

1 Joseph R. Saveri (State Bar No. 130064)
 Steven N. Williams (State Bar No. 175489)
 2 Cadio Zirpoli (State Bar No. 179108)
 Christopher K.L. Young (State Bar No. 318371)
 3 Travis Manfredi (State Bar No. 281779)
 Kathleen McMahon (State Bar No. 340007)
 4 **JOSEPH SAVERI LAW FIRM, LLP**
 5 601 California Street, Suite 1000
 San Francisco, California 94108
 6 Telephone: (415) 500-6800
 Facsimile: (415) 395-9940
 7 Email: jsaveri@saverilawfirm.com
 8 swilliams@saverilawfirm.com
 czirpoli@saverilawfirm.com
 9 cyoung@saverilawfirm.com
 tmanfredi@saverilawfirm.com
 10 kmcmahon@saverilawfirm.com

11
 12 *Counsel for Individual and Representative
 Plaintiff and the Proposed Class*

13
 14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**

16 SEAN BOSE, individually and on behalf of all
 others similarly situated,

17 Plaintiff,

18 v.

19 TESLA, INC.,

20 Defendant.

Case No. 3:23-cv-1496

JURY DEMAND

CLASS ACTION COMPLAINT

1 Plaintiff Sean Bose (“Plaintiff”), on behalf of himself and the Class defined below, brings this
2 action against Tesla, Inc. (“Tesla”) brings this antitrust class action pursuant to Section 2 of the
3 Sherman Act. 15 U.S.C. § 2., and alleges, upon his personal knowledge as to himself and his own
4 actions, and upon information and belief, including the investigation of counsel, as follows:

5 **I. INTRODUCTION**

6 1. This case is about Tesla’s sustained efforts to wring profits from Plaintiff and those
7 similarly situated by monopolizing and maintaining to monopolize access to the parts and services
8 necessary to maintain and repair their vehicles.

9 2. Plaintiff seeks relief for himself and all those similarly situated that were forced to pay
10 supracompetitive prices and suffer exorbitant wait times to maintain and repair their Tesla vehicles.
11 These harms were caused by Tesla’s monopolization, attempted monopolization, exclusionary conduct,
12 and restraint of the markets for compatible replacement parts (“Tesla-Compatible Parts”) and
13 maintenance and repair services (“Tesla Repair Services”) for Tesla vehicles.

14 3. Historically, consumers of vehicles with internal combustion engines (“ICE Vehicles”)
15 have had multiple options for maintaining and repairing their motor vehicles after purchase. Owners of
16 ICE Vehicles could perform the work themselves, bring their vehicle to a dealership, or bring them to
17 an independent repair shop for maintenance or repair. In addition, the consumer could choose
18 aftermarket replacement parts, rather than only original equipment manufacturer (“OEM”) parts
19 manufactured and sold only by the original manufacturer, or those approved by the manufacturer.

20 4. Tesla owners, by comparison, can only obtain Tesla Repair Services at Tesla-owned
21 service centers or within the limited network of Tesla-approved service centers, which only offer
22 Tesla’s OEM parts. Tesla owners cannot repair their Tesla vehicles themselves because of Tesla’s
23 restrictions. Most independent repair shops are also precluded by Tesla from repairing Tesla vehicles.

24 5. Tesla, which has market power in the U.S. electric vehicle market (“EV Market”),
25 leverages that power to monopolize and restrain the markets for Tesla Repair Services and Tesla-
26 Compatible Parts. Tesla utilizes several mechanisms in tandem in order to maintain its monopoly
27 power and to enforce adherence to the anticompetitive scheme. For example, Tesla does this by, among
28 other things:

- 1 (a) Designing its vehicle warranties and related policies to discourage Tesla owners from
obtaining parts or services anywhere other than Tesla;
- 2 (b) Designing its vehicles so that maintenance and repairs require access to diagnostic and
3 telematic information accessible only through remote management tools exclusively
accessed by Tesla;
- 4 (c) Voiding the warranties of salvaged vehicles and permanently disabling their access to
5 Tesla's Supercharger network; and
- 6 (d) Limiting access to its manuals, diagnostic tools, vehicle telematic data, and original
equipment manufacturer ("OEM") replacement parts.

7 6. As a result of this anticompetitive course of conduct, Tesla has prevented independent
8 providers from entering the Tesla Repair Services market, prevented its OEM parts manufacturers from
9 producing Tesla-Compatible Parts for anyone other than Tesla, and prevented market entry by non-
10 OEM Tesla-Compatible Parts manufacturers.

11 7. This, in turn, has caused Tesla owners to not only suffer lengthy delays in repairing or
12 maintaining their EVs, but to also pay supracompetitive prices for those parts and repairs once they are
13 finally provided.

14 8. Tesla's unlawful monopoly of the Tesla Repair Services and Tesla-Compatible Parts
15 markets should be enjoined and dismantled, Tesla should be ordered to make its repair manuals and
16 diagnostic tools available to individuals and independent repair shops at a reasonable cost, and Plaintiff
17 and the proposed Class should be reimbursed by Tesla for the amounts they overpaid for Tesla Repair
18 Services and Tesla Compatible Parts. Accordingly, Plaintiff, on behalf of himself and all others
19 similarly situated, seeks declaratory and injunctive relief, treble damages, costs, and attorneys' fees.

20 **II. PARTIES**

21 9. Plaintiff Sean Bose is a resident of Orange County, California. Plaintiff purchased a
22 used Tesla Model S in 2021 and has paid Tesla for Tesla-Compatible Parts and/or Tesla Repair
23 Services during the Class Period (as defined below).

24 10. Defendant Tesla, Inc. ("Tesla") is a Delaware corporation with its principal place of
25 business located at 1 Tesla Road, Austin, Texas 78725. Tesla, Inc. is a party to the unlawful conduct
26 alleged herein.

1 **III. JURISDICTION AND VENUE**

2 11. This action arises under Section 2 of the Sherman Act, 15 U.S.C. § 2 and Section 4 of
3 the Clayton Act, 15 U.S.C. § 15. It is brought on behalf of Plaintiff and a proposed Class of similarly
4 situated individuals numbering more than 100, at least one of whom is a citizen of a state different from
5 the state Tesla is domiciled, and with an amount in controversy exceeding \$5 million, exclusive of
6 interest and costs.

7 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 (federal
8 question), 1332 (class action diversity jurisdiction), and 1337(a) (antitrust); and under 15 U.S.C. § 15
9 (antitrust).

10 13. This Court has personal jurisdiction over Tesla because it was headquartered in this
11 District for most of the relevant time period, a substantial portion of the EVs it has sold to consumers
12 are located within this District, and it transacted business and continues to maintain a factory in this
13 District.¹ Tesla further engaged in conduct that was directed at and had a direct, foreseeable, and
14 intended effect of causing injury to the business or property of persons residing in, located in, or doing
15 business throughout the United States, including in this District. Thus, the conduct complained of
16 herein caused injury to persons throughout the United States, but particularly within this District, and a
17 substantial portion of the conduct complained of took place in this District.

18 14. Venue is proper under 15 U.S.C. §§ 15(a) (Clayton Act) and 22 (nationwide venue for
19 antitrust matters), and 28 U.S.C. § 1391 (general venue provision). Tesla transacts substantial business
20 within this District, maintains significant operations, including a factory, in this District, and conducts
21 its affairs and carries out interstate trade and commerce, in substantial part, in this District.

22 15. The activities of Tesla, and all co-conspirators—whether unnamed or as of yet
23 unknown—as described herein, were within the flow of, were intended to, and did have a direct,
24 substantial, and reasonably foreseeable effects on the foreign and interstate commerce of the United
25 States.

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27
28 ¹ See <https://www.nbcdfw.com/news/local/texas-news/tesla-officially-moves-headquarters-from-california-to-texas/2829343/> (last accessed 1/31/23).

1 **IV. DIVISIONAL ASSIGNMENT**

2 16. Pursuant to Civil Local Rule 3-2(c) and General Order No. 44, venue for this antitrust
3 action is proper in any courthouse in this District.

4 **V. RELEVANT MARKETS**

5 **A. The EV Market.**

6 17. The EV Market is comprised of battery-electric motor vehicles designed and sold to be
7 operated on public streets. While there are numerous methods for getting from point A to point B,
8 people purchase EVs in particular because of their unique attributes, including, among other things, the
9 ability to comfortably transport multiple individuals to specific destinations located many miles apart
10 with zero carbon emissions.

11 18. While Tesla sometimes states that it competes in the “worldwide automotive market,” it
12 also acknowledges that EVs are a separate product market by consistently promoting “the development
13 of the electric vehicle market” and touting its superiority and “attractiveness” compared to the ICE-
14 vehicle market.²

15 19. That is why, according to one recent American Automobile Association (“AAA”) study,
16 96% of EV owners will *only* buy another EV as their next vehicle.³ As this study demonstrates, EV
17 owners do not consider other types of vehicles, including ICE Vehicles, to be reasonable substitutes for
18 EVs.

19 20. When analyzing market definition, federal antitrust enforcement agencies use a tool
20 called a “SSNIP test” whereby they examine whether a hypothetical monopolist could impose a small
21 but significant non-transitory increase in price (a “SSNIP”), typically 5%, without causing a sufficient
22 number of customers to switch to other products or services to render the SSNIP unprofitable to the
23 monopolist.

