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21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION,

25 Plaintiff,

26 vs.

27 TESLA, INC.

28 Defendant.

Case No.: 3:23-cv-04984-JSC

**JOINT CASE MANAGEMENT
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1 Pursuant to Federal Rule of Civil Procedure 26(f)(2), Local Rule 16-9, and the Court's Order
2 Re: Motion to Dismiss and Motion to Stay (ECF 43), Plaintiff U.S. Equal Employment Opportunity
3 Commission (EEOC) and Defendant Tesla, Inc. (Tesla), (collectively, the parties), hereby submit the
4 following Joint Case Management Conference (CMC) Statement.

5 **1. Jurisdiction and Service**

6 On September 28, 2023, the EEOC initiated this lawsuit against Tesla. *See* ECF 1. As pled,
7 the Court has original jurisdiction over the EEOC's claims pursuant to 28 U.S.C. §§ 451, 1331,
8 1337, 1343 and 1345. This action is brought pursuant to Sections 706(f)(1) and (3) of Title VII of the
9 Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) (Title VII), and Section
10 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

11 Tesla reserves the right to challenge the Court's jurisdiction over this action pursuant to
12 Tesla's Twelfth (Failure to Meet Pre-Suit Obligations) and Fourteenth (Lack of Jurisdiction)
13 Affirmative Defenses, and based on Tesla's position that EEOC failed to comply with its statutory
14 pre-suit notice and investigative obligations prior to initiating this lawsuit.

15 The parties agree that Tesla, the only defendant in this action, has been properly served.

16 **2. Summary of Claims**

17 **a. EEOC's Position**

18 The EEOC alleges that since May 29, 2015, Tesla has subjected Black employees at its
19 manufacturing hub in Fremont, California (Fremont Factory) to severe or pervasive racial
20 harassment and created and maintained a hostile work environment because of their race in a
21 continuing violation of Title VII. The EEOC alleges that Black employees faced frequent and
22 offensive, race-based misconduct, including racial slurs such as the N-Word, and other race-based
23 slurs, insults, taunts, and stereotyping, as well as prevalent displays of racist imagery and graffiti.
24 The EEOC further alleges that: 1) Tesla's management and/or human resources employees knew or
25 should have known of the harassment and/or racially hostile work environment, 2) Tesla failed to
26 take appropriate actions to prevent or promptly correct the harassment and/or racially hostile work
27 environment, and 3) Tesla unlawfully retaliated against Black employees who opposed actions they
28 perceived to constitute unlawful employment discrimination, also in violation of Title VII. These

1 unlawful employment practices caused Black employees to suffer damages, including emotional
2 distress and lost wages.

3 **b. Tesla's Position**

4 Tesla denies EEOC's allegations of race-based discrimination, harassment and retaliation,
5 and denies having failed to take action to prevent or correct unlawful discrimination, harassment or
6 retaliation at its Fremont plant. Tesla highly values the diverse workforce that it has attracted to its
7 Fremont plant, and is proud to provide well-paying, industry-leading jobs to its Fremont workforce.

8 EEOC's allegation that race-based harassment and retaliation have been "pervasive" and "ongoing"
9 at the Fremont plant since 2015 is false, and belied by the declarations of hundreds of Black
10 employees filed in a concurrent state court action in which similarly baseless claims are alleged.
11 Throughout the entire period covered by EEOC's Complaint, Tesla's has maintained anti-harassment
12 and -discrimination policies that confirm Tesla's commitment to providing a workplace that is free
13 from unlawful discrimination and harassment. Tesla has also maintained robust systems and
14 processes for employees to report what they perceive to be unlawful conduct, and for Tesla to
15 respond effectively and appropriately to such reports.

16 **3. Legal Issues**

17 **a. EEOC's Position**

18 The key disputed legal issues raised by the EEOC's Complaint are whether:

- 19 i. Tesla violated Title VII of the Civil Rights Act of 1964, as amended, 42
20 U.S.C. §§ 2000e-5(f)(1) and (3) (Title VII).
- 21 ii. Tesla violated Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.
- 22 iii. Black employees faced race-based misconduct.
- 23 iv. Black employees found any such race-based misconduct offensive.
- 24 v. The race-based misconduct experienced by Black employees was sufficiently
25 severe or pervasive to alter the terms and conditions of their employment with
26 Tesla, and did so.
- 27 vi. Tesla's management or human resources employees knew or should have
28 known of the harassment and/or racially hostile work environment.

