



It is one of these features, or a variety of “safety features” jointly marketed—the Autopilot system—that is at issue in this case. Musk has touted Tesla’s Autopilot—which automates some driving tasks in the Tesla—as a revolutionary safety system. Tesla Autopilot includes lane keeping, traffic-aware cruise control (TACC), Self-Parking, Automatic Lane Changing, Partially Autonomous Navigation, and Various Accident-Avoidance features. But, despite Elon Musk’s claim that a Tesla on Autopilot is ten times less likely to crash than the average car,<sup>1</sup> Tesla automobiles continue to crash on Autopilot—at an alarming rate. Specifically, due to a known manufacturing defect, the Autopilot system fails to detect cars that are using flashing lights—most often emergency vehicles. As a result of the frequency of crashes that have occurred involving a Tesla using Autopilot and emergency vehicles, the National Highway Traffic Safety Administration (NHTSA) has recently demanded that Tesla provide comprehensive data regarding its Autopilot-equipped fleet, encompassing cars, software, and hardware sold from 2014 to 2021.<sup>2</sup>

### ***Background to Current Case***

On February 27, 2021, a Tesla Model X engaged in Autopilot and equipped with Tesla’s proprietary system of safety features, crashed into several police officers who were engaged in a traffic stop in a blocked-off lane of traffic on the Eastex Freeway in Texas. All were badly injured. Due to the design and manufacturing defects known to Tesla, Tesla’s failure to adequately warn

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<sup>1</sup> Musk and Tesla are well aware that the claims Tesla makes to regulators and the public about the autopilot system in effect compare apples to oranges, and are thus meaningless when put in context. Musk frequently states publicly that Tesla logged one crash for every 4.19 million miles driven on autopilot, arguing that a Tesla using Autopilot is ten times safer than an individual driving any other type of car. Measured against the NHTSA’s United States average of one crash per every 484,000 miles, on first glance Musk’s claims appear very persuasive. But, when one considers that Autopilot is typically only used during highway travel, and that a large percentage of the crashes found in the NHTSA data occur off-highway, Musk’s claims become non-persuasive. Further, when one considers that Musk excludes data where Autopilot was being used immediately before a crash but was disengaged at some point prior to the crash, Musk’s contentions are not only unpersuasive, they are misleading. At least one industry commentator has said of Musk’s public pronouncements: “I do think there is some element of false advertising there.”

<sup>2</sup> <https://static.nhtsa.gov/odi/inv/2021/INIM-PE21020-84913P.pdf>

of those defects, and Tesla's unwillingness to admit or correct such defects, the Autopilot and Tesla's system safety features failed to detect the officers' cars or to function in any way to avoid or warn of the hazard and subsequent crash. This was not an isolated instance.

The officers seek damages for the severe injuries and permanent disabilities they suffered as a result of the crash, which was reasonably foreseeable and could have been avoided, but for the defects in Tesla's safety features, including Autopilot. The officers want to hold Tesla accountable, and force Tesla to publicly acknowledge and immediately correct the known defects inherent in its Autopilot and collision avoidance systems, particularly as those impact the ongoing safety of our nation's first responders.

## **II.** **PARTIES**

Plaintiff DANIEL SANTIAGO is an individual residing in Liberty County, Texas.

Plaintiff DALTON FIELDS is an individual residing in Montgomery County, Texas.

Plaintiff CHRIS TAYLOR is an individual residing in Montgomery County, Texas.

Plaintiff KENNETH BARNETT is an individual residing in Montgomery County, Texas.

Plaintiff RAI DUENAS is an individual residing in Montgomery County, Texas.

Defendant TESLA, INC. is a corporation organized under the laws of Delaware, having a principal place of business at 3500 Deer Creek Road, Palo Alto, CA 94304. It may be served through its registered agent CT Corporation at 1999 Bryan Street Suite 900 Dallas, TX 75201-3136.

Defendant PAPPAS RESTAURANTS INC. is a domestic for-profit corporation conducting business in Texas and maintains a principal office at 13939 Northwest Freeway, Houston, TX 77040. It may be served through its registered agent in Texas named Alysia E. Perry at 13939 Northwest Freeway, Houston, TX 77040 or anywhere she may be found.