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25
26 ² See, e.g., Tesla 2021 Form 10-K at 11-12.

27 ³ See <https://www.realsimple.com/work-life/money/money-planning/electric-car-costs> (last accessed
28 1/31/23); [https://newsroom.aaa.com/2020/01/aaa-owning-an-electric-vehicle-is-the-cure-for-most-
consumer-concerns/?icid=mag_cars](https://newsroom.aaa.com/2020/01/aaa-owning-an-electric-vehicle-is-the-cure-for-most-consumer-concerns/?icid=mag_cars) (last accessed 1/31/23).

1 21. Not only do EVs already cost more than their similarly-equipped, ICE-vehicle
2 counterparts, EV prices have increased at a faster rate.⁴ For example, from January to May 2022, EV
3 prices jumped 22%, while non-EV motor vehicle prices increased only 14%.⁵ Despite the occasional
4 price decrease, Tesla, in particular, has been able to increase prices over time while also steadily
5 increasing overall sales.⁶ As noted by one journalist, “Tesla hasn’t appeared to have suffered from its
6 price hikes over the years, as the Model 3 was the world’s best-selling electric vehicle in 2021, with
7 about 540,000 units sold.”⁷ Thus, Tesla’s ability to increase prices without losing sales supports the
8 conclusion that the EV Market is properly defined.

9 22. Within the EV market, Tesla has long held the dominant position. For example, during
10 the first half of 2020, registration data showed that Tesla had nearly 80% market share in the United
11 States.⁸ While other companies have since increased their EV product offerings, Tesla still controls
12 65% of the EV Market, with Tesla’s Model 3, Model Y, Model S, and Model X vehicles comprising
13 the first, second, fourth, and sixth best-selling EVs in the United States, respectively.⁹

14 23. For these reasons, the United States EV Market is its own relevant market, in which
15 Tesla has market power.

16 **B. The Tesla Repair Services Market.**

17 24. The Tesla Repair Services market comprises various services to repair and maintain
18 Tesla EVs. Although the proposed Class includes individuals both whose Tesla EVs are still covered
19
20

21 ⁴ See [https://www.cnbc.com/2021/12/29/electric-vehicles-are-becoming-more-affordable-amid-spiking-](https://www.cnbc.com/2021/12/29/electric-vehicles-are-becoming-more-affordable-amid-spiking-gas-prices.html)
22 [gas-prices.html](https://www.cnbc.com/2021/12/29/electric-vehicles-are-becoming-more-affordable-amid-spiking-gas-prices.html) (last accessed 1/31/23) (stating that the average EV price is \$10,000 higher than average
price for all motor vehicles).

23 ⁵ See [https://www.businessinsider.com/electric-vehicle-prices-rise-22-percent-fossil-fuel-14-percent-](https://www.businessinsider.com/electric-vehicle-prices-rise-22-percent-fossil-fuel-14-percent-2022-6)
24 [2022-6](https://www.businessinsider.com/electric-vehicle-prices-rise-22-percent-fossil-fuel-14-percent-2022-6) (last accessed 1/31/23).

25 ⁶ See <https://getjerry.com/electric-vehicles/tesla-increased-prices-across-board#not-teslas-first-price-hike>
26 (last accessed 1/31/23).

27 ⁷ See <https://www.cnn.com/2022/03/16/cars/tesla-model-3-price-increase/index.html> (last accessed
1/31/23).

28 ⁸ See <https://electrek.co/2021/02/16/tesla-owns-electric-car-market-us/> (last accessed 1/31/23).

⁹ See <https://electrek.co/2023/01/09/the-top-10-best-selling-electric-vehicles-in-the-us-of-2022/> (last
accessed 1/31/23).

1 under warranty and those whose are not, this case is concerned only with repair and maintenance
2 services that are not covered under warranty.

3 25. For example, a Tesla EV owner would be considered a Class member if their Model S is
4 still covered under warranty, but they nonetheless paid for Tesla Repair Services because a particular
5 repair was deemed by Tesla not to be covered under warranty.

6 26. There are no viable substitutes for Tesla Repair Services, and they are not
7 interchangeable with services designed for other vehicles. Therefore, while the Tesla Repair Services
8 market is derivative of the EV market, it also comprises its own distinct product market.

9 27. Once consumers have purchased a Tesla EV, they are locked into repair and
10 maintenance services specific to their Tesla vehicles. It is difficult, if not impossible, to accurately
11 forecast how much repair and maintenance services will be required and what they will cost prior to
12 purchasing an EV. Compounding this problem, as discussed below, Tesla misleadingly tells consumers
13 that its EVs are specifically designed to require little or no maintenance.¹⁰

14 28. Moreover, the cost of an EV is considerably higher than the cost of an individual
15 maintenance or repair service, so—even ignoring Tesla’s monopoly in the EV market—it is not
16 economically feasible for a Tesla EV owner to switch to a different EV in order to avoid the high prices
17 and low supply of Tesla Repair Services.

18 29. In addition, new EV entrants—such as Rivian¹¹ and Lucid Motors¹²—impose similar
19 restraints as Tesla, thus further limiting alternatives for EV purchasers.

20 30. Thus, competition in the EV foremarket does not and cannot discipline prices or
21 anticompetitive conduct in the Tesla Repair Services aftermarket.

22 31. Absent the anticompetitive conduct alleged herein, the Tesla Repair Services market
23 should include services offered by Tesla as well as services offered by any third-party, independent
24

25 ¹⁰ See <https://www.tesla.com/service> (last accessed 2/3/23).

26 ¹¹ See
27 https://assets.rivian.com/2md5qhoeajym/4QCZtanQpDG0oFPAhaskR0/387b5d12f8c8d9f6cf9d9b271c033190/r1t_r1s-new-vehicle-limited-warranty-guide-us-en-us-20221202.pdf (last accessed 2/14/23).

28 ¹² See https://lucidmotors.com/media/document/Owner%27s+Manual+-+Lucid+Air-enUS_2022_30_1.pdf (last accessed 2/15/23).

1 service providers. As history has demonstrated in various other markets, the existence of independent
2 service providers promotes competition and leads not only to more service providers, it also leads to
3 better service and lower prices.

4 32. However, due to the anticompetitive course of conduct described herein, there are an
5 insignificant number of independent service providers from whom Tesla owners may turn to repair or
6 maintain their EVs.

7 33. Due to the exclusionary and monopolistic conduct discussed herein, consumers in the
8 Tesla Repair Services market suffer from lack of choice, long wait times, and supracompetitive prices.

9 34. Except for some basic maintenance services (*e.g.*, tire rotation), because of Tesla's
10 unnecessary restrictions, virtually all Tesla Repair Services can only be performed by Tesla or its
11 limited network of Tesla-approved facilities.

12 35. For these reasons, Tesla has market power in the U.S. Tesla Repair Services market.

13 **C. The Tesla-Compatible Parts Market.**

14 36. The Tesla-Compatible Parts market comprises the various parts used to repair and
15 maintain Tesla EVs. This case is concerned only with Tesla-Compatible Parts purchased by consumers,
16 not those covered under warranty.

17 37. Once consumers have purchased a Tesla EV, they are locked into using Tesla-
18 Compatible Parts specific to their Tesla vehicle for repairs and maintenance. It is difficult, if not
19 impossible, to accurately forecast how much money will need to be spent on Tesla-compatible parts
20 over the lifetime of an EV prior to purchase. Compounding this problem here, as discussed below,
21 Tesla misleadingly tells consumers that its EVs have fewer moving parts that could possibly need to be
22 replaced.¹³

23 38. The cost of an EV is considerably higher than the cost of an individual replacement part,
24 so it is not economically feasible for a Tesla EV owner to switch to a different EV in order to avoid the
25 high prices and low supply of Tesla-Compatible Parts. Thus, competition in the EV market does not
26 and cannot discipline prices or anticompetitive conduct in the Tesla-Compatible Parts market.

27
28 ¹³ See <https://www.tesla.com/service> (last accessed 2/3/23).

1 39. There are no viable substitutes for Tesla-Compatible Parts, and most parts are not
2 interchangeable with parts designed for use with other manufacturers' vehicles. Therefore, while the
3 Tesla-Compatible Parts market is derivative of the EV Market, it also comprises its own distinct
4 product market.

5 40. Absent the conduct complained of herein, the Tesla-Compatible Parts market would
6 include OEM parts sold by someone other than Tesla and non-OEM (*a.k.a.* "aftermarket") parts.
7 Traditionally in other markets, such as the ICE vehicle market, the wide-availability of OEM parts and
8 the existence of non-OEM aftermarket parts promotes competition and leads to greater supply, quicker
9 service, and lower prices.

10 41. However, due to the anticompetitive course of conduct described herein, there are few, if
11 any, non-OEM parts manufacturers. And Tesla limits consumer access to OEM parts.

12 42. As a result, consumers in the Tesla-Compatible Parts market suffer from lack of choice,
13 long wait times, and supracompetitive prices. Except for some basic parts (*e.g.*, tires), virtually all
14 Tesla-Compatible Parts are sold through Tesla and/or Tesla's app.