- 1 vii. Tesla failed to take appropriate actions to prevent or promptly correct the
2 harassment and/or racially hostile work environment.
- 3 viii. Black employees engaged in protected activity by opposing race-based
4 misconduct and were subjected to adverse employment actions for engaging
5 in such protective activity.
- 6 ix. The adversely affected Black employees suffered damages, including
7 emotional pain, suffering, inconvenience, mental anguish, humiliation, loss of
8 enjoyment of life, back pay, and out-of-pocket expenses.
- 9 x. The adversely affected Black employees are entitled to affirmative relief,
10 including but not limited to back pay, reinstatement, front pay, and interest.
- 11 xi. The EEOC is entitled to injunctive relief, including permanent injunctions
12 enjoining Tesla from engaging in unlawful employment practices that
13 discriminate based on race.
- 14 xii. The alleged unlawful employment practices were done with malice or in
15 reckless indifference to the federally protected rights of the Tesla’s Black
16 employees warranting an award of punitive damages.
- 17 xiii. To what extent there is factual support for Tesla’s remaining affirmative
18 defenses.

19 **b. Tesla’s Position**

20 In addition to what EEOC has outlined above in Section 3.a, EEOC’s Complaint and Tesla’s
21 Answer raise the following key legal issues:

22 As to every purportedly aggrieved individual on whose behalf EEOC seeks monetary relief
23 for a hostile work environment or retaliation on the basis of race:

- 24 i. Whether the aggrieved individual is a Tesla “employee” under Title VII.
- 25 ii. Whether Tesla took reasonable care to prevent and promptly correct any
26 unlawful race discrimination or harassment, and whether the aggrieved
27 individual failed to take advantage of any preventative or corrective
28 opportunities that Tesla provided.

- 1 iii. Whether the aggrieved individual engaged in a protected activity by opposing
2 or objecting to unlawful race discrimination or harassment, and whether the
3 individual suffered an adverse employment decision because of his or her
4 opposition or objection to unlawful race discrimination or harassment.
- 5 iv. Whether the aggrieved individual experienced at least one instance of
6 unlawful retaliation or race discrimination or harassment within the 300-day
7 statutory period before the EEOC filed its Charge in May 2019 (i.e., since
8 August 2018).
- 9 v. Whether EEOC disclosed (or Tesla reasonably had notice of) and investigated
10 the factual predicates of the unlawful race discrimination, harassment and/or
11 retaliation claims it alleges in the Complaint.
- 12 vi. Whether Tesla is entitled to attorney's fees as a prevailing party.

13 **4. Motions**

14 There are no pending motions. Tesla previously filed motions to dismiss the Complaint and
15 to stay the lawsuit, both of which the Court denied. *See* ECF 43. The parties have met and conferred
16 in an effort to stipulate to a Protective Order, 502(d) Order, and an initial ESI Protocol, and are
17 continuing these efforts. The parties respectfully ask that the Court set a deadline for the parties to
18 submit stipulated proposals on the Protective Order, 502(d) Order, and ESI Protocol or seek Court
19 intervention within 60 days of the Court's Order on the CMC.

20 The parties also anticipate eventually filing motions for summary judgment and/or summary
21 adjudication of certain issues.

22 **5. Amendment of Pleadings**

23 **a. EEOC's Position**

24 The EEOC does not currently anticipate adding or dismissing any parties or claims. But
25 given the complexity of this case, however, the EEOC requests that the deadline to amend pleadings
26 without a showing of good cause be set for **July 9, 2024**. The parties are also in the process of
27 meeting and conferring concerning several of Tesla's more than 30 alleged affirmative defenses, and
28 Tesla has thus far said it will voluntarily withdraw its Fourth (Speculative Damages), Sixteenth

1 (Failure to Join), and Thirty-Second (Unjust Penalties) affirmative defenses, though it has not yet
2 amended its answer.

3 **b. Tesla's Position**

4 Tesla proposes that the parties' deadline to amend their pleadings as of right should be 21
5 days from entry of the Court's CMC Order. EEOC had three years to fully investigate its claims as
6 required by Title VII prior to filing the Complaint, and since that filing EEOC has had another seven
7 months to amend the Complaint if necessary. Tesla does not see any reason why EEOC needs more
8 than the three-week time frame Rule 15(a) envisions to further consider amending its pleading.

