was in the same or
18 substantially similar condition that it was in at the time of purchase.

19 13. In the accident, the other vehicle hit the subject Model 3 on its passenger
20 side; swinging it around, causing the subject Model 3’s passenger side to hit a
21 guardrail causing it to punch through it, with the subject Model 3 ultimately coming
22 to a final rest in the median.
23

24 14. In the accident, the subject Model 3 front suffered damage.

25 15. In the accident, the subject Model 3’s passenger side suffered damage.
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27 16. In the accident, the subject Model 3 was totaled.
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1 17. The following photograph shows some of subject Model 3's damage in
2 the accident.



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10 18. In the accident, none of the subject Model 3 airbag's deployed, not even
11 its passenger side airbag.

12 19. Because the subject Model 3's passenger side airbag did not deploy,
13 Plaintiff Kristian Edwards' head hit the passenger side interior compartment with
14 significant force, requiring the removal of half her skull, and she was diagnosed with
15 injuries and or conditions, including, but not limited to, the following:
16

- 17 a. Autonomic dysfunction
- 18 b. Cognitive deficit
- 19 c. Diffuse axonal injury
- 20 d. Hypokalemia
- 21 e. Intracerebral hemorrhage
- 22 f. Impaired mobility and ADLs
- 23 g. Neurologic gait disorder
- 24 h. Subdural hematoma

1 i. Traumatic brain injury with bilateral frontal hemorrhages and a
2 grade 2 diffuse axonal injury involving corpus callosum

3 j. Tetraplegia

4 k. Zygomatic fracture
5

6 **Count I: Strict Liability - Design Defect - Consumer Expectation**
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8 20. Plaintiff Kristian Edwards re-alleges paragraphs 1 to 19, above.

9 21. Defendant Tesla designed, tested, manufactured, marketed, distributed,
10 and/or sold the subject Model 3, placing the product into the stream of commerce in a
11 defective and unreasonably dangerous condition.
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13 22. The subject Model 3 did not perform as safely as an ordinary consumer
14 would have expected it to perform when used or misused in an intended or reasonably
15 foreseeable way, including, but not limited to, its airbags not deploying and/or its front
16 passenger seat belt not properly restraining Plaintiff Kristian Edwards.
17

18 23. Defendant Tesla's own statements relating to the safety features of the
19 Model 3, including, but not limited to the statements paraphrased below, set a
20 consumer expectation that was not met in the accident:
21

22 a. The Model 3 achieves the lowest probability of injury of any
23 vehicle ever tested by NHTSA;
24

25 b. NHTSA's tests show that the Model 3 has the lowest probability
26 of injury of all cars the safety agency has ever tested;
27

28 c. NHTSA's data shows that vehicle occupants are less likely to get
seriously hurt in crashes when in a Model 3 than in any other car;

1 d. When a crash happens in real life, Tesla's tests results show that if
2 you are driving a Tesla Model 3, you have the best chance of avoiding serious
3 injury;

4 e. There is no safer car in the world than a Tesla;

5 f. The Model 3 has the lowest intrusion from a side pole impact of
6 any vehicle tested by NHTSA;

7 g. The Model 3 has a shot at being the safest car ever tested;

8 h. The Model 3 body design could be less complex, but, yes, most of
9 its weight difference is because it is safer than other cars;

10 i. Tesla is deeply committed to safety, which is why Tesla
11 engineered the Model 3 to be the safest car ever built;

12 j. The Model 3 has longer crumple zone because of its trunk space
13 making for best safety of any midsize car;

14 k. According to NHTSA, there was an automotive fatality every 86
15 million miles in 2017 (~40,000 deaths). For Tesla, it was every 320 million miles.
16 The probability of a fatality is much lower in a Tesla.