15 43. Accordingly, Tesla also has market power in the U.S. Tesla-Compatible Parts market.

16 **D. The Relevant Geographic Market.**

17 44. The relevant geographic market for each of the product markets discussed above is the
18 United States.

19 45. Motor vehicles designed to operate on public streets in the United States must meet
20 stringent regulatory requirements that are specific to this country. Accordingly, certain motor vehicles
21 are designed specifically for the U.S. market, and U.S. consumers generally do not purchase and import
22 motor vehicles designed for use outside the United States.

23 46. Similarly, U.S. Tesla owners do not and would not turn to parts manufactured for sale
24 outside the United States due to shipping costs and the fact that, due to differing regulatory
25 requirements, parts designed for use in foreign markets may not be compatible with parts designed for
26 use in the United States.

1 47. Lastly, U.S. Tesla owners do not and would not turn to service providers located outside
2 of the United States when servicing their EVs, as the cost and wait times associated with moving
3 vehicles and parts back and forth between countries would not be economically viable.

4 **E. Barriers to Entry.**

5 48. Significant barriers to entry exist in the EV, Tesla Repair Services, and Tesla-
6 Compatible Parts markets which enable Tesla to maintain its market power.

7 49. As discussed above, all three markets are impacted by complex regulatory and licensing
8 requirements. Moreover, *de novo* entry into the EV and/or Tesla-Compatible Parts markets would
9 require substantial capital investments in manufacturing facilities and creation of a nationwide
10 distribution network.

11 50. Most importantly, Tesla's own conduct alleged in this Complaint has created substantial
12 barriers to entry to the Tesla Repair Services and Tesla-Compatible Parts markets. Due to Tesla's
13 anticompetitive and monopolistic practices, a new entrant in either of these markets would effectively
14 be limited to competing for customers who either were no longer under warranty or were willing and
15 able to risk voiding their vehicle warranties. Moreover, they would need to service those customers
16 without reasonable access to the manuals, diagnostic software, telematic data, and replacement parts
17 necessary to properly service and maintain Tesla EVs.

18 **VI. FACTUAL ALLEGATIONS**

19 **A. Historical Background: The Right-to-Repair Movement and Guaranteeing Every**
20 **Consumer's Right to Maintain and Repair Their Property Themselves or at the**
21 **Independent Provider of Their Choice.**

22 51. Tesla is not the first manufacturer to restrict consumers' ability to maintain and repair
23 the products they purchase by limiting access to tools and components, or otherwise creating barriers
24 designed to hinder independent repair. Many manufacturers, spanning a wide variety of industries, have
25 tried to force purchasers to utilize the manufacturers' own maintenance and repair services in order to
26 extract even more profits from their consumers.

27 52. The "right-to-repair" movement refers to concerted efforts, including proposed and
28 enacted government legislation, aimed at protecting consumers' ability to maintain and repair the

1 products they purchase however they see fit, rather than being compelled to utilize the manufacturers'
2 offered services.

3 53. In 2012, Massachusetts voters passed a ballot initiative requiring OEMs selling motor
4 vehicles in that state to “provide access to their diagnostic and repair information system through a non-
5 proprietary vehicle interface.” Although legislators in Massachusetts repealed the law a year later and
6 replaced it with a compromise provision giving OEMs more time to make required technical changes,
7 other states began passing similar statutes.

8 54. Facing the potential for a variety of right-to-repair statutes with differing statutory
9 requirements, in January 2014, motor vehicle manufacturers and trade groups representing independent
10 repair shops and manufacturers of aftermarket parts entered into a Memorandum of Understanding (the
11 “2014 MOU”), creating a broad right to repair motor vehicles across the United States.

12 55. Every major motor vehicle manufacturer signed onto the 2014 MOU *except* Tesla.¹⁴

13 56. Notably, however, the 2014 MOU failed to address telematics—the data transmitted
14 wirelessly from the vehicle to the manufacturer. Without access to telematic data, independent repair
15 shops are unable to effectively service today’s “connected” vehicles. In response, in or around 2019,
16 various states (California, Georgia, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Missouri,
17 Montana, North Dakota, Nevada, New Hampshire, New Jersey, New York, Oregon, South Dakota,
18 Vermont, Virginia, Washington, West Virginia) began considering additional right-to-repair legislation.
19 Such efforts are still underway,¹⁵ which Tesla has actively fought.¹⁶

20 57. According to the Federal Trade Commission (“FTC”), another way manufacturers have
21 restricted consumers’ ability to self-repair or utilize independent maintenance and repair services—
22

23 ¹⁴ See Nixing the Fix: An FTC Report to Congress on Repair Restrictions (“Nixing the Fix”), at pg. 45,
24 n.249 https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf (last accessed 2/3/23).

25 ¹⁵ Massachusetts had a ballot initiative that would require OEMs to make telematics available to
26 independent repair shops, Ballot Question 1, which voters passed with overwhelming support in
27 November 2020. See <https://www.autocare.org/news/latest-news/details/2020/11/04/Consumers-to-Automakers-We-Want-the-Right-to-Repair-Our-Vehicles-6620> (last accessed 2/3/23).

28 ¹⁶ See <https://electrek.co/2020/10/14/tesla-fights-right-to-repair-initiative-over-cybersecurity-concerns/>
(last accessed 2/3/23).

1 besides limiting access to information, tools, and replacement parts—is by voiding vehicle warranties
2 when maintenance or repair services are performed by anyone other than the dealer.¹⁷

3 58. But, as explained by the FTC, manufacturers can restrict consumers from self-repair or
4 utilizing independent maintenance and repair services even when their warranties do not explicitly
5 require that all such services be performed by the manufacturer.¹⁸ This is accomplished by, among other
6 things:

- 7 • Designing products in such a way as to complicate or prevent repairs, or to make
independent repairs less safe;
- 8 • Making parts and repair information unavailable;
- 9 • Implementing policies or making statements that steer consumers to the manufacturer’s
repair networks and to the use of OEM parts;
- 10 • Disparaging non-OEM parts and independent repair;
- 11 • Application of patent rights and enforcement of trademarks;
- 12 • Software locks and firmware updates; or
- 13 • End User License Agreements.¹⁹

14 59. Thus, manufacturers like Tesla can and do utilize various methods to discourage
15 consumers from maintaining and repairing their own purchased goods or from having them serviced by
16 independent repair shops.

17 60. The Executive Branch, including the antitrust enforcement agencies, have begun to add
18 their voices to the chorus recognizing such conduct as anticompetitive. As explained by the U.S.
19 Department of Justice (“DOJ”) in a recent Statement of Interest filed in another right-to-repair class
20 action, such repair restrictions harm consumers in at least three ways:

- 21 • “First, repair restrictions can drive independent repair shops out of business by raising their
costs or denying them key inputs, which, in turn, leaves consumers with fewer choices.”
- 22 • “Second, manufacturers’ restrictions can delay repairs” by, among other things, “cutting the
23 number of repair shops available to consumers,” thus resulting in “fewer options for their
time-sensitive repairs” or otherwise “stymie[ing]” independent repairs.
- 24 • “Third, restrictions on repair aftermarkets can raise prices and reduce quality.”²⁰

25 ¹⁷ See Nixing the Fix at pg. 6.

26 ¹⁸ *Id.*

27 ¹⁹ *Id.*

28 ²⁰ Statement of Interest of the United States, *In re: Deere & Company Repair Servs. Antitrust Litig.*,
Case No. 3:22-cv-50188 (N.D. Ill. Feb. 13, 2023) [ECF No. 118], at pg. 2.

1 61. On July 9, 2021, President Biden issued his Executive Order on Promoting Competition
2 in the American Economy which, among other things, included the following provision:

3 To address persistent and recurrent practices that inhibit competition, the Chair of
4 the FTC, in the Chair’s discretion, is also encouraged to consider working with the
5 rest of the Commission to exercise the FTC’s statutory rulemaking authority, as
6 appropriate and consistent with applicable law, in areas such as:

7 . . .

8 (ii) unfair anticompetitive restrictions on third-party repairs or self-repair of
9 items²¹

10 62. As acknowledged by the White House’s accompanying fact sheet, “[p]owerful equipment
11 manufacturers . . . use proprietary repair tools, software, and diagnostics to prevent third-parties from
12 performing repairs.”²² Indicating one of the reasons for the Executive Order was to “[m]ake it easier and
13 cheaper to repair items you own by limiting manufacturers from barring self-repairs or third-party
14 repairs of their products.” This is why the Executive Order “[e]ncourages the FTC to limit powerful
15 equipment manufacturers from restricting people’s ability to use independent repair shops or DIY
16 repairs.”²³

17 **B. Tesla and the Emergence of the EV Market.**

18 63. Tesla was founded in Palo Alto, California in 2003, with the goal of producing EVs. Its
19 first vehicle, the Roadster, was released in 2008. That same year, Elon Musk became the CEO and
20 product architect, positions he still holds today (although the latter position has since been renamed
21 “Technoking”).²⁴ The original manufacturing facility, known as “Nummi,” continues to operate today
22 and is described by Tesla as “our hub for Model S, Model 3, Model X and Model Y production” and as
23 “one of the largest manufacturing sites in California.”²⁵ Between 2008 and 2012, Tesla produced and
24 sold approximately 2,400 Roadsters worldwide.²⁶

25 ²¹ See <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/> (last accessed 2/17/23).