9 The parties have met and conferred regarding five Affirmative Defenses that EEOC has questioned.
10 Tesla voluntarily agreed to withdraw three of those Affirmative Defenses (the Fourth, Sixteenth and
11 Thirty-Second), and declined to withdraw the other two (the Twelfth and Fourteenth). EEOC has not
12 raised any issues as to any Affirmative Defenses other than the five cited above, and Tesla's
13 agreement to withdraw three Affirmative Defenses has no bearing on why EEOC purportedly needs
14 an additional 60 days to amend its Complaint.

15 **6. Evidence Preservation**

16 The parties have reviewed the Guidelines Relating to the Discovery of Electronically Stored
17 Information (ESI Guidelines) and plan to schedule a conference during the week of May 13
18 concerning the preservation of ESI that will include their E-Discovery Liaisons. The parties have
19 identified EEOC Assistant General Counsel (Technology), Maria Salacuse, and Holland & Knight
20 LLP eDiscovery Senior Project Manager, Arnulfo Flores, as their respective E-Discovery Liaisons
21 for this case. The parties' initial ESI Protocol will focus on matters directly applicable to their Initial
22 Disclosures, including production formatting and metadata.

23 **7. Disclosures**

24 The parties propose to exchange Initial Disclosures within 75 days after the Court's order on
25 the CMC, though, as discussed below, the parties are not in agreement about the scope of the Initial
26 Disclosures.

27 ///

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1 **8. Discovery**

2 The parties have not yet engaged in formal discovery. The parties are in the process of
3 negotiating the protective order, as well as a 502(d) Order, and the initial ESI protocol with a goal of
4 finalizing these documents no later than 60 days from the Court's CMC order. The parties agree that
5 a protective order needs to be in place before they can exchange Initial Disclosures or other
6 discovery.

7 As for the Discovery Plan, the parties propose to begin formal discovery after their exchange
8 of Initial Disclosures (due 75 days after the Court's CMC order), as hereinafter proposed. Because
9 those Initial Disclosures are anticipated to be voluminous, consisting, in part, of EEOC's three-year
10 investigative file and relevant portions of Tesla's discovery productions in the *CRD* and *Vaughn*¹
11 state court actions time will be needed for the parties to review those Disclosures. After Initial
12 Disclosures and a review period, the parties will meet and confer and propose a Discovery Plan and
13 supplemental ESI Protocol to the Court. The parties' supplemental ESI Protocol will address issues
14 of ESI sources, relevant custodians, document searches and review, and privilege log exclusions.

15 The parties do have differing proposals regarding the timing and scope of their Initial
16 Disclosures and the timing of their presentation of a formal Discovery Plan to the Court.

17 **a. Discovery Plan Proposals**

18 **i. EEOC's Proposal**

19 The EEOC proposes 60 days more than Tesla for reviewing Initial Disclosures and finalizing
20 a discovery plan. Given the voluminous records involved, Tesla's proposal of 60 days is too short.
21 For instance, Tesla has represented that the discovery in *Vaughn* and *CRD* alone is over 20,000
22 records (and 80,000 pages). The EEOC sees the Initial Disclosures period as an opportunity for the
23 parties to refine their discovery objectives and limit, to the extent possible, duplicating the discovery
24 completed in *Vaughn* and *CRD*. To accomplish this, the EEOC will need time to consume the
25 produced records, which may require contracting an external vendor, and to modify its discovery
26

27 ¹ *Department of Fair Employment and Housing v. Tesla, Inc.*, Alameda County Superior Court No.
28 22CV006830, and *Vaughn, et al. v. Tesla, Inc., et al.*, Alameda County Superior Court No. RG
 17882082.

1 proposal accordingly before meeting and conferring with Tesla to finalize a discovery plan. The
 2 parties may also need to meet and confer about the Initial Disclosures² and to negotiate a
 3 supplemental ESI protocol, including the relevant custodians and sources of ESI revealed in the
 4 Initial Disclosures. Thus, the EEOC proposes that the initial disclosure and review period be as
 5 follows:

- 6 • Initial Disclosures due 75 days following the Court’s Order on the CMC³;
- 7 • A status conference with the Court 30 days after the Initial Disclosures to monitor the
 8 status of discovery and the parties’ progress towards preparing a proposed discovery
 9 plan;
- 10 • A proposed discovery plan outlining the process for formal discovery due to the
 11 Court 120 days after the Initial Disclosures.

