

BFA Reaches Historic Derivative Settlement in Tesla Litigation

BFA, together with co-counsel Fields Kupka & Shukurov LLP and McCarter & English, LLP, is pleased to announce it has reached one of the largest derivative settlements in the history of the Delaware Court of Chancery.

BFA is co-counsel representing Plaintiff, The Police and Fire Retirement System of the City of Detroit, in a stockholder derivative suit brought on behalf of Tesla, Inc. against certain current and former members of Tesla's Board of Directors (the "Director Defendants"), alleging that, each year from 2017 through 2020, the Director Defendants awarded themselves excessive compensation.

As reflected in the parties' Stipulation, the settlement—which 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.

The proposed settlement is subject to Court approval. Plaintiff's opening brief in support of the settlement will be filed on August 30, 2023. The hearing for approval is currently scheduled to take place on October 13, 2023.