26 ²² See <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/09/fact-sheet-executive-order-on-promoting-competition-in-the-american-economy/> (last accessed 2/17/23).

27 ²³ *Id.*

28 ²⁴ See <https://ir.tesla.com/corporate/elon-musk> (last accessed 1/31/23).

²⁵ See <https://www.tesla.com/fremont-factory> (last accessed 1/31/23).

²⁶ See <https://www.businessinsider.com/tesla-roadster-history-2016-3> (last accessed 1/31/23).

1 64. Defendant Tesla is a multinational automotive and clean energy company founded in
2 Palo Alto, California in 2003. By 2014, Tesla had become the largest automotive employer in the State
3 of California.²⁷ In December 2021, Tesla moved its headquarters to Austin, Texas. However, Tesla
4 maintains manufacturing facilities in Fremont, California, where it produces the Model S, Model 3,
5 Model X, and Model Y vehicles,²⁸ and, when announcing the move of its headquarters, told investors
6 that it still planned to increase output in the California plant by fifty percent.²⁹

7 65. To that end, on February 22, 2023, Tesla announced it was taking over Hewlett-
8 Packard’s original headquarters to use as Tesla’s “global engineering headquarters.”³⁰ At a press
9 conference held with California’s Governor that same day, Tesla’s CEO Elon Musk described it as
10 “effectively a headquarters of Tesla.”³¹ He further stated, “We’re a California-Texas company,” and
11 that Tesla is “kind of a dual-headquartered company.”³²

12 66. Using its factories, Tesla manufactures the foundational electric components of its EVs
13 (e.g., electric motors/drive units, battery packs, and chargers), while other components (e.g., ordinary
14 car parts, various EV parts, and raw materials) are purchased from suppliers around the world.³³ Some
15 of the components are acquired from a single source.³⁴ Moreover, some component suppliers enter into
16 contracts with Tesla that, among other things, provide that all tooling, supplies and materials used by
17 the supplier to manufacture parts for Tesla are owned by Tesla.

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21 ²⁷ See <https://www.caranddriver.com/news/a15365435/tesla-wins-california-is-now-the-states-largest-auto-employer/> (last accessed 2/9/23).

22 ²⁸ See <https://www.tesla.com/manufacturing> (last accessed 1/31/23).

23 ²⁹ See <https://arstechnica.com/cars/2021/10/tesla-relocates-from-california-sets-up-new-corporate-hq-in-texas/> (last accessed 2/9/23).

24 ³⁰ See <https://www.cnbc.com/2023/02/22/elon-musk-meets-with-california-gov-newsom-at-teslas-engineering-hq.html> (last accessed 3/3/23).

25 ³¹ *Id.*

26 ³² *Id.*

27 ³³ See <https://www.investopedia.com/ask/answers/052815/who-are-teslas-tsla-main-suppliers.asp> (last
28 accessed 1/31/23).

³⁴ See Tesla Motors, Inc. 2015 Form 10-K at pg. 9.

1 67. In 2009, Tesla unveiled the Model S, a full-size sedan priced at \$57,400 and deliveries
2 of the Model S began in June 2012.³⁵ Unlike the Roadster, which had a production capacity of several
3 hundred vehicles per year, the Model S had a production capacity of 400 vehicles per week.³⁶ Between
4 2015 and 2022, Tesla sold over 329,000 Model S sedans in the United States.³⁷

5 68. Tesla followed the success of the Model S with the Model X, a mid-size SUV
6 announced in 2013 and delivered to consumers beginning in late-2015.³⁸ The entry-level version, the
7 Model X 75D, started at \$81,200.³⁹ Between 2015 and 2022, Tesla sold over 142,000 Model X SUVs
8 in the United States.⁴⁰

9 69. Next, in 2016, Tesla introduced its first mass-market EV, a mid-size sedan called the
10 Model 3, priced around \$35,000.⁴¹ And in 2019, it unveiled the Model Y, a compact SUV priced at
11 \$47,000.⁴² Between 2017 and 2022, Tesla sold over 741,000 Model 3 sedans in the United States⁴³ and,
12 between 2020 and 2022, Tesla sold over 292,000 Model Y SUVs in the United States.⁴⁴

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19 ³⁵ See <https://www.tesla.com/blog/tesla-motors-sets-new-pricing-awardwinning-model-s> (last accessed
20 1/31/23).

21 ³⁶ See Tesla Fourth Quarter & Full Year 2012 Shareholder Letter, [https://www.tesla.com/blog/tesla-](https://www.tesla.com/blog/tesla-motors-sets-new-pricing-awardwinning-model-s)
22 [motors-sets-new-pricing-awardwinning-model-s](https://www.tesla.com/blog/tesla-motors-sets-new-pricing-awardwinning-model-s) (last accessed 1/31/23).

23 ³⁷ See <https://carfigures.com/us-market-brand/tesla/model-s> (last accessed 1/31/23).

24 ³⁸ See <https://www.theverge.com/2015/9/29/9414415/tesla-model-x-suv-launch-date> (last accessed
25 1/31/23).

26 ³⁹ See [https://getjerry.com/electric-vehicles/evolution-tesla-model-x-2016-2019#2016-the-model-x-](https://getjerry.com/electric-vehicles/evolution-tesla-model-x-2016-2019#2016-the-model-x-joins-the-tesla-family)
27 [joins-the-tesla-family](https://getjerry.com/electric-vehicles/evolution-tesla-model-x-2016-2019#2016-the-model-x-joins-the-tesla-family) (last accessed 1/31/23).

28 ⁴⁰ See <https://carfigures.com/us-market-brand/tesla/model-x> (last accessed 1/31/23).

⁴¹ See <https://www.cnn.com/2022/03/16/cars/tesla-model-3-price-increase/index.html> (last accessed
1/31/23).

⁴² See [https://www.theverge.com/2019/3/14/18264446/tesla-model-y-suv-compact-announcement-price-](https://www.theverge.com/2019/3/14/18264446/tesla-model-y-suv-compact-announcement-price-release-date-features-elon-musk)
release-date-features-elon-musk (last accessed 1/31/23).

⁴³ See <https://carfigures.com/us-market-brand/tesla/model-3> (last accessed 1/31/23).

⁴⁴ See <https://carfigures.com/us-market-brand/tesla/model-x> (last accessed 1/31/23).

1 70. By October 2022, Tesla had sold over three million EVs worldwide⁴⁵, generating \$134
2 billion USD in EV sales and leasing revenue.⁴⁶ In the United States alone, Tesla sold approximately 1.5
3 million EVs between 2015 and 2022.⁴⁷

4 71. Due in large part to Tesla’s success, adoption of EVs has accelerated dramatically. EV
5 registrations in the United States increased 536% between 2016 and 2021, from 87,000 per year to
6 466,000 per year.⁴⁸

7 72. In addition to selling EVs, Tesla also operates approximately 160 service centers in the
8 United States.⁴⁹ According to its Form 10-Ks filed with the U.S. Securities and Exchange Commission
9 (“SEC”), Tesla has generated \$12 billion USD in “Services & Other” Revenue, which includes, among
10 other things, non-warranty after-sales vehicle services.⁵⁰

11 73. An important aspect of Tesla’s success has been the development of its Supercharger
12 network, with Tesla owning and operating over 1,500 Supercharger locations throughout the United
13 States, covering 52 states/territories and 1,116 American cities.⁵¹ California alone has 305
14 Supercharger locations.

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⁴⁵ See <https://cars.usnews.com/cars-trucks/features/how-many-cars-has-tesla-sold> (last accessed
22 1/31/23).

23 ⁴⁶ Tesla Form 10-Ks for 2015-2021.

24 ⁴⁷ See <https://www.goodcarbadcar.net/tesla-us-sales-figures/> (last accessed 1/31/23).