12 The EEOC also proposes that the parties disclose the following information and records in
 13 their Initial Disclosures:

14 **(1) EEOC’s Disclosures**

15 Non-privileged⁴ records (facts) from the investigative file, including:

- 16 i. List of respondents to survey/questionnaire that EEOC issued during its
 17 investigation.
- 18 ii. Contact information of individuals interviewed by the EEOC during its
 19 investigation, to the extent this information was maintained in the ordinary
 20 course of business within the EEOC’s investigative files, and excluding
 21 individuals who have asked the EEOC to provide them with legal advice and
 22 assistance or to seek relief for them in connection with this lawsuit.⁵

23 ² Tesla proposes producing portions of discovery from *Vaughn* and *CRD* that it deems to be
 24 “relevant” (*see infra*, at p. 14), but so far has not detailed with any specificity which records it
 25 believes are relevant or irrelevant. Consequently, the EEOC has no way to assess the volume or
 content of information Tesla will produce.

26 ³ This assumes that a protective order will be in place by this time to cover these documents.

27 ⁴ Privileged records include those protected by attorney-client, attorney-work product, governmental
 deliberative process, and conciliation (42 U.S.C. § 2000e-5(b)) privileges.

28 ⁵ The parties are negotiating a protective order concerning *ex parte* communications with any of
 these individuals.

- 1 iii. Copies of responses to any survey/questionnaire that EEOC sent to any
- 2 current or former Tesla employees during its investigation.
- 3 iv. EEOC Investigator notes of witness interviews.
- 4 v. Policies, personnel files, investigative records, and emails obtained from
- 5 Tesla.
- 6 vi. discovery responses, trial and arbitration briefs and exhibits, deposition and
- 7 trial and/or arbitration testimony, declarations, affidavits, and statements.

8 **(2) Tesla’s Disclosures**

9 All discovery produced by Tesla in *Vaughn* and *CRD*, including copies of:

- 10 i. Written discovery requests and responses propounded or received by Tesla,
- 11 including Requests for Production, Requests for Admission, and
- 12 Interrogatories.
- 13 ii. Signed declarations, affidavits, and other statements from witnesses in
- 14 *Vaughn* and *CRD*, excluding formal, signed, and unfiled declarations and
- 15 affidavits and related drafts.
- 16 iii. Copies of deposition transcripts from any witnesses deposed in *CRD/Vaughn*.
- 17 iv. Race harassment and retaliation complaints and related investigation records
- 18 concerning Black employees working at Fremont facilities from May 29,
- 19 2015, to the present, if any.
- 20 v. List of Black Employees at Fremont facilities employed from January 1, 2015,
- 21 to the present, including names, last-known contact information, job title(s),
- 22 department(s), dates of employment, supervisor(s), reason for separation, if
- 23 any.

24 The EEOC proposes producing virtually all the evidence it collected during its investigation
25 of Tesla. The EEOC therefore objects to Tesla’s proposal that the EEOC, in the form of a
26 “disclosure” create detailed, factual summaries “for every purported aggrieved employee.” *See, infra*
27 at p. 11. This request is excessive, unnecessary, and unwarranted particularly at the Initial
28 Disclosures phase of this case. For instance, hundreds of individuals have already submitted

1 declarations in *Vaughn* alone attesting to their exposure to Tesla’s hostile work environment. *See*
2 ECF 22-7 (Exh A to Tesla’s Motion to Stay) p. 50. A compendium of victim accounts would be
3 premature, excessive, and objectionable even as a contention interrogatory in discovery. *See e.g.*
4 *Aldapa v. Fowler Packing Co. Inc.*, 310 F.R.D. 583, 591 (E.D. Cal. 2015) (“Parties are not tasked
5 with laying out every jot and tittle of their evidentiary case in response to interrogatories.”) (internal
6 citations omitted); *see also*, *Amgen Inc. v. Sandoz Inc.*, No. 14-CV-04741-RS (MEJ), 2016 WL
7 1039029, at *3 (N.D. Cal. Mar. 15, 2016) (burden of justification on propounding party “who seeks
8 answers to contention interrogatories before substantial documentary or testimonial discovery has
9 been completed.”) (internal citations omitted).