### III.

#### **DISCOVERY CONTROL PLAN**

This case is intended to be governed by Discovery Level 3.

### IV.

#### **CLAIM FOR RELIEF**

The damages sought are within the jurisdictional limits of this court. Plaintiffs currently seek monetary relief in excess of \$1,000,000, including damages of any kind, penalty, costs, expenses, punitive damages, pre-judgment interest, and attorney's fees. The maximum damages sought pursuant to this Original Petition are \$20,000,000, including punitive damages. Plaintiffs reserve the right to modify their claims, including damages, as the case progresses.

### V.

#### **JURISDICTION AND VENUE**

This Court has subject matter jurisdiction over this cause of action because it involves an amount in excess of the minimum jurisdictional limits of this Court. This case is not removable pursuant to 28 U.S.C. 1441(b) because the Plaintiffs are Texas residents, and one of the Defendants is a Texas corporation.

This Court has personal jurisdiction over Defendants because one or more of the Defendants resides in Texas and the causes of action herein arose from Defendants' systematic contacts with this forum state. Specifically, Pappas Restaurants, Inc. maintains its main office in this county and has several restaurants throughout Texas. Furthermore, Tesla, Inc. has continuous and systematic business contacts with this forum state. Tesla, directly or through affiliates or intermediaries, conducts its business extensively throughout Texas, by transporting, distributing, advertising and selling its vehicles in the state of Texas.

In addition, TEX. CIV. PRAC. & REM. CODE ANN. § 17.042 allows this court to exercise personal jurisdiction over Tesla as a nonresident defendant that is doing business in the state because Tesla contracts Texas residents to conduct its business, Tesla committed a tort in this state and Tesla has recruited Texas residents for employment in this state. Given its business contacts, Tesla is more at home in this state than it is in California. For example, Tesla has announced and is constructing its largest factory in Austin, Texas, is constructing a battery build out in Angleton, Texas, and as of August 26, 2021, applied with Texas regulators (Texas Public Utility Commission) to be an electricity provider in Texas. Tesla’s clear strategic plan is to conduct integrated operations in the state of Texas, bringing it into contact with Texas consumers throughout the supply chain.<sup>3</sup>

Venue is proper in Harris County, Texas under TEX. CIV. PRAC. & REM. CODE §§ 15.002(a)(1) because at least one Defendant, who is not a natural person, maintains a principal place of business in Harris County, Texas.

## **VI.** **FACTUAL BACKGROUND**

### **A. Introduction to Defendant Tesla, Inc.**

#### **Tesla’s “Autopilot” System**

Tesla, Inc. is an electric vehicle and clean energy company.<sup>4</sup> Tesla builds all-electric vehicles, generates clean energy and builds storage products.<sup>5</sup> Tesla boasts that its Model X vehicle is “the safest, quickest and most capable sport utility vehicle in history that holds 5-star safety ratings across every category from the National Highway Traffic Safety Administration.”<sup>6</sup>

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<sup>3</sup> <https://www.cnn.com/2021/08/26/tesla-files-to-become-an-electricity-provider-in-texas.html>

<sup>4</sup> <https://www.tesla.com/about>

<sup>5</sup> <https://www.tesla.com/about>

<sup>6</sup> <https://www.tesla.com/about>

Tesla first introduced its Autopilot system in 2014. According to Tesla “Autopilot is an advanced driver assistance system that assists your car with steering, accelerating and braking for other vehicles and pedestrians within its lane.”<sup>7</sup> The system assists with the most burdensome parts of driving, and offers features like emergency braking, collision warning and blind-spot monitoring.<sup>8</sup>

Furthermore, Tesla claims its Autopilot system allows its cars to steer within a lane, change lanes, and manage speed by using active traffic-aware cruise control.<sup>9</sup> Tesla also claims that “**Digital control of motors, brakes, and steering helps avoid collisions from the front and sides, as well as preventing the car from wandering off the road.**”<sup>10</sup>