17 l. Tesla is going for much higher crash safety levels than other cars;

18 m. Tesla believes in safety first design;

19 n. Safety is the cornerstone of Tesla's philosophy;

20 o. At the foundation of every Tesla is safety. Keeping Tesla's
21 customers safe is part of every decision Tesla makes;

1 p. Every Tesla Model 3 comes standard with full self-driving
2 hardware which, through over-the-air software upgrades, will enable a Tesla to
3 be substantially safer than a human driver;

4 q. At Tesla, the safety of our customers is our top priority, which is
5 why it's critical that we design and build the safest cars in the world. Not only
6 do we conduct extensive in-house testing and simulation to ensure our vehicles
7 achieve top safety performance before they ever reach the road, we are also
8 uniquely positioned to leverage the hundreds of thousands of miles of real-
9 world data our fleet collects every month to continuously improve our vehicles
10 and develop a more complete picture of safety over time;

11 r. At Tesla we are working hard to make our cars the safest and
12 most capable cars on the road in terms of passive safety, active safety, and
13 automated driving.

14 s. Safety is at the core of everything Tesla does and every decision
15 Tesla makes.

16 t. NHTSA tested Tesla's Model 3 Long Range Rear-Wheel Drive as
17 part of its New Car Assessment Program, a series of crash tests used to
18 calculate the likelihood of serious bodily injury for front, side and rollover
19 crashes. The agency's data shows that vehicle occupants are less likely to get
20 seriously hurt in these types of crashes when in a Tesla Model 3 than in any
21 other car;
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1 u. In addition to its near 50/50 weight distribution, the Tesla Model
2 3 was also designed with an extremely low polar moment of inertia, which
3 means that its heaviest components are located closer to the car's center of
4 gravity. Even though Model 3 has no engine, its performance is similar to
5 what's described as a "mid-engine car" due to its centered battery pack (the
6 heaviest component of the car) and the fact that Model 3's rear motor is placed
7 slightly in front of the rear axle rather than behind it. Not only does this
8 architecture add to the overall agility and handling of the car, it also improves
9 the capability of stability control by minimizing rotational kinetic energy;

10 v. The Model 3 benefits from its all-electric architecture and
11 powertrain design, which consists of a strong, rigid passenger compartment,
12 fortified battery pack, and overall low center of gravity. These safety
13 fundamentals help to prevent intrusion into the cabin and battery modules,
14 reduce rollover risk, and distribute crash forces systematically away from the
15 cabin - all while providing the foundation for our superior front crumple zone
16 that is optimized to absorb energy and crush more efficiently;

17 w. Tesla added state of the art features and new innovations in crash
18 structure design, restraints and airbags, and battery safety to the core of Model
19 3's design. In frontal crashes, the Model 3's efficient front crumple zone was
20 designed to carefully control the deceleration of occupants, while its advanced
21 restraint system was designed to complement this with pretensioners and load-
22 limiters that keep occupants safely in place. Tesla specially designed passenger
23 24 25 26 27 28

1 airbags shaped to protect an occupant’s head in angled or offset crashes, with
2 active vents that dynamically adjust the internal pressure of the frontal airbags
3 to optimize protection based on the unique characteristics of the crash. Front
4 and knee airbags and a collapsible steering column work to further reduce
5 injury, all contributing to Model 3’s 5-star rating in frontal impact;
6

7 x. In pole impact crashes, in which a narrow obstruction impacts the
8 car between the main crash rails, energy-absorbing lateral and diagonal beam
9 structures of the Tesla Model 3 were designed to mitigate the impact. This
10 includes a high-strength aluminum bumper beam, a sway bar placed low and
11 forward in the front of the car, cross-members at the front of the steel subframe
12 that are connected to the main crash rails, and additional diagonal beams in the
13 subframe that distribute energy back to the crash rails when they aren’t directly
14 impacted. An ultra-high strength martensitic steel beam is also attached to the
15 top of the front suspension to further absorb crash energy from severe impacts,
16 and the rear part of the subframe is shaped like a “U” and buckles down when
17 impacted.
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21 y. The Tesla Model 3 has the lowest intrusion from side pole impact
22 of any vehicle tested by NHTSA. Unlike frontal crashes, there is little room for
23 crumple zone in a side impact, so it patented its own pillar structures and side
24 sills to absorb as much energy as possible in a very short distance. These
25 structures were designed to work alongside the vehicle’s rigid body and
26 fortified battery architecture to further reduce and prevent compartment
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1 intrusion. With less intrusion into the cabin, Tesla's side airbags have more
2 space to inflate and cushion the occupants inside;