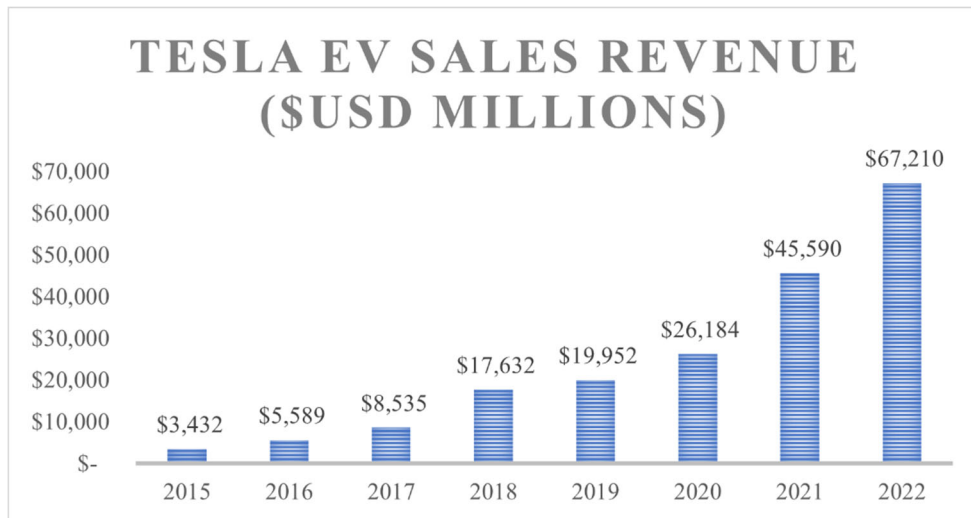
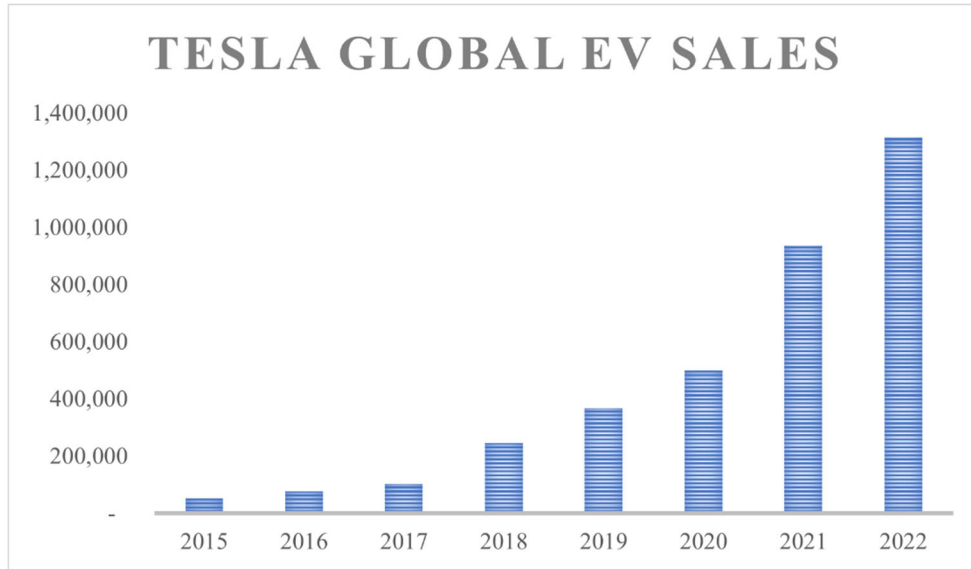
25 ⁴⁸ See [https://www.iea.org/data-and-statistics/charts/electric-car-registrations-and-sales-share-in-china-
26 united-states-europe-and-other-regions-2016-2021](https://www.iea.org/data-and-statistics/charts/electric-car-registrations-and-sales-share-in-china-united-states-europe-and-other-regions-2016-2021) (last accessed 1/31/23).

27 ⁴⁹ A list of all U.S. Tesla Service Centers can be found at
<https://www.tesla.com/findus/list/services/united%20states>.

28 ⁵⁰ Tesla Form 10-Ks for 2015-2021.

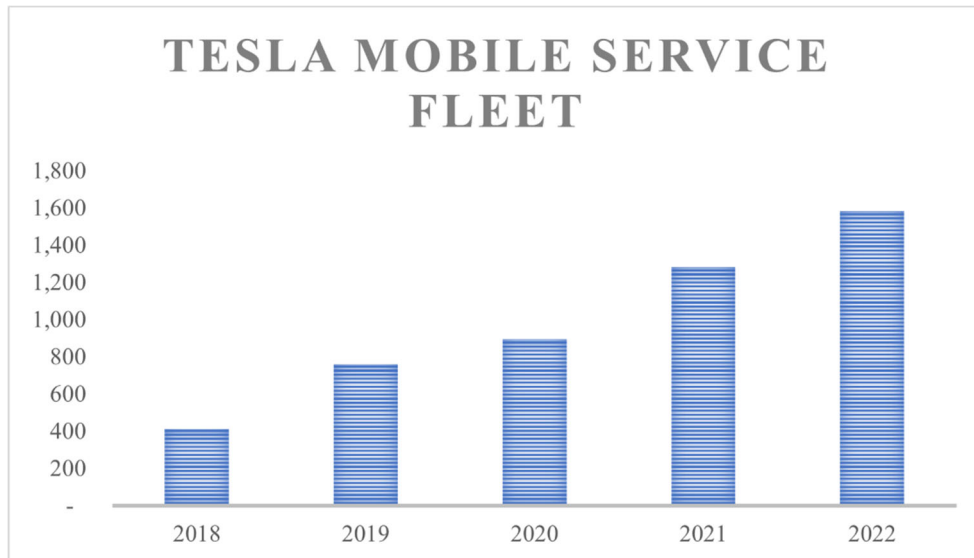
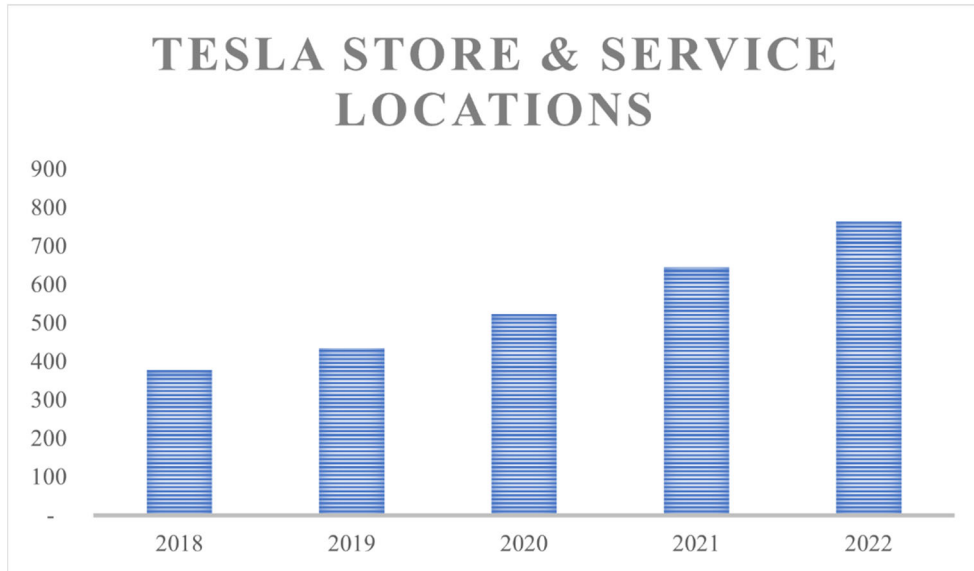
⁵¹ See <https://www.scrapehero.com/location-reports/Tesla%20Superchargers-USA/> (last accessed
1/31/23).

74. As a result, Tesla’s automotive sales figures keep rising. Since 2015, Tesla has sold over 3.5 million cars representing nearly \$200 billion USD in revenue worldwide.



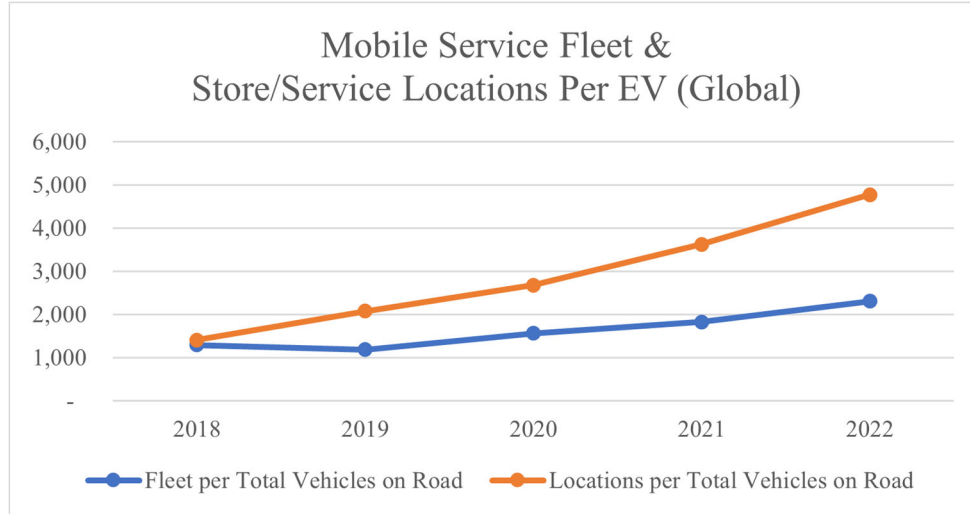
75. The number of Tesla store and service locations and the number of vehicles in Tesla’s Mobile Service Fleet have also grown, but at a much slower pace when compared to the number of Tesla EVs on the road.

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76. This is most apparent when comparing the number of Tesla’s Mobile Service Fleet and service locations⁵² to the cumulative number of Tesla EVs delivered over time—*i.e.*, the approximate number of Tesla EVs actually on the road.

⁵² Tesla’s SEC filings do not break out Tesla sales by location, nor do they differentiate between new stores versus new service locations. Therefore, these values are global and include new store locations as well as new service locations.



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C. Tesla Designs Its Vehicles Such That Repairs and Maintenance Require Access to Diagnostic Information, Telematics, and Tesla-Compatible Parts, But Then Limits Access to Them.