Tesla further claims that Autopilot relieves drivers of the dangerous aspects of road travel and makes drivers more confident and increases safety on the road.<sup>11</sup> Additionally, Tesla identifies various features for its Autopilot system on its website. Some of which include:

- **Navigate on Autopilot:** Navigate on Autopilot suggests lane changes to optimize your route and makes adjustments, so you don’t get stuck behind slow cars or trucks. When active, Navigate on Autopilot will also automatically steer your vehicle toward highway interchanges and exits based on your destination.<sup>12</sup>
- **Auto Steer:** Using advanced cameras, sensors and computing power, your Tesla will navigate tighter, more complex roads.<sup>13</sup>
- **Emergency Lane Departure Avoidance:** Emergency Lane Departure Avoidance is designed to steer a Tesla vehicle back into the driving lane if our system detects that it is

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<sup>7</sup> <https://www.tesla.com/support/full-self-driving-subscriptions>

<sup>8</sup> <https://www.tesla.com/support/full-self-driving-subscriptions>

<sup>9</sup> <https://www.tesla.com/blog/your-autopilot-has-arrived>

<sup>10</sup> <https://www.tesla.com/blog/your-autopilot-has-arrived>

<sup>11</sup> <https://www.tesla.com/blog/your-autopilot-has-arrived>

<sup>12</sup> <https://www.tesla.com/autopilot>

<sup>13</sup> <https://www.tesla.com/autopilot>

departing its lane and there could be a collision, or if the car is close to the edge of the road. This feature will automatically be enabled at the beginning of every drive.<sup>14</sup>

- **Front Collision Warning:** Helps warn of impending collisions with slower moving or stationary cars.<sup>15</sup>
- **Automatic Emergency Braking:** Designed to detect objects that the car may impact and applies the brakes accordingly.<sup>16</sup>

Tesla even goes as far to state that its Automatic Emergency Braking system can stop a car from hitting a pedestrian:



Tesla's claims have been proven to be vastly and irresponsibly overstated, if not outright untrue. Tesla knows and encourages drivers to think that their Autopilot and self-drive modes are better than regular cruise control, but then in their written warning to consumers, tell them to

<sup>14</sup> <https://www.tesla.com/blog/more-advanced-safety-tesla-owners>

<sup>15</sup> <https://www.tesla.com/autopilot>

<sup>16</sup> <https://www.tesla.com/autopilot>

maintain the type of control over the vehicle that would be expected and appropriate with any standard cruise control system. Tesla can't have it both ways—marketing their revolutionary and game changing self-driving features, while also tell consumers that they can't rely on them and must maintain the same control as if it was cruise control on their standard cars. Tesla is engaging in systematic fraud to pump Tesla's share price and sell more cars, while hiding behind disclosures that tell the drivers that the system can't be relied upon. Tesla knows that Tesla drivers listen to these claims and believe their vehicles are equipped to drive themselves, resulting in potentially severe injuries or death.

For example, in 2019, a couple filmed themselves having sex in their Tesla while it was engaged in Autopilot. Rather than Tesla's CEO, Elon Musk, discouraging the dangerous behavior, he tweeted:



Tesla, Inc. and its CEO, Elon Musk, have also repeatedly exaggerated the actual capabilities of Autopilot, resulting in the public, including first responders, and Tesla drivers being put at a significant risk of serious injury or death:





Elon Musk  
@elonmusk

Replying to @coocms\_at

Tesla Full Self-Driving will work at a safety level well above that of the average driver this year, of that I am confident. Can't speak for regulators though.

9:20 PM · Jan 1, 2021 · Twitter for iPhone

Tesla and Elon Musk's strategy is by design. At the same time, it touts its "revolutionary features," it hides behind hard to find and hard to understand legalese, telling drivers that they should operate the vehicle as if technology has changed.