3 z. Many companies try to build cars that perform well in crash tests,
4 and every car company claims their vehicles are safe. But when a crash
5 happens in real life, the test results show that if you are driving a Tesla, you
6 have the best chance of avoiding serious injury;
7

8 aa. Although lower in cost, the Tesla Model 3 is built to achieve the
9 same perfect 5-star safety rating as the longer-ranged version, which has the
10 lowest probability of injury of any car ever tested by the U.S. Government;
11

12 bb. Tesla's engineers developed each active safety feature evaluated
13 by Euro NCAP by leveraging the real-world data collected from the sensor
14 suite of every Tesla vehicle made since October 2016, coupled with data from
15 billions of inputs from actual drivers to help them understand how drivers
16 behave in dynamic scenarios. This data gives Tesla a more precise
17 understanding of the environment around its cars and the different ways that
18 accidents happen, allowing Tesla to more accurately predict when an accident
19 is likely to occur and deploy automated technology to mitigate or avoid it;
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21

22 cc. The Tesla Model 3 is Tesla's most affordable car yet, and safety is
23 something that is paramount to all drivers. That's why Tesla engineered Model
24 3 from the ground up with the strongest structure, best occupant restraint
25 system and the most advanced safety features that it could imagine, with a goal
26 of getting as many of them on the road as possible. As Model 3 continues to
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1 earn the highest safety ratings around the globe, Tesla hopes that it translates
2 into one very important point for its customers – peace of mind knowing that
3 their car is helping them drive safely;

4 dd. Part of what makes the Tesla Model 3 so safe is its all-electric
5 powertrain design, which gives the car a low center of gravity that reduces roll-
6 over risk, as well as its rigid aluminum and steel passenger cabin that provides
7 exceptional strength to equally protect drivers and passengers. Additionally,
8 the Model 3’s lack of an engine is replaced by a large crumple zone that helps it
9 absorb energy more effectively than a gas car would, dissipating force away
10 from the passenger cabin;
11

12 ee. The Model 3’s safety restraint system earned high marks in IIHS’
13 evaluation. This was due in part to Model 3’s seats, which are designed and
14 manufactured in-house at Tesla’s dedicated seat factory in Fremont, as well as
15 its thick curtain airbag and uniquely shaped front passenger airbag, which help
16 protect a passenger’s head from the car’s A pillar and center screen; and
17

18 ff. The safety of Tesla’s customers is what matters most, which is
19 why Tesla’s active safety features and passive safety equipment come standard
20 on all of our cars. Tesla is committed to making its cars even safer over time via
21 over-the-air updates, helping it to ensure that all Tesla drivers have access to
22 the best safety features available for their cars.
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24 24. Plaintiff Kristian Edwards was harmed in the accident.
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1 25. The subject Model 3's failure to perform safely was a substantial factor
2 in causing Plaintiff Kristian Edwards' harm.

3 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
4 Tesla and seeks damages for her serious and permanent injuries, physical pain and
5 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
6 well as economic damages for past and future medical treatment and expenses, past
7 and future lost income, lost earning capacity, damage to personal property, interest
8 accruing from the date of the accident, costs, and attorneys' fees under California Code
9 of Civil Procedure §1021.5.
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13 **Count II - Strict Liability - Manufacturing Defect**

14 26. Plaintiff Kristian Edwards re-alleges paragraphs 1 to 19, above.

15 27. Defendant Tesla designed, tested, manufactured, marketed, distributed,
16 and/or sold the subject Model 3, placing the product into the stream of commerce in a
17 defective and unreasonably dangerous condition.
18

19 28. The subject Model 3 contained a manufacturing defect when it left
20 Defendant Tesla's possession; including, but not limited to, the following:
21

22 a. Event Data Recorder ("EDR") data recording, calibration,
23 programming, transmission, reporting, and/or interpretation did not confirm
24 with Tesla's specifications and/or otherwise had a glitch;
25

26 b. Side-impact airbag sensor's placement, data recording,
27 calibration, programming, transmission, reporting, and/or interpretation did
28 not confirm with Tesla's specifications and/or otherwise had a glitch;

1 c. Supplemental restraint system's sensor placement, data
2 recording, calibration, programming, transmission, reporting, and/or
3 interpretation did not confirm with Tesla's specifications and/or otherwise had
4 a glitch;

6 d. Supplemental restraint system had a manufacturing defect; and

7 e. Passenger restraint system and a manufacturing defect.

