

April 19, 2022

VIA CERTIFIED MAIL AND ELECTRONIC SUBMISSION

PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(916) 653-9900

RE: *Shaka Green, et al. v. Tesla Motors, Inc.*

To Whom It May Concern:

Our office represents the Plaintiffs Shaka Green, Tatianna Smith, and Zenobia Milligan (hereafter referred to as “Plaintiffs”), and others similarly situated, in the above-captioned matter. Plaintiffs assert claims under California law and seeks to represent other aggrieved employees for violations of California law related to failure to preserve employment records as required by Labor Code § 226; failure to provide complete personnel files as mandated by Labor Code § 1198.5; the public policy of disclosure of one’s own signed documents embodied in Labor Code § 432; declaratory and injunctive relief; statutory penalties and attorneys’ fees and costs against Defendant Tesla Motors, Inc. (hereafter referred to as “Defendant”).

I am writing this letter to the Labor & Workforce Development Agency (“LWDA”) pursuant to the exhaustion requirements of Labor Code §§ 2699 and 2699.3, because our client intends to file a civil action, including claims under the Private Attorneys General Act (“PAGA”), after fully exhausting the remedies available through your agency. The purpose of my letter is to find out whether LWDA intends to investigate our client’s allegations of violations of California Labor Code §§ 226, 432, and 1198.5. On February 9th, 2022, our office wrote to LWDA to exhaust similar claims against Defendant on behalf of Sharonda Taylor, and this letter is intended to supplement those exhaustion efforts. The following is a brief summary of Plaintiffs’ allegations against Defendant.

Defendant employs manufacturing employees at its factory in Fremont, California through a combination of employees that are directly hired by Defendant and employees that are retained to work for Tesla through various staffing agencies. For all of these employees, Defendant controls their working hours, the manner in which they complete their work, and when they may take breaks, among many other factors exhibiting complete control. All employees are trained by Defendant and report directly to Defendant’s supervisors and managers. Employees retained through staffing agencies have almost no day-to-day interaction with their staffing agency – they simply and exclusively receive their checks from the staffing agencies.

On December 30, 2021, under Labor Code § 1198.5, we requested the personnel files of 50 current and former employees of Defendant, which included a request for Plaintiff Green and Plaintiff Smith’s personnel files, and copies of wage statements under Labor Code § 226. The file production for Plaintiffs

BRYAN SCHWARTZ LAW

180 Grand Avenue, Suite 1380, Oakland, CA 94612 | [Tel. 510-444-9300](tel:510-444-9300) | [Fax 510-444-9301](tel:510-444-9301) | Bryan@BryanSchwartzLaw.com | www.BryanSchwartzLaw.com

should also have included copies of signed instruments, under Labor Code §432. Some of these employees were employed directly by Defendant and some of them were employed by Defendant through a staffing agency. Defendant failed to even acknowledge the December 30th request until prompted to do so on February 1st, 2022, after the 30-day deadline to make these personnel files available for inspection and copying had passed. We granted a two-week courtesy extension to Defendant's deadline to make these personnel files available, though such is not provided-for specifically by statute, yet Defendant once again failed to perform. Defendant promised that it would make these files available by February 28, 2022 (a full month after they were statutorily required to do so); however, Defendant failed to make a single personnel file available. To date, Defendant has not made any of these 50 personnel files available for inspection and copying, despite repeated promises to do so. Plaintiff Milligan requested her personal file and wage statements without assistance of counsel on March 15, 2022. Defendant similarly failed to respond to Plaintiff Milligan's request in any manner, and the thirty-day deadline to make her files available for inspection and copying has now passed.

Defendant's consistent failure to provide personnel files timely violates Labor Code §1198.5, and Defendant's failure to provide copies of signed instruments violates Labor Code §432, and Defendant's failure to provide copies of wage statements violates Labor Code §226. Defendant should be subject to penalties, attorneys' fees and costs, and injunctive relief requiring immediate performance of the statutory obligations.

Thank you for your assistance and cooperation in this matter. Please contact the undersigned if you have any questions.

Sincerely,

/s/ Dylan J. Colbert
Dylan J. Colbert

cc: (by electronic mail)

C T Corporation System
330 N Brand Blvd, Ste 700
Glendale, CA 91203
As Registered Agent for Tesla Motors, Inc.