### **Tesla, Inc.'s Autopilot System's Failure to Detect Emergency Vehicles**

Since its release, Tesla's Autopilot system has been linked to numerous high-speed collisions, resulting in serious injuries and deaths. More recently Tesla's Autopilot system has been linked to at least twelve (12) crashes in the US involving cases where first responders were active on the scene with flashing lights:

- In January 2018, a Tesla vehicle engaged in Autopilot crashed into the back of a parked Culver City Fire Department truck that was responding to a traffic crash.<sup>17</sup>
- On May 11, 2018, a Tesla vehicle operating in Autopilot hit a parked Utah firetruck, resulting in severe injuries to the Tesla driver.<sup>18</sup>
- In May 2018, a Tesla vehicle using the Autopilot feature collided with a parked police vehicle in Laguna beach, the police car was a complete loss<sup>19</sup>

<sup>17</sup> <https://nypost.com/2021/08/16/formal-investigation-opened-following-tesla-autopilot-crashes/>

<sup>18</sup> <https://nypost.com/2021/08/16/formal-investigation-opened-following-tesla-autopilot-crashes/>

<sup>19</sup> <https://www.theguardian.com/technology/2018/may/29/tesla-crash-autopilot-california-police-car>

- In August of 2018, a Tesla vehicle crashed into a stopped firetruck in San Jose, California, leaving two injured.<sup>20</sup>
- In December 2019, a Tesla vehicle, engaged in Autopilot, slammed into a parked fire truck in Indiana, resulting in the death of one of the occupants in the Tesla.<sup>21</sup>
- In December 2019, another Tesla vehicle engaged in Autopilot rear-ended a police car that was responding to a disabled vehicle in Connecticut.<sup>22</sup>
- In December 2019, a Tesla, engaged in Autopilot, slammed into a Massachusetts State Police vehicle and a college student's car while they were pulled over on the side of the highway.<sup>23</sup>
- In July 2020, a Tesla on Autopilot, rear-ended an Arizona Department of Public Safety patrol vehicle at the scene of an earlier crash.<sup>24</sup>
- In March 2021, a Tesla driver operating the Autopilot system struck a police car in Michigan.<sup>25</sup>
- In August 2021, a Tesla driver operating on Autopilot crashed into a Florida highway Patrol car that was assisting a stalled vehicle.<sup>26</sup>
- In August 2021, a Tesla on Autopilot slammed into a police car in North Carolina.<sup>27</sup>

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<sup>20</sup> <https://abc7news.com/tesla-crash-san-jose-firetruck-accident/4049807/>

<sup>21</sup> <https://www.nytimes.com/2021/08/16/business/tesla-autopilot-nhtsa.html>

<sup>22</sup> <https://www.nbcconnecticut.com/news/tesla-in-auto-pilot-hits-back-of-police-car-on-i-95-in-norwalk-state-police/2190989/>

<sup>23</sup> <https://www.nbcboston.com/investigations/feds-investigating-tesla-crashes-with-first-responders-including-mass-trooper/2468305/>

<sup>24</sup> <https://www.azcentral.com/story/news/local/arizona-breaking/2020/07/14/tesla-autopilot-hits-dps-patrol-car-10-near-benson/5439368002/>

<sup>25</sup> <https://www.cbc.com/2021/03/17/tesla-in-autopilot-hits-police-car-in-michigan-officials-say.html>

<sup>26</sup> <https://www.cbc.com/2021/08/28/tesla-model-3-hit-a-parked-police-car-in-orlando-driver-said-she-was-in-autopilot.html>

<sup>27</sup> <https://www.newsobserver.com/news/state/north-carolina/article245267595.html>

- The case before the Court is one of the twelve (12) crashes involving a Tesla engaged in Autopilot and an emergency vehicle with flashing lights.

All of these emergency vehicles had flashing lights before the accidents. Nevertheless, the Teslas engaged in Autopilot failed to detect the cars.

**Defendant Tesla, Inc. Knows its Autopilot System Is Defective but Continues to Market it.**

Defendant Tesla, Inc. is a multi-billion-dollar corporation owned and operated by one of America’s most successful entrepreneurs. It is inconceivable that Defendant Tesla has not seen the publicly available reports regarding numerous crashes caused by its vehicles in relation to emergency vehicles with flashing lights. Tesla’s CEO has even referred to one of Tesla’s driver assistance systems as “not great”:



Defendant Tesla, Inc. and the company’s CEO, Elon Musk, were aware of numerous incidents regarding the “Autopilot” system, but failed to recall the cars and fix the issue:



Tesla's blatant refusal to adopt additional safeguards or to fix the issues with its Autopilot system demonstrate a lack of supervision and oversight of Tesla's Autopilot system. Tesla has intentionally decided not to remedy these issues and must be held liable and accountable, especially when it has detailed knowledge of the risks and dangers associated with its Autopilot system.