8
9 29. Plaintiff Kristian Edwards was harmed in the accident.

10 30. The subject Model 3's manufacturing defect was a substantial factor in
11 causing Plaintiff Kristian Edwards' harm.

12 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
13 Tesla and seeks damages for her serious and permanent injuries, physical pain and
14 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
15 well as economic damages for past and future medical treatment and expenses, past
16 and future lost income, lost earning capacity, damage to personal property, interest
17 accruing from the date of the accident, costs, and attorneys' fees under California Code
18 of Civil Procedure §1021.5.
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22 **Count III - Design Defect - Risk/Benefit Test**

23 31. Plaintiff Kristian Edwards re-alleges paragraphs 1 to 19, above.

24 32. Defendant Tesla designed, tested, manufactured, marketed, distributed,
25 and/or sold the subject Model 3, placing the product into the stream of commerce in a
26 defective and unreasonably dangerous condition.
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1 33. The risks of Tesla’s design of the subject Model 3 outweighed its
2 benefits, for reasons including, but not limited to, the following:

3 a. The subject Model 3’s Event Data Recorder (“EDR”) design,
4 development, testing, data recording, calibration, programming, transmission,
5 reporting, and/or interpretation did not confirm with Tesla’s specifications,
6 industry specifications, was unreasonably dangerous, and/or otherwise had a
7 glitch;
8

9 b. The subject Model 3’s airbag sensor design, including its side-
10 impact airbag sensor’s design, development, testing, placement, data recording,
11 calibration, programming, transmission, reporting, and/or interpretation did
12 not confirm with Tesla’s specifications, industry specifications, was
13 unreasonably dangerous, and/or otherwise had a glitch;
14

15 c. The subject Model 3’s supplemental restraint system’s design,
16 development, testing, sensor placement, data recording, calibration,
17 programming, transmission, reporting, and/or interpretation did not confirm
18 with Tesla’s specifications, industry specifications, was unreasonably
19 dangerous, and/or otherwise had a glitch;
20

21 d. The subject Model 3’s supplemental restraint system was
22 unreasonably dangerous;
23

24 e. The subject Model 3’s passenger restraint was unreasonably
25 dangerous; and
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1 f. The subject Model 3 was not compliant with Federal Motor
2 Vehicle Safety Standard 214.

3 34. Plaintiff Kristian Edwards was harmed in the accident.

4 35. The subject Model 3's design was a substantial factor in causing harm to
5 Plaintiff Kristian Edwards.
6

7 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
8 Tesla and seeks damages for her serious and permanent injuries, physical pain and
9 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
10 well as economic damages for past and future medical treatment and expenses, past
11 and future lost income, lost earning capacity, damage to personal property, interest
12 accruing from the date of the accident, costs, and attorneys' fees under California Code
13 of Civil Procedure §1021.5.
14
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17 **Count IV - Strict Liability - Failure to Warn**

18 36. Plaintiff re-alleges paragraphs 1 to 19, above.

19 37. Defendant Tesla designed, tested, manufactured, marketed, distributed,
20 and/or sold the subject Model 3, placing the product into the stream of commerce.
21

22 38. The subject Model 3 had potential risks that were known and/or
23 knowable in light of the generally accepted scientific knowledge at the time of its
24 manufacture, distribution, and/or sale, including, but not limited to, the following:
25

26 a. The subject Model 3's Event Data Recorder ("EDR") design,
27 development, testing, data recording, calibration, programming, transmission,
28 reporting, and/or interpretation did not confirm with Tesla's specifications,

1 industry specifications, was unreasonably dangerous, and/or otherwise had a
2 glitch;

3 b. The subject Model 3's airbag sensor design, including its side-
4 impact airbag sensor's design, development, testing, placement, data recording,
5 calibration, programming, transmission, reporting, and/or interpretation did
6 not confirm with Tesla's specifications, industry specifications, was
7 unreasonably dangerous, and/or otherwise had a glitch;
8