10 Lastly, EEOC objects to Tesla’s refusal to disclose “witness statements” in *Vaughn* and *CRD*
11 to the extent this phrase contemplates anything other than signed and unfiled formal declarations and
12 affidavits and related drafts. *See, infra*, at p. 15. While unfiled, formal declarations and affidavits and
13 related drafts may be attorney work-product, other “witness statements,” which could plausibly
14 encompass statements obtained during the course of EEO investigations or even informal email
15 harassment complaints from percipient witnesses to Human Resources, are discoverable.

16 **b. Tesla’s Proposal**

17 As noted, the parties agree that an Initial Disclosures period during which formal discovery is
18 stayed would benefit both sides and result in a more efficient discovery process.

19 Tesla proposes the following Initial Disclosures and review timeline:

- 20 • Initial Disclosures due within 75 days of the Court’s CMC Order;
- 21 • A proposed Discovery Plan and stipulated supplemental ESI Protocol due to the
22 Court 60 days after the Initial Disclosures cut-off date;
- 23 • A follow-on case management conference with the Court to address any issues
24 regarding the parties’ proposed Discovery Plan[s]; and
- 25 • Formal discovery stayed until the Court enters a discovery scheduling order and
26 stipulated supplemental ESI Protocol pursuant to the parties’ proposed
27 Discovery Plan[s].

28 Tesla believes EEOC’s proposed 120-day review and conferral period after the parties’

1 exchange of Disclosures to be excessive and unnecessary. The parties need not undertake a granular
 2 analysis of the other side's Initial Disclosures in order to formulate a formal Discovery Plan for the
 3 Court's consideration. Moreover, EEOC purportedly conducted a three-year investigation of Tesla's
 4 Fremont plant prior to filing this lawsuit, and so presumably now has much (if not most) of what it
 5 believes it needs to prove its case. Finally, with the assistance of existing e-discovery technology,
 6 60 days is adequate time for the parties to review and meet and confer regarding even a voluminous
 7 number of documents.

8 Tesla further proposes that the parties share the following information and records in their
 9 Initial Disclosures:

10 **(1) EEOC's Disclosures**

- 11 i. Identity and contact information of purportedly aggrieved employees on
 12 whose behalf EEOC currently purports to be seeking individual relief,
 13 although EEOC need not provide contact information for those purportedly
 14 aggrieved employees whom EEOC has agreed to represent in this proceeding;
- 15 ii. Identity and contact information of all persons EEOC interviewed as part of
 16 its investigation, and any facts gathered during those interviews;
- 17 iii. Copies of responses to any survey/questionnaire that EEOC sent to any
 18 current or former Tesla employees during its investigation, including the name
 19 and contact information of the survey respondent;
- 20 iv. Identity of all purportedly quoted speakers in the Complaint and their
 21 corresponding quotes;
- 22 v. To the extent not captured in the above (a)–(d), a summary of factual
 23 particulars of the grievances of each purportedly aggrieved employee that
 24 EEOC has currently identified, including facts sufficient for Tesla to ascertain
 25 for each aggrieved employee, insofar as it is currently known by EEOC: (1)
 26 the location and approximate date of the harassment or retaliation; (2) specific
 27 nature of the harassment or retaliation; (3) position and race or ethnic
 28 background of the alleged harasser or retaliator; (4) witnesses to the

1 harassment or retaliation, including any supervisors or managers; (5) whether
 2 the purportedly aggrieved employee made a formal or informal complaint, and
 3 the identity of any HR or ER personnel who were purportedly made aware of
 4 the complaint; (6) how the purportedly aggrieved employee's complaint (if
 5 any) was handled or resolved by Tesla.

6 vi. Identity and contact information of all current and former Tesla employees
 7 whom EEOC contacted regarding its survey/questionnaire or a potential
 8 interview, and who did not respond to the survey or participate in an
 9 interview;

10 vii. Policies, personnel files, investigative records, and emails obtained from
 11 Tesla;

12 viii. Communications between the Parties relating to EEOC's investigation;

13 ix. Discovery responses, trial and arbitration briefs and exhibits, deposition and
 14 trial testimony, declarations, affidavits, and statements.