Tesla has admitted that its Autopilot system will occasionally fail to identify a stopped emergency vehicle.<sup>28</sup> But yet, Tesla made the decision not to recall any of its vehicles knowing that the Autopilot system was defective and posed an inherent risk of injury to the public, including first responders, and Tesla drivers.

Tesla made the decision to continue to profit from the sales of these dangerous vehicles and the benefits to its share price instead of taking the necessary steps to ensure the safety of the public, first responders and Tesla drivers.

Due to the rise in collisions involving Tesla vehicles engaged in Autopilot system and parked emergency vehicles with flashing lights, the US National Highway Traffic Safety Administration (NHTSA) has opened an investigation.<sup>29</sup>

#### **B. Defendant Pappas Restaurants Inc.**

Defendant Pappas Restaurants Inc. owns the restaurant Pappasito's Cantina where the driver of the Tesla was overserved alcohol before the accident. The driver showed obvious signs of intoxication at the time of the crash. The police report from the crash stated that the driver was arrested on suspicion of intoxication assault.

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<sup>28</sup> <https://www.nytimes.com/2021/08/16/business/tesla-autopilot-nhtsa.html>

<sup>29</sup> <https://www.nytimes.com/2021/08/16/business/tesla-autopilot-nhtsa.html>

### **C. The Accident and Malfunction**

On or about February 27, 2021, Plaintiffs (police officers) pulled over a vehicle in the right-hand lane of the Eastex Freeway near East River Road in a traffic stop. Upon subsequent suspicion of possession of narcotics, the officers were searching the vehicle with a police dog when a 2019 Model X Tesla, going approximately 70 mph, plowed into the scene of the police stop. The Tesla slammed into the two police Tahoes with flashing lights that were blocking the scene, pushing the Tahoes into the officers and the civilian who was detained. Plaintiffs were seriously injured and could have been killed.

Even though Autopilot was enabled at the time and the police cars had flashing lights, the Tesla failed to engage the Autopilot safety features to avoid the accident. The vehicle did not apply its “Automatic Emergency Braking” to slow down to avoid or mitigate the accident. The Tesla was completely unable to detect the existence of at least four vehicles, six people and a German Shepherd fully stopped in the lane of traffic. The Tahoes were declared a total loss. The police officers and the civilian were taken to the hospital, and Canine Officer Kodiak had to visit the vet.

Prior to the car wreck, the driver of the Tesla was a patron at Pappasito’s Cantina, owned by Defendant Pappas Restaurant, Inc. While at Pappasito’s Cantina, the driver consumed alcohol to the point where he was obviously intoxicated, and he presented a clear danger to himself and others. While the driver was obviously intoxicated, Pappasito’s Cantina continued to serve alcohol to him.

Plaintiffs were injured because Defendant Tesla’s Autopilot system malfunctioned and failed to detect police cars with flashing lights, and because Pappasito’s Cantina overserved the Tesla driver. Numerous consumers all over the United States have complained of the Autopilot problem in recent years. Furthermore, there have been numerous accidents and reports involving Tesla’s Autopilot system and emergency vehicles with flashing lights since its release. However,

with knowledge of these problems, Tesla, Inc. has carelessly failed to recall, repair, remedy and/or otherwise notify the public of the hazards associated with the Autopilot system's failure to detect cars with flashing lights and effectively engage the Autopilot system to avoid or ameliorate the risks of collision.

## **VII. CAUSES OF ACTION**

### **A. Negligence /Gross Negligence (Tesla)**

Plaintiffs incorporate the above paragraphs as if set forth in full below.