77. According to Tesla, one of the key advantages of EVs over ICE Vehicles is that EVs require less maintenance and result in fewer repairs. In fact, Tesla has long touted how “[w]ith no regularly scheduled maintenance and fewer moving parts to repair, we design every Tesla vehicle with the goal of eliminating the need for service. Paired with remote diagnostics and over-the-air software updates that regularly improve your car, you’ll spend less time in the shop and more time on the road.”⁵³

78. In practice, Tesla has fallen far short of these goals and promises. According to one recent analysis by J.D. Power, Tesla EVs experience 226 problems per 100 vehicles, whereas ICE Vehicles, on average, experience 175 problems per 100 vehicles.⁵⁴ As a result, Tesla ranks poorly in reliability rankings. JD Power recently found that Tesla had the third-worst reliability score of all motor

⁵³ <https://www.tesla.com/service> (last accessed 2/3/23).

⁵⁴ See <https://www.jdpower.com/business/press-releases/2022-us-initial-quality-study-iqs> (last accessed 2/3/23).

1 vehicle manufacturers.⁵⁵ Meanwhile, Consumer Reports recently ranked Tesla second-to-last in
2 reliability.⁵⁶

3 79. By designing its EVs such that repairs require access to remote diagnostics and over-the-
4 air software updates, Tesla effectively limits anyone other than Tesla from being able to provide
5 maintenance and repair services for its EVs.

6 80. As described by Tesla in a communication to its investors: “Our vehicles are designed
7 with the capability to wirelessly **upload data to us** via an on-board system with cellular connectivity,
8 **allowing us to diagnose and remedy** many problems before ever looking at the vehicle. When
9 maintenance or service is required, a customer can schedule service by contacting **one of our Tesla**
10 **service centers** or **our Tesla mobile technicians** can perform an array of services from a customer’s
11 home or other remote location.”⁵⁷

12 81. To ensure the owners of its EVs utilize only Tesla service centers and mobile technicians,
13 Tesla “has historically made it really hard for tinkerers [and independent repair shops] to be able to
14 repair and modify [Tesla] cars by limiting access to documentation and parts.”⁵⁸

15 82. Tesla resisted providing access to repair manuals and parts information. Indeed, it was
16 only due to legislation that Tesla began to release some of this information—Massachusetts residents,
17 thanks to its right-to-repair statute, are the only U.S. Tesla owners initially provided access to Tesla
18 repair manuals and parts information.

19 83. In or around August 2021, Tesla made some of its service manuals available online.
20 These manuals originally required the purchase of a \$3,187 annual subscription.⁵⁹ But in or around May
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23 ⁵⁵ See <https://www.jdpower.com/business/press-releases/2021-us-vehicle-dependability-study-vds> (last
24 accessed 2/7/23).

25 ⁵⁶ See <https://insideevs.com/news/549130/consumerreports-tesla-reliability-poor-2021/> (last accessed
26 2/7/23).

27 ⁵⁷ Tesla 2017 Form 10-K at 16 (emphases added).

28 ⁵⁸ <https://electrek.co/2018/10/29/tesla-parts-catalog-model-3-model-s-model-x-roadster-public/> (last
accessed 2/3/23).

⁵⁹ See [https://insideevs.com/news/587165/tesla-service-manuals-now-free-of-charge-grab-them-while-
you-can/](https://insideevs.com/news/587165/tesla-service-manuals-now-free-of-charge-grab-them-while-you-can/) (last accessed 2/3/23).

1 2022, Tesla’s website was revised to reflect that subscription costs were now complimentary.⁶⁰

2 However, diagnostic software still requires an annual subscription of \$3,000 per year.⁶¹

3 84. Even though Tesla has released repair and service manuals, Tesla has also limited access
4 to the parts needed to repair its EVs. While Tesla did open its parts catalog to the public in 2018,⁶²
5 consumers must submit an application to Tesla in order to actually make purchases or even view
6 prices.⁶³ This application is clearly targeted at professional repair shops (as opposed to individuals), as
7 indicated by questions asking for the “Applicant Shop Physical Address” and “Facility Pictures”
8 including photos of the applicant’s “Spray Booth” and “Parts Area.”⁶⁴

9 85. More importantly, even if an applicant is ultimately allowed to purchase replacement
10 parts from Tesla, numerous parts in Tesla’s catalog are unavailable for purchase. While some are listed
11 as “Over-the-Counter (No VIN),” many parts are listed as “Not for Resale” or “Restricted.”

12 86. Given the limited nature of the public access Tesla has granted to its manuals, diagnostic
13 software, and replacement parts, Tesla owners have few, if any, options for servicing their Tesla EVs
14 other than scheduling a service appointment with Tesla. In doing so, Tesla has constricted the supply and
15 access of its service manuals and parts, allowing it to control the price of these parts and services.

16 **D. Tesla’s Warranty and Related Policies Threaten Owners That They May Lose**
17 **Warranty Coverage If They Service Their EVs Anywhere Other Than Tesla.**

18 87. Another way in which Tesla limits those who purchase its EVs from repairing their own
19 vehicles or using independent repair shops is through its warranty and related policies. While Tesla’s
20 new vehicle warranties do not expressly require owners to purchase parts and service for their Tesla EVs
21 only through Tesla’s app, they strongly discourage owners from obtaining parts or services anywhere
22 else. If Tesla owners purchase parts and/or service outside Tesla’s app, they risk voiding their
23 warranties.

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25 ⁶⁰ *Id.* See also <https://service.tesla.com/service-subscription> (last accessed 2/3/23).

26 ⁶¹ *Id.*

27 ⁶² See <https://electrek.co/2018/10/29/tesla-parts-catalog-model-3-model-s-model-x-roadster-public/> (last
28 accessed 2/3/23).

⁶³ See <https://epc.teslamotors.com/#/catalogs> (last accessed 2/3/23).

⁶⁴ *Id.*

1 88. According to Tesla’s New Vehicle Limited Warranty for Model S, Model X, and Model
2 3 EVs sold in the United States and Canada:

3 Although Tesla does not require you to perform all service or repairs at a Tesla
4 Service Center or Tesla authorized repair facility, ***this New Vehicle Limited
5 Warranty may be voided or coverage may be excluded due to improper
6 maintenance, service or repairs.*** Tesla Service Centers and Tesla authorized repair
7 facilities have special training, expertise, tools and supplies with respect to your
8 vehicle and, in certain cases, may employ the only persons or be the only facilities
9 authorized or certified to work on certain parts of your vehicle. ***Tesla strongly
10 recommends that all maintenance, service and repairs be done at a Tesla Service
11 Center or Tesla authorized repair facility in order to avoid voiding, or having
12 coverage excluded under, this New Vehicle Limited Warranty.***⁶⁵

9 89. Echoing the warranty policies, the “Frequently Asked Questions” section of Tesla’s
10 Vehicle Warranty webpage includes the following:

11 **Do I have to take my vehicle to the Tesla Service Center?**

12 With over-the-air software updates, remote diagnostics and the support of our
13 Mobile Service technicians, the need for a Service Center visit is reduced. If your
14 vehicle does require service, you can schedule a service appointment in the Tesla
15 app. ***If you choose to take your vehicle to a non-Tesla shop for maintenance or
16 repairs, coverage under your warranty could be affected if problems occur.***⁶⁶

15 90. Similarly, the Tesla Parts, Body & Paint Repair Limited Warranty only covers “Tesla
16 branded and manufactured parts purchased directly from Tesla over-the-counter, online or purchased
17 and installed by Tesla Service or Tesla Body Shops.”⁶⁷ Moreover, labor charges to repair or replace
18 covered parts are only covered under Tesla’s parts warranty “[i]f the Part or Used Part was installed by
19 Tesla.”

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26 ⁶⁵ <https://www.tesla.com/sites/default/files/downloads/tesla-new-vehicle-limited-warranty-en-us.pdf>
(last accessed 2/3/23) (emphases added).

27 ⁶⁶ <https://www.tesla.com/support/vehicle-warranty> (last accessed 2/3/23) (emphases added).

28 ⁶⁷ See <https://www.tesla.com/sites/default/files/downloads/tesla-parts-accessories-body-repair-limited-warranty-en-us.pdf> (last accessed 3/13/23).

1 91. The Tesla Parts, Body & Paint Repair Limited Warranty further warns that it will “not
2 cover damage or malfunction directly or indirectly caused by . . . improper repair or maintenance,
3 including use of non-genuine Tesla accessories or Parts.”⁶⁸ It continues:

4 Although Tesla does not require you to perform all maintenance, service or repairs
5 at a Tesla Service Center or Tesla authorized repair facility, ***this Tesla Parts, Body
6 and Paint Limited Warranty may be voided, or coverage may be excluded, due to
7 lack of or improper maintenance, installation, service or repairs.*** Tesla Service
8 Centers and Tesla authorized repair facilities have special training, expertise, tools
9 and supplies with respect to Tesla Parts, Body and Paint repairs, and, in certain cases,
may employ the only persons, or be the only facilities authorized or certified to work
on Tesla Parts, Body and Paint. ***Tesla strongly recommends that you have all
maintenance, service and repairs done at a Tesla Service Center or Tesla
authorized repair facility in order to avoid voiding, or having coverage excluded
under, this Tesla Parts, Body and Paint Limited Warranty.***⁶⁹

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27 ⁶⁸ <https://www.tesla.com/sites/default/files/downloads/tesla-parts-accessories-body-repair-limited-warranty-en-us.pdf> (last accessed 2/3/23).