15 **(2) Tesla's Disclosures**

16 i. Copies of (1) all documents Tesla produced and Tesla's responses to requests
 17 for production of documents, (2) Tesla's responses to requests for admission;
 18 (3) Tesla's responses to interrogatories, (4) deposition transcripts, and (5)
 19 signed employee witness declarations that Tesla has filed in the *Vaughn/CRD*
 20 cases, to the extent those materials are relevant to EEOC's allegations of race-
 21 based harassment and retaliation, and assuming the parties agree to a
 22 stipulated protective order that permits the disclosure of information covered
 23 by protective orders in the *Vaughn/CRD* cases;

24 ii. Race harassment and retaliation complaints and related non-privileged
 25 investigation records concerning Black employees working at Fremont
 26 facilities since January 1, 2016, as reasonably up-to-date as practicable in light
 27 of how Tesla maintains the constituent information in the ordinary course of
 28 business;

- 1 iii. List of current and former employees at the Fremont factory since January 1,
2 2016, who identify as Black or African American, including their names, last-
3 known contact information, job title(s), and dates of employment, as
4 reasonably up-to-date as practicable in light of how Tesla maintains the
5 constituent information in the ordinary course of business; and
- 6 iv. Communications between the Parties relating to EEOC’s investigation.

7 Tesla opposes EEOC’s requests that Tesla produce signed witness statements in the
8 *Vaughn/CRD* cases that Tesla has not included in litigation filings or otherwise publicly disclosed.
9 Undisclosed signed witness statements that a party gathers in the course of litigation fall squarely
10 within the protections of the work product doctrine. *See, e.g., In re Convergent Techs. Second Half*
11 *1984 Sec. Litig.*, 122 F.R.D. 555, 558 (N.D. Cal. 1988) (relying on *Hickman v. Taylor*, 329 U.S. 495
12 (1947)).

13 As to EEOC’s claim that Tesla unreasonably requests “detailed, factual summaries” for
14 “every aggrieved employee,” EEOC either misreads or mischaracterizes Tesla’s proposal. What
15 Tesla requests is basic factual information (who?, what?, when?, where?, why?) relating to
16 individual claims of harassment and/or retaliation by “aggrieved employees” upon whose behalf
17 EEOC seeks relief in this action. To the extent this information is included in documents that EEOC
18 agrees to produce, no additional summary is requested. But to the extent this factual information is
19 contained in a document that EEOC considers privileged and withholds from disclosure, Tesla seeks
20 a summary of the non-privileged, factual information previously discussed and specified in Section
21 8a.iv.(1)(e). Moreover, this is not—as EEOC frames it—a premature “contention interrogatory.”
22 Tesla only seeks relevant facts that EEOC gathered during its administrative investigation, not “all
23 facts” that support EEOC’s claims in this lawsuit.

24 **9. Class Actions**

25 This case is not a class action and the [Procedural Guidance for Class Action Settlements](#) is
26 inapplicable.

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28 ///

1 **10. Related Cases**

2 **a. EEOC's Position**

3 The EEOC does not believe that any cases meet the standard for a related case under Local
4 Rule 3-12(a), which requires the related case to contain “substantially the same parties, property,
5 transaction, or event.” The parties and the Court are, of course, aware of the *Vaughn* and *CRD* cases
6 and the EEOC will endeavor to avoid duplicating discovery in those cases to the extent it can.

7 **b. Tesla's Position**

8 Under Local Rule 3-12(a)'s definition, the following are related cases to this action: (1)
9 *Department of Fair Employment and Housing v. Tesla, Inc.*, Alameda County Superior Court No.
10 22CV006830; and (2) *Vaughn, et al. v. Tesla, Inc., et al.*, Alameda County Superior Court No. RG
11 17882082.

12 **11. Relief**

13 **a. EEOC's Position**

14 The EEOC detailed the relief it seeks in its Complaint. *See* ECF 1, pg. 8-9. The relief
15 includes permanent injunctions against further discrimination, an order for Tesla to institute and
16 implement policies, practices, and programs as may be necessary to afford equal employment
17 opportunities for Black employees and to eradicate any prior discrimination. *Id.* The EEOC also
18 seeks monetary damages, including for back pay and pecuniary and non-pecuniary losses, such as
19 emotional distress for aggrieved individuals and punitive damages. *Id.* While the exact computation
20 of monetary damages is currently uncertain, Title VII claims are subject to a \$300,000 statutory cap
21 on compensatory and punitive damages per aggrieved individual. *See* 42 U.S.C. § 1981a(b).