Defendant owed Plaintiffs a duty of care to act as a reasonably prudent person would. On the occasion in question, Defendant committed acts of omission and commission, which collectively and severally constituted negligence and gross negligence. Their imprudent acts included, but were not limited to:

- Failing to safely and properly design, market, and manufacture the Autopilot system;
- Failing to properly service and repair the Autopilot system;
- Failing to properly inspect the Autopilot system;
- Failing to properly warn the public that the Autopilot system was dangerous or unsafe;
- Failing to properly warn the public that the Autopilot system had previously failed;
- Failing to warn of the dangerous propensity of the Autopilot system to unexpectedly malfunction;
- Failing to warn the public of the Autopilot system's inability to detect emergency cars with flashing lights.
- Marketing the Autopilot system without giving proper and adequate notice of the product's known dangers;
- Failing to properly test and inspect the design and manufacturing of the Autopilot system;

- Failing to adequately test, inspect, and assure the quality of the Autopilot system before placing the into the stream of commerce;
- Choosing to disregard and ignore generally accepted principles of hazard control (design, guard and warn);
- Choosing to disregard and ignore its obligation to hold the safety of the public paramount;
- Failing to protect Plaintiffs from reasonably foreseeable dangers;
- Failing to recognize and remediate hazards;
- Promulgating policies and procedures that were inadequate and unsafe;
- Failing to warn of a known hazard;
- Placing profits over safety; and
- Participating in and contributing to the acts that caused the incident in question.

**B. Texas Dram Shop Act Claim Against Defendant Pappas Restaurants, Inc. d/b/a**

**Pappasito's Cantina**

Defendant Pappas Restaurants, Inc. violated the Dram Shop Act codified at V.T.C.A., Alcohol Beverage Code § 2.02, in that they served, sold, and/or provided alcoholic beverages to a person who was obviously intoxicated to the extent that he presented a clear danger to himself and others. This conduct by Pappas Restaurants, Inc. contributed to the Tesla driver's state of intoxication and was a proximate cause of the serious injuries sustained by Plaintiffs.

Plaintiffs seek damages against Defendant Pappas Restaurants, Inc. for its conduct in violation of the Texas Dram Shop Act, which was a proximate contributing cause of Plaintiffs' injuries and damages.

**C. Negligence /Gross Negligence (Pappas Restaurants, Inc. d/b/a Pappasito's Cantina)**

Defendant Pappas Restaurants, Inc. was negligent in serving and continuing to serve the Tesla driver when it was apparent or should have been apparent to the providers that the Tesla

driver was obviously intoxicated to the extent that he presented a clear danger to himself and others. Defendant was also negligent in training its servers and managers in that they should have been aware that the Tesla driver was obviously intoxicated to the extent that he presented a clear danger to himself and others.

Defendant's acts and/or omissions as described above, when viewed objectively from Defendant's standpoint, involve an extreme degree of risk considering the probability and magnitude of the potential harm to others. Defendant had actual subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and/or welfare of the others, including the Plaintiffs.

The intoxication of the Tesla driver, the recipient of the alcohol provided by Defendant Pappas Restaurants, Inc. was a proximate cause of Plaintiffs' injuries and damages. Accordingly, the negligence of Defendant in violating V.T.C.A., Alcohol Beverage Code § 2.02 was a proximate cause of the incident and the resulting injuries and damages to Plaintiffs.

**D. Respondeat Superior/Agency (Pappas Restaurants, Inc. d/b/a Pappasito's Cantina)**

Plaintiffs incorporate the above paragraphs as if set forth in full below.

At all times, Defendant's employees and agents and Pappasito's Cantina employees were agents and/or servants on behalf of Defendant. The Defendant exercised control over their employees, and at all relevant times, Defendant's employees were operating within the scope of their employment for them.

As such, this Defendant is responsible for the conduct and damages caused by any conduct of their employees that contributed to the damages sought in this suit.

**E. Strict Liability, Failure To Warn (Tesla only)**

Plaintiffs incorporate the above paragraphs as if set forth in full below.



At all relevant times, Tesla designed, manufactured and sold their vehicles with the Autopilot system. The Autopilot system is defective in its warning as it related to emergency vehicles with flashing lights. The Autopilot system's defective warning rendered the Autopilot unreasonably dangerous for its intended and foreseeable uses. The Autopilot's defective warning actually and proximately caused Plaintiffs' injuries and damages.

