

Tesla Board Compensation Derivative Litigation

Corporate Governance

Role BFA is Counsel for Plaintiff Police and Fire Retirement System of the City of Detroit.

Background Plaintiffs allege that certain current and former members of Tesla's Board of Directors awarded themselves unfair and excessive compensation.

Court Delaware Court of Chancery

Case Number C.A. No. 2020-0477

Status Settled

BFA is co-counsel representing the Police and Fire Retirement System of the City of Detroit ("Plaintiff") in a derivative suit brought on behalf of Tesla, Inc. against members of Tesla's Board of Directors (the "Director Defendants"). In its complaint, Plaintiff alleges that, from 2017 to 2020, the Director Defendants awarded themselves excessive compensation each year. This compensation was significantly above the compensation awarded to directors at Tesla's peer companies. Through these awards, Plaintiff alleges that the Director Defendants breached their fiduciary duties and unjustly enriched themselves at Tesla's expense. On September 17, 2020, the Director Defendants filed an answer to the complaint.

The parties engaged in extensive discovery: Plaintiff served numerous written discovery requests on Defendants, served 23 third-party subpoenas, completed 22 fact witness depositions, and the parties exchanged opening and rebuttal expert reports.

On July 14, 2023, the parties agreed to settle the action on terms that amount to one of the largest derivative settlements in the history of the Delaware Court of Chancery

As reflected in the parties' Stipulation, the settlement, which is valued at over \$919 million and resolves claims from 2017 to present, contemplates the following considerations:

- The Director Defendants will return to Tesla the value of over 3.1 million options, which, by using an agreed-upon valuation methodology, are valued at over \$735 million.
- Certain Director Defendants will permanently forego compensation for 2021, 2022, and 2023.
- Tesla and its Board of Directors will implement certain governance reforms regarding director compensation effective for the next five years. These reforms include: (i) conducting an annual review and assessment of director compensation with the assistance of an independent compensation consultant; (ii) providing disclosures to Tesla stockholders regarding the results of the annual review and assessment of director compensation, including any peer group or other comparative data; (iii) submitting proposed director compensation to an approval vote of the majority of Tesla stockholders who are unaffiliated with the Director Defendants and the other members of the current Tesla Board; and (iv) reviewing Tesla's internal controls specific to director compensation and implementing any changes necessary to ensure appropriate administration of director compensation.

On January 8, 2025, the settlement was approved by the Court.