28 ⁶⁹ *Id.*

92. Tesla’s owners’ manuals more explicitly prohibit the use of non-OEM, Tesla-compatible parts, instead instructing owners only to use parts purchased from and installed by Tesla:

The screenshot shows the Tesla website for the Model 3 Owner's Manual. The navigation menu on the left includes sections like 'Model 3 Owner's Manual', 'Overview', 'Opening and Closing', 'Seating and Safety Restraints', 'Driving', 'Autopilot', 'Active Safety Features', 'Using the Touchscreen', 'Charging', 'Maintenance' (with sub-items: Maintenance Service Intervals, Tire Care and Maintenance, Cleaning, Wiper Blades and Washer Jets, Fluid Reservoirs, Jacking and Lifting), 'Parts and Accessories', 'Specifications', 'Roadside Assistance', and 'Consumer Information'. The main heading is 'Parts, Accessories, and Modifications'. Below the heading, there is a paragraph stating: 'Use only genuine Tesla parts and accessories. Tesla performs rigorous testing on parts to ensure their suitability, safety, and reliability. Purchase these parts from Tesla, where they are professionally installed and where you can receive expert advice about modifications to Model 3. Accessories are available for purchase from Tesla stores or online at www.tesla.com.' There are two callout boxes: a 'Note' box stating 'Some accessories may not be available in your market region.' and a 'Warning' box with a red triangle icon stating 'Installing non-approved parts and accessories, or performing non-approved modifications, can affect the performance of Model 3 and the safety of its occupants. Any damage caused by using or installing non-approved parts, or by performing non-approved modifications, is not covered by the warranty.'

93. Online forums, such as www.teslamotorsclub.com, are replete with stories by Tesla owners of Tesla invalidating warranties or otherwise refusing to honor warranties because owners had non-OEM, Tesla-compatible parts installed on their EVs.

1 94. In one example, Tesla refused to replace a cracked window under warranty, instead
2 charging an owner \$460, because the owner had installed a completely unrelated part—an aftermarket
3 puddle light—at the bottom of the car door.⁷⁰

4 95. However, it is even more common to find Tesla owners on these forums choosing not to
5 use independent repair shops or aftermarket parts in the first instance for fear of losing warranty
6 coverage.

7 96. In addition, Tesla’s “Unsupported or Salvaged Vehicle Policy” warns “[r]epairs
8 performed to bring a salvaged vehicle back into service may not meet Tesla standards or specifications
9 and that is why the vehicle is unsupported.”⁷¹ Among other things, vehicles designated “unsupported”
10 by Tesla have their warranties voided and access to Tesla’s Supercharger network permanently
11 disabled.⁷²

12 97. Thus, if a Tesla owner’s EV is deemed a salvaged vehicle and the owner has it repaired
13 anywhere other than Tesla, Tesla can unilaterally designate the vehicle as “unsupported,” thus voiding
14 the vehicle’s warranty and preventing the owner from using Tesla’s Supercharger network. Moreover,
15 according to some sources, Tesla not only disables supercharging on Tesla’s Supercharger network, it
16 also prevents vehicles from accessing third-party fast charging networks.⁷³

17 98. As discussed above, Tesla manufactures some components for its EVs, while it purchases
18 other components from suppliers around the world. As stated by Tesla itself:

19 Our vehicles use over 3,000 purchased parts which we source globally from over
20 350 suppliers. We have developed close relationships with several key suppliers
21 particularly in the procurement of cells and other key system parts. While we obtain
22 components from multiple sources in some cases, similar to other automobile
23 manufacturers, many of the components used in our vehicles are purchased by us
24 from a single source.⁷⁴

24 ⁷⁰ See <https://teslamotorsclub.com/tmc/threads/tesla-claims-warranty-is-void-due-to-aftermarket-puddle-lights.236475/> (last accessed 2/3/23).

25 ⁷¹ <https://www.tesla.com/legal/additional-resources#unsupported-or-salvaged-vehicle-policy> (last
26 accessed 2/9/23).

27 ⁷² *Id.*

28 ⁷³ See <https://insideevs.com/news/399152/tesla-disable-fast-charging-salvage/> (last accessed 2/9/23).

⁷⁴ Tesla Motors, Inc. 2015 Form 10-K at pg. 9.

1 99. Tesla further restricts the availability of both OEM and non-OEM Tesla-Compatible
2 Parts by, among other things, requiring at least some of its suppliers to enter into *de facto* exclusivity
3 agreements preventing those suppliers from manufacturing Tesla-compatible parts for anyone other
4 than Tesla.

5 100. For example, a contract between Tesla and Panasonic filed with the SEC in 2014 states:

6 The tooling, jigs, dies, gauges, fixtures, molds, patterns, other equipment
7 (collectively, the “Tooling”), as well as the supplies, materials, and other tangible
8 property that are or will be used by Seller to manufacture, store, and transport Goods,
9 or used to develop or make Goods for Tesla (such Tooling, supplies, materials and
other tangible property shall collectively be referred to as the “Property”) will be
owned by Tesla if Tesla has [***] (“Tesla Property”).⁷⁵

10 101. Such contract provisions are intentionally designed to prevent Tesla’s OEM parts
11 suppliers from producing Tesla-Compatible Parts for anyone other than Tesla. Absent such contract
12 provisions, Tesla’s OEM parts suppliers could sell Tesla-Compatible Parts to parties other than Tesla
13 (e.g., automotive parts distributors), who could then resell them to Tesla owners and independent repair
14 shops, thus promoting competition in the Tesla-Compatible Parts market.

15 **E. Tesla’s Monopolization of the Tesla Repair Services and Tesla-Compatible Parts**
16 **Markets Has Led to Artificially Inflated Prices, Decreased Supply, and Burdensome**
17 **Wait Times.**

18 102. The lack of competition in the Tesla Repair Services and Tesla-Compatible Parts
19 markets caused by Tesla’s misconduct has resulted in artificially inflated prices, insufficient supply,
and excessive wait times for Tesla owners looking to maintain or repair their EVs.

20 103. But for Tesla’s anticompetitive and monopolistic course of conduct, Tesla owners would
21 have similar maintenance and repair options as purchasers of ICE vehicles—*i.e.*, they would be able to
22 service their EVs themselves, at an independent repair shop, or at Tesla using OEM or non-OEM parts
23 purchased from a retailer, independent repair shop, or Tesla itself. Such competition would inevitably
24 lead to increased supply and lower prices.

25 104. Instead, Tesla owners are forced to buy Tesla Repair Services and Tesla-Compatible
26 Parts only from Tesla or the small number of Tesla-approved vendors and service providers. Not only

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28 ⁷⁵ <https://www.sec.gov/Archives/edgar/data/1318605/000119312516735804/d253219dex102.htm>
(redacted portion filed confidentially and unavailable online).

1 has this resulted in Tesla owners paying artificially inflated prices for Tesla Repair Services and Tesla-
2 Compatible Parts, but they also have been forced to suffer exorbitant wait times in receiving those parts
3 and services from Tesla.

4 105. The shortage in available service appointments and the frequency of backordered OEM
5 parts can be directly attributed to the lack of independent repair shops and non-OEM replacement parts
6 caused by Tesla's anticompetitive conduct.

7 106. Making matters worse, Tesla has not increased its service capacity at a sufficient pace to
8 keep up with its growth in EV sales.

9 107. Elon Musk, Tesla's CEO and "Technoking," acknowledged Tesla's service-related
10 shortcomings via Twitter: "Just reviewed Tesla's service locations in North America & realized we
11 have major gaps in geographic coverage! Sorry for this foolish oversight."⁷⁶

12 108. The shortcomings in Tesla's service are widely documented. In an investigative piece
13 done by Vox's Recode, journalists obtained over 1,000 consumer complaints filed with the FTC about
14 Tesla, more than 120 of which "discussed specific problems with service, delays, and parts."⁷⁷ As
15 further elaborated upon by Recode, "[t]he complaints point to all sorts of problems with the experience
16 of owning a Tesla vehicle, including an inadequate number of service centers, limited stock of
17 replacement parts, bad communication, poor manufacturing quality, and long wait times for repair
18 appointments."⁷⁸

19 109. Assuming one can get a service appointment, the cost of maintaining and repairing a
20 Tesla is higher than it should be:

21 The two biggest problems with repairing a Tesla are the wait time and cost. Owners
22 often wait weeks and even months for simple jobs to be finished. When an owner
23 does get their car repaired, the costs are often outlandish. [One right-to-repair
24 advocate] said that some shops charge upwards of \$200 an hour for labor alone. . . .
25 "Imagine coughing up \$200 an hour for a diagnostic fee. That's McLaren prices."⁷⁹

24 ⁷⁶ Twitter, @elonmusk, Oct. 16, 2018 at 6:30pm, available at
25 <https://twitter.com/elonmusk/status/1052356093534302208?s=20>.

26 ⁷⁷ <https://www.vox.com/recode/23318725/tesla-repair-mechanic-delay-electric-vehicles-ev> (last
27 accessed 2/9/23).