As a direct and proximate result of the actions and inactions of Defendant as set forth above, Plaintiffs suffered severe injuries.

**F. Strict Liability, Design Defect (Tesla only)**

Plaintiffs incorporate the above paragraphs as if set forth in full below.

At all material times, Tesla, Inc. was in the business of designing, developing, manufacturing, and marketing the Autopilot system, and did in fact design, develop, manufacture, market, sell, and place into the stream of commerce the subject vehicle which injured Plaintiffs.

At the time of the incident made the basis of this lawsuit, the product was in substantially the same condition as it was when it left the control of Defendant Tesla, Inc.

Defendant Tesla, Inc. recommended, sold, and distributed the Autopilot system at issue. The subject product was defective and unreasonably dangerous in manufacture and marketing when it left the control of Tesla, Inc.

The system at issue failed to perform safely, as an ordinary consumer would expect when using it in an intended and/or reasonably foreseeable manner. The risk of danger inherent in the design of the Autopilot system outweighed the benefits of the design utilized. At all relevant times and at the time of injury, it was reasonably foreseeable by the Defendant that the Autopilot system would malfunction.

The aforementioned defects in the system at issue were the producing and proximate cause of the crash incident that caused Plaintiffs' damages, injuries, pain and suffering, and mental anguish. Tesla, Inc. is strictly liable for the defects in the Autopilot system.

**G. Strict Liability, Manufacturing Defect (Tesla Only)**

Plaintiffs incorporate the above paragraphs as if set forth in full below.

At all materials times, Tesla, Inc was in the business of developing, manufacturing, and marketing the Autopilot system, and did develop, manufacture, market, sell, and place into the stream of commerce the subject vehicle that injured Plaintiffs.

The Autopilot system in question contained a manufacturing defect when it left Tesla Inc.'s possession. The Autopilot system failed to detect Plaintiffs' vehicles with flashing lights, and therefore failed to avoid the collision that proximately caused the Plaintiffs' injuries. The defects in the system were the producing and proximate cause of the incident that injured Plaintiffs and of the Plaintiffs' damages, injuries, pain and suffering, and mental anguish.

**VIII.**  
**DAMAGES**

As a direct and proximate result of the foregoing events, Plaintiffs suffered damages in the past and, in reasonable probability, will continue to suffer damages in the future, including physical pain and suffering, mental anguish, lost wages, loss of earning capacity, past, present, and future medical expenses, all for which Plaintiffs seek recovery herein. Plaintiffs also seek punitive damages.

**IX.**  
**DEMAND FOR JURY TRIAL**

Plaintiffs request a jury trial and tender the appropriate fee with this petition.

**X.**  
**CONDITIONS PRECEDENT**

All conditions precedent to Plaintiffs' rights to recover have been fully performed or have been waived by Defendants.

**XI.**  
**PRESERVATION OF EVIDENCE**

Plaintiffs hereby request and demand that Defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit or the damages resulting therefrom, including statements, photographs, videotapes, audiotapes, surveillance or security tapes, business or medical records, incident reports, bills, telephone call slips or records, correspondence, facsimiles, emails, voicemails, text messages, policies, contracts, agreements of any kind, procedures, bylaws, drive-cameras, surveillance, reports and investigative materials, the vehicle involved in this incident, and any evidence involving any facts stated in this petition and the incident in question, and any electronic image or information related to the referenced incident or damages. Failure to maintain such items may constitute "spoliation" of evidence.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for judgment against Defendants in the amount of **TEN MILLION DOLLARS (\$10,000,000)** for actual damages for pecuniary losses, lost wages, loss of earning capacity mental anguish, and past, present, and future medical expenses; as well as **TEN MILLION DOLLARS (\$10,000,000)** in exemplary damages; pre- and post-judgment interest as allowed by law; all costs of Court; and all such other and further relief, at law and in equity, to which they may be justly entitled.

Respectfully submitted,

**THE BUZBEE LAW FIRM**

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