9 c. The subject Model 3's supplemental restraint system's design,
10 development, testing, sensor placement, data recording, calibration,
11 programming, transmission, reporting, and/or interpretation did not confirm
12 with Tesla's specifications, industry specifications, was unreasonably
13 dangerous, and/or otherwise had a glitch;
14

15 d. The subject Model 3's supplemental restraint system was
16 unreasonably dangerous;
17

18 e. The subject Model 3's passenger restraint was unreasonably
19 dangerous; and
20

21 f. The subject Model 3 was not compliant with Federal Motor
22 Vehicle Safety Standard 214.
23

24 39. The potential risks presented a substantial danger when the subject
25 Model 3 is used or misused in an intended or reasonably foreseeable way.
26

27 40. Ordinary consumers, including Plaintiff Kristian Edwards, would not
28 have recognized the potential risks.

1 41. Defendant Tesla failed to adequately warn of the potential risks.

2 42. Plaintiff Kristian Edwards was harmed in the accident.

3 43. That lack of sufficient warnings was a substantial factor in causing
4 Plaintiff Kristian Edwards' harm.

5
6 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
7 Tesla and seeks damages for her serious and permanent injuries, physical pain and
8 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
9 well as economic damages for past and future medical treatment and expenses, past
10 and future lost income, lost earning capacity, damage to personal property, interest
11 accruing from the date of the accident, costs, and attorneys' fees under California Code
12 of Civil Procedure §1021.5.
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16 **Count V: Negligence**

17 44. Plaintiff Kristian Edwards re-alleges paragraphs 1 to 19, above.

18 45. Defendant Tesla designed, tested, and/or manufactured the subject
19 Model 3.
20

21 46. At all times relevant, Defendant Tesla had a duty of reasonable care to
22 design and manufacture the subject Model 3 so that users and occupants would not be
23 exposed to an unreasonable risk of injury during foreseeable use or foreseeable
24 misuse.
25

26 47. Defendant Tesla was negligent in designing and/or manufacturing the
27 subject Model 3 for reasons including, but not limited to, the following:
28

1 a. The subject Model 3's Event Data Recorder ("EDR") design,
2 development, testing, data recording, calibration, programming, transmission,
3 reporting, and/or interpretation did not confirm with Tesla's specifications,
4 industry specifications, was unreasonably dangerous, and/or otherwise had a
5 glitch;
6

7 b. The subject Model 3's airbag sensor design, including its side-
8 impact airbag sensor's design, development, testing, placement, data recording,
9 calibration, programming, transmission, reporting, and/or interpretation did
10 not confirm with Tesla's specifications, industry specifications, was
11 unreasonably dangerous, and/or otherwise had a glitch;
12

13 c. The subject Model 3's supplemental restraint system's design,
14 development, testing, sensor placement, data recording, calibration,
15 programming, transmission, reporting, and/or interpretation did not confirm
16 with Tesla's specifications, industry specifications, was unreasonably
17 dangerous, and/or otherwise had a glitch;
18

19 d. The subject Model 3's supplemental restraint system was
20 unreasonably dangerous;
21

22 e. The subject Model 3's passenger restraint was unreasonably
23 dangerous; and
24

25 f. The subject Model 3 was not compliant with Federal Motor
26 Vehicle Safety Standard 214.
27

28 48. Plaintiff Kristian Edwards was harmed in the accident.

1 49. Defendant Tesla's negligence was a substantial factor in causing Plaintiff
2 Kristian Edwards' harm.

3 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
4 Tesla and seeks damages for her serious and permanent injuries, physical pain and
5 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
6 well as economic damages for past and future medical treatment and expenses, past
7 and future lost income, lost earning capacity, damage to personal property, interest
8 accruing from the date of the accident, costs, and attorneys' fees under California Code
9 of Civil Procedure §1021.5.
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12
13 **Count VI: Negligence - Duty to Warn**

14 50. Plaintiff Kristian Edwards re-alleges paragraphs 1 to 19, above.