22 **b. Tesla's Position**

23 Tesla believes that EEOC is not entitled to any relief and reserves the right to seek costs and
24 fees from the EEOC, *see* 42 U.S.C. § 2000e-5(k). Given the vague nature of EEOC's allegations,
25 and the failure to identify any particularized facts regarding any identified employees, Tesla cannot
26 provide a description of the bases for any potential damages calculations at this time.

27 **12. Settlement and ADR**

28 The parties previously engaged in confidential, conciliation negotiations prior to the filing of

1 this lawsuit, pursuant to 42 U.S.C. § 2000e-5(b).

2 The parties believe that additional discovery and/or motions practice is needed before
3 conducting additional ADR or proposing an ADR plan in accordance with ADR L.R. 3-5. Therefore,
4 the parties request that the Court set November 9, 2024, as the deadline for the parties to revisit
5 selection of an ADR process and, if appropriate, to propose an appropriate deadline for completion
6 of ADR.

7 **13. Other References**

8 This case is not suitable for referral to binding arbitration, a special master, or the Judicial
9 Panel on Multidistrict Litigation.

10 **14. Stipulated Narrowing of Any Issues**

11 Please see the parties' proposals regarding the Discovery Plan, at Section 8(a), *supra*.

12 **15. Scheduling**

13 Please see the parties' proposals regarding the Discovery Plan, at Section 8(a), *supra*.

14 **16. Trial**

15 The parties believe that it is currently premature to determine the length of a trial on any of
16 the issues in this case. The parties anticipate that they will be able to further inform the Court about
17 the timing of a trial when they present their Discovery Plan[s]. *See supra*, Section 8.

18 **17. Disclosure of Non-Party Interested Entities or Persons**

19 The EEOC is not subject to the disclosure requirements of L.R. 3-15(a). Tesla filed its
20 disclosure statement on December 26, 2023 (ECF 25) and will file any updated disclosures by May
21 2, 2024.

22 **18. Professional Conduct**

23 **a. EEOC**

24 The EEOC confirms that its attorneys of record have reviewed the Guidelines for
25 Professional Conduct for the Northern District of California.

26 **b. Tesla**

27 Tesla confirms that its attorneys of record have reviewed the Guidelines for Professional
28 Conduct for the Northern District of California.

1 **19. Such other matters as may facilitate the just, speedy, and inexpensive disposition of this**
2 **matter**

3 **a. Privilege**

4 The parties are negotiating whether certain categories of documents need not be included on
5 a privilege log.

6 **b. Electronic Service**

7 The parties stipulate to electronic service, with documents being deemed timely served if
8 they are emailed to the parties' attorneys of record and to their respective email lists (below) on or
9 before the date that the documents would otherwise be due to be served.

10 i. EEOC's Current Email List:

- 11 (a) James.baker@eeoc.gov
- 12 (b) Kena.cador@eeoc.gov
- 13 (c) Roberta.steele@eeoc.gov
- 14 (d) Marcia.mitchell@eeoc.gov
- 15 (e) SFDO_tesla@eeoc.gov

16 ii. Tesla Email List:

- 17 (a) Tom.hill@hklaw.com
- 18 (b) Sara.begley@hklaw.com
- 19 (c) Christina.tellado@hklaw.com
- 20 (d) Rcardozo@reedsmith.com
- 21 (e) Paul.bennetch@hklaw.com
- 22 (f) Billy.sahachartsiri@hklaw.com
- 23 (g) Deborah.rzepela-auch@hklaw.com

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26 ///

27 ///

28 ///

1 Dated: May 2, 2024

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3 Regional Attorney

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General Counsel

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5 Assistant Regional Trial Attorney

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LOCAL RULE 5-1(i)(3) ATTESTATION

I, James H. Baker, am the ECF User whose ID and password are being used to file the Joint Case Management Conference Statement. In compliance with Local Rule 5-1(i)(3), I hereby attest that Thomas E. Hill concurs in this filing.

Dated: May 2, 2024

/s/ James H. Baker
James H. Baker, Senior Trial Attorney