15 51. Defendant Tesla designed, tested, manufactured, marketed, distributed,
16 and/or sold the subject Model 3.
17

18 52. Defendant Tesla knew or reasonably should have known that the subject
19 Model 3 was dangerous or was likely to be dangerous when used or misused in a
20 reasonably foreseeable manner, for reasons including, but not limited to, the following:
21

22 a. The subject Model 3's Event Data Recorder ("EDR") design,
23 development, testing, data recording, calibration, programming, transmission,
24 reporting, and/or interpretation did not confirm with Tesla's specifications,
25 industry specifications, was unreasonably dangerous, and/or otherwise had a
26 glitch;
27
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1 b. The subject Model 3's airbag sensor design, including its side-
2 impact airbag sensor's design, development, testing, placement, data recording,
3 calibration, programming, transmission, reporting, and/or interpretation did
4 not confirm with Tesla's specifications, industry specifications, was
5 unreasonably dangerous, and/or otherwise had a glitch;

7 c. The subject Model 3's supplemental restraint system's design,
8 development, testing, sensor placement, data recording, calibration,
9 programming, transmission, reporting, and/or interpretation did not confirm
10 with Tesla's specifications, industry specifications, was unreasonably
11 dangerous, and/or otherwise had a glitch;

14 d. The subject Model 3's supplemental restraint system was
15 unreasonably dangerous;

17 e. The subject Model 3's passenger restraint was unreasonably
18 dangerous; and

19 f. The subject Model 3 was not compliant with Federal Motor
20 Vehicle Safety Standard 214.

22 53. Defendant Tesla knew or reasonably should have known that users,
23 including Plaintiff Kristian Edwards, would not realize the danger.

24 54. Defendant Tesla failed to adequately warn of the danger.

25 55. A reasonable manufacturer, distributor, and/or seller under the same or
26 similar circumstances would have warned of the danger.

27 56. Plaintiff Kristian Edwards was harmed in the accident.

1 57. Defendant Tesla’s failure to warn was a substantial factor in causing
2 Plaintiff Kristian Edwards’ harm.

3 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
4 Tesla and seeks damages for her serious and permanent injuries, physical pain and
5 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
6 well as economic damages for past and future medical treatment and expenses, past
7 and future lost income, lost earning capacity, damage to personal property, interest
8 accruing from the date of the accident, costs, and attorneys’ fees under California Code
9 of Civil Procedure §1021.5.
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13 **Count VII: Negligence - Retrofit**

14 58. Plaintiff Kristian Edwards realleges paragraphs 1 to 19, above.

15 59. Defendant Tesla designed, tested, manufactured, marketed, distributed,
16 and/or sold the subject Model 3.
17

18 60. Defendant Tesla knew or reasonably should have known that the subject
19 Model 3 was dangerous or was likely to be dangerous when used in a reasonably
20 foreseeable manner, for reasons including, but not limited to, the following:
21

22 a. The subject Model 3’s Event Data Recorder (“EDR”) design,
23 development, testing, data recording, calibration, programming, transmission,
24 reporting, and/or interpretation did not confirm with Tesla’s specifications,
25 industry specifications, was unreasonably dangerous, and/or otherwise had a
26 glitch;
27
28

1 b. The subject Model 3's airbag sensor design, including its side-
2 impact airbag sensor's design, development, testing, placement, data recording,
3 calibration, programming, transmission, reporting, and/or interpretation did
4 not confirm with Tesla's specifications, industry specifications, was
5 unreasonably dangerous, and/or otherwise had a glitch;
6

7 c. The subject Model 3's supplemental restraint system's design,
8 development, testing, sensor placement, data recording, calibration,
9 programming, transmission, reporting, and/or interpretation did not confirm
10 with Tesla's specifications, industry specifications, was unreasonably
11 dangerous, and/or otherwise had a glitch;
12

13 d. The subject Model 3's supplemental restraint system was
14 unreasonably dangerous;
15

16 e. The subject Model 3's passenger restraint was unreasonably
17 dangerous; and
18

19 f. The subject Model 3 was not compliant with Federal Motor
20 Vehicle Safety Standard 214.
21

22 61. Defendant Tesla became aware of this defect after the subject Model 3
23 was sold.

24 62. Defendant Tesla failed to retrofit and/or recall the subject Model 3.
25

26 63. A reasonable manufacturer, distributor, and/or seller under the same or
27 similar circumstances would have retrofitted or recalled the subject Model 3.

28 64. Plaintiff Kristian Edwards was harmed in the accident.

1 65. Defendant Tesla’s failure to retrofit or recall the subject Model 3 was a
2 substantial factor in causing Plaintiff Kristian Edwards’ harm.

3 WHEREFORE, Plaintiff Kristian Edwards prays for judgment against Defendant
4 Tesla and seeks damages for her serious and permanent injuries, physical pain and
5 suffering, mental anguish and emotional distress, and loss of the enjoyment of life, as
6 well as economic damages for past and future medical treatment and expenses, past
7 and future lost income, lost earning capacity, damage to personal property, interest
8 accruing from the date of the accident, costs, and attorneys’ fees under California Code
9 of Civil Procedure §1021.5.
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12
13 **Count VIII: Loss of Consortium**

14 66. Plaintiff Jason Edwards re-alleges paragraphs 1 to 19, above.

15 67. Plaintiff Jason Edwards and Plaintiff Kristian Edwards were married at
16 the time of the accident.
17

18 68. Plaintiff Kristian Edwards was harmed in the accident.

19 69. As a result of the injury and damages to his wife, Plaintiff Jason
20 Edwards has suffered the loss of love, companionship, comfort, care, assistance,
21 protection, affection, society, and moral support, and is reasonably certain to continue
22 to suffer such losses into the future.
23

24 70. Plaintiff Jason Edwards’ loss was proximately caused by Defendant
25 Tesla.
26

27 WHEREFORE, Plaintiff Jason Edwards prays for judgment against Defendant
28 Tesla and seeks loss of consortium damages, as well as interest accruing from the date

1 of the accident, costs, and attorneys' fees under California Code of Civil Procedure
2 §1021.5.

3
4
5 **Count IX: Negligence - Recovery of Damages for Emotional Distress - Bystander**

6 71. Plaintiff Jason Edwards realleges paragraphs 1 to 19, above.

7
8 72. Defendant Tesla negligently caused injury to Plaintiff Kristian Edwards.

9 73. Plaintiff Jason Edwards was present when the accident occurred that
10 caused injury to Plaintiff Kristian Edwards.

11 74. Plaintiff Jason Edwards was aware at the time that the accident was
12 causing injury to Plaintiff Kristian Edwards.

13 75. Plaintiff Jason Edwards suffered serious emotional distress.

14 76. Defendant Tesla's conduct was a substantial factor in causing Plaintiff
15 Jason Edwards' serious emotional distress.

16
17
18 WHEREFORE, Plaintiff Jason Edwards prays for judgment against Defendant
19 Tesla and seeks damages for his mental anguish and emotional distress, interest
20 accruing from the date of the accident, costs, and attorneys' fees under California Code
21 of Civil Procedure §1021.5.
22

23
24 **Prayer for Relief**

25 WHEREFORE, Plaintiffs pray for judgment against Defendant Tesla as follows:

- 26 a. Past medical expenses
27
28 b. Future medical expenses

- 1 c. Past loss of income
2 d. Property damage
3 e. Impairment of earning capacity
4 f. Future lost income
5 g. Pain and suffering
6 h. Mental anguish
7 i. Emotional distress
8 j. Loss of enjoyment of life
9 k. Loss of consortium
10 l. Interest accruing from the date of the accident, costs, and
11 attorneys' fees under California Code of Civil Procedure §1021.5.
12
13 m. Any and all other compensatory damages, attorneys' fees, or
14 other damages as the Court deems just and proper.
15
16
17

18 Dated: June 23, 2020

Respectfully submitted,

19 **COHEN MILSTEIN SELLERS & TOLL PLLC**

20 By: /s/ Poorad Razavi
21 Poorad Razavi

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17 *Attorneys for Plaintiffs*

18 **DEMAND FOR JURY TRIAL**

19 Plaintiffs hereby demand a trial by jury.

20 Dated: June 23, 2020

21 Respectfully submitted,

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23 By: /s/ Poorad Razavi
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