28 ⁷⁸ *Id.*

⁷⁹ [https://www.vice.com/en/article/93wy8v/newly-passed-right-to-repair-law-will-fundamentally-
change-tesla-repair](https://www.vice.com/en/article/93wy8v/newly-passed-right-to-repair-law-will-fundamentally-change-tesla-repair) (last accessed 2/9/23).

1 110. While Tesla charges \$200 an hour or more for Tesla Repair Services, the average hourly
2 rate for mechanic work in the United States is between \$75 and \$130.⁸⁰

3 111. In addition to the higher labor costs, Tesla replacement parts are also more expensive
4 than they would be if not for Tesla's anticompetitive conduct.

5 112. For example, a brand new OEM front drive unit for the Ford Mustang Mach-E (Part#:
6 7B000) can be purchased directly from Ford for \$2,094.28.⁸¹ A brand new OEM front drive unit for the
7 Chevy Bolt (Part#: 25202122) can be purchased directly from Chevrolet for \$2,171.74.⁸² Tesla's online
8 catalog states that the front drive unit assembly for the Model 3 (Part # 1120960-10-H) is "Restricted,"
9 and a **used** Tesla front drive unit sells online for \$9,500.⁸³

10 113. Taking labor and parts both into account, it should come as no surprise that maintenance
11 costs for Tesla's are higher than other motor vehicles. The average cost to maintain a Tesla EV is \$832
12 per year, whereas the average cost for all motor vehicles sold in the United States is only \$652 per
13 year.⁸⁴

14 114. The lack of supply and higher prices are compounded by Tesla's practice of simply
15 replacing parts or whole assemblies instead of devising repairs to address the issue. Consumers are thus
16 forced to buy a replacement part or unit rather than an inexpensive service or repair.

17 115. For example, according to one Tesla service employee speaking to a reporter who test
18 drove a Model Y, "the company only allows the service center to replace whole sections of the interior,
19 and not replace small parts (and even then, many small parts cannot be removed/replaced at all without
20 replacing the whole thing)."⁸⁵

21 _____
22 ⁸⁰ See <https://www.repairsmith.com/blog/how-much-does-mechanic-charge-per-hour/> (last accessed
23 2/9/23).

24 ⁸¹ <https://parts.ford.com/shop/en/us/engine/engine-electrical/drive-13813527-1> (last accessed 2/9/23).

25 ⁸² [https://parts.chevrolet.com/product/gm-genuine-parts-drive-motor-rotor-
26 25202122?bac=267455,224441,113051,151952,113030,300180,279479,130575,113023,113136,296149,
27 287372,112024,200252,114659,313607,232873,289991,112438,113121,113114,113123,308005,11768
28 1,113111](https://parts.chevrolet.com/product/gm-genuine-parts-drive-motor-rotor-25202122?bac=267455,224441,113051,151952,113030,300180,279479,130575,113023,113136,296149,287372,112024,200252,114659,313607,232873,289991,112438,113121,113114,113123,308005,117681,113111) (last accessed 2/9/23).

⁸³ <https://stealthev.com/product/tesla-front-drive-unit/> (last accessed 2/9/23).

⁸⁴ See <https://jalopnik.com/advisor/tesla-maintenance-cost/> (last accessed 2/7/23).

⁸⁵ [https://cleantechnica.com/2021/05/02/tesla-model-y-big-family-test-mostly-good-but-there-might-be-
one-death-star-type-weakness/](https://cleantechnica.com/2021/05/02/tesla-model-y-big-family-test-mostly-good-but-there-might-be-one-death-star-type-weakness/) (last accessed 2/9/23).

1 116. As another example, it is widely discussed on Tesla forums that 2018 and earlier Model
2 S Performance models have a defective rear-drive unit containing a faulty seal that often results in a
3 small leak, causing the part to fail.⁸⁶ Although a small handful of independent repair shops have
4 apparently engineered an inexpensive fix for this problem, Tesla tells owners of these vehicles that the
5 cost of replacing the rear-drive unit is \$7,500 and, oftentimes, recommends that the owner “scrap” the
6 car.⁸⁷

7 117. In yet another example, one Tesla Model 3 lessee accidentally drove over some road
8 debris which then struck and damaged the vehicle’s coolant system, causing coolant to leak from the
9 battery pack.⁸⁸ After towing the vehicle to a Tesla service center, the lessee was informed that the
10 damage was not covered by warranty, that the battery could not be repaired and would need to be
11 replaced, and that the cost of the replacement was \$16,000. Later, the lessee was put in contact with an
12 independent repair shop that had seen this issue before and devised a fix costing only \$700.

13 118. Such examples demonstrate how Tesla’s conduct and the lack of independent repair
14 shops directly impact Tesla EV owners.

15 **F. There Are No Legitimate Procompetitive Reasons for Tesla’s Right-to-Repair**
16 **Opposition.**

17 119. As discussed above, Tesla not only refused to sign onto the 2014 MOU, it also actively
18 fought passage of Massachusetts Ballot Question 1—the initiative aimed at providing consumers and
19 independent repair shops with access to wireless telematics systems like the ones used by Tesla.

20 120. In opposing Ballot Question 1, Tesla sent a letter to its Massachusetts customers urging
21 them to vote against the initiative, arguing, among other things, that the measure would open vehicles
22 to cyber-attacks.⁸⁹ Tesla provided no evidence to substantiate this claim.

23
24 ⁸⁶ See <https://teslamotorsclub.com/tmc/threads/out-of-warranty-drive-unit-replacement-and-cost.226436/>
25 (last accessed 2/3/23).

26 ⁸⁷ See <https://teslamotorsclub.com/tmc/threads/out-of-warranty-drive-unit-failure-service-center-recommends-to-scrap-the-car.273103/> (last accessed 2/3/23).

27 ⁸⁸ See <https://getjerry.com/insights/costly-tesla-fix-shows-right-to-repair-matters#a-tesla-drivers-dilemma> (last accessed 2/9/23).

28 ⁸⁹ See <https://fighttorepair.substack.com/p/teslas-a-vocal-opponent-of-the-right> (last accessed 2/9/23).

1 121. In its recent report to Congress regarding the impact of repair restrictions on consumers
2 and independent repair shops, the FTC addressed the arguments made by manufacturers generally, not
3 specific to Tesla, to justify their repair restrictions. Ultimately, the FTC’s extensive investigation found
4 “there is scant evidence to support manufacturers’ justifications for repair restrictions.”⁹⁰ In addition to
5 cybersecurity, the FTC addressed and refuted several other concerns identified by manufacturers in
6 defending their repair restrictions, including safety, quality of service, liability/reputational harm, and
7 consumer’s design preferences.

8 122. With respect to cybersecurity, the FTC found that “[t]he record contains no empirical
9 evidence to suggest that independent repair shops are more or less likely than authorized repair shops to
10 compromise or misuse customer data.”⁹¹

11 123. With respect to safety, the FTC noted that there was no factual support for
12 manufacturers’ assertions that “authorized repair persons are more careful or that individuals or
13 independent repair shops fail to take appropriate safety precautions, or that independent repair workers
14 who enter homes pose more of a safety risk to consumers than authorized repair workers.”⁹²

15 124. With respect to quality of service, the FTC pointed to a Consumer Reports survey
16 indicating that “consumers who used independent repair shops were more satisfied with repairs than
17 those who used factory service,” as well as a submission by the Auto Care Association that noted “70-
18 75% of consumers use independent repair shops due mostly to trust, convenience, and price,” before
19 concluding “[t]he record does not establish that repairs conducted by independent repair shops would
20 be inferior to those conducted by authorized repair shops if independent repair shops were provided
21 with greater access to service manuals, diagnostic software and tools, and replacement parts as
22 appropriate.”⁹³

23 125. With respect to liability/reputational harm, the FTC described how, despite asking for
24 data on the assertions made by manufacturers, “[m]anufacturers provided no empirical evidence to
25

26 ⁹⁰ Nixing the Fix at pg. 6.

27 ⁹¹ *Id.* at 31.

28 ⁹² *Id.* at 28.

⁹³ *Id.* at 38.

1 support their concerns about reputational harm or potential liability resulting from faulty third party
2 repairs.”⁹⁴

3 126. Finally, with respect to purportedly consumer-driven design choices, the FTC noted that
4 “[r]ight to repair advocates argue that consumers care about repairability, in addition to aesthetic
5 design, but do not have the necessary information at the point of sale to purchase products that are
6 repairable.”⁹⁵

7 VII. CLASS ACTION ALLEGATIONS

8 127. Plaintiff brings this lawsuit under Federal Rules of Civil Procedure 23(a), (b)(2) and
9 (b)(3) as representative of the following Class:

10 All persons or entities in the United States who paid Tesla for Tesla Repair
11 Services or Tesla-Compatible Parts March 2019 to the present (the “Class
Period”).

12 Excluded from the Class are Tesla, any entity in which Tesla has an interest,
13 any of Tesla’s parents, subsidiaries, affiliates, officers, directors, legal
14 representatives, successors and assigns, as well as any judge, justice, or
judicial officer presiding over this matter and the members of their
immediate families and judicial staff.

15 128. Plaintiff reserves the right to modify these definitions and/or to propose subclasses, as
16 appropriate, based on further investigation and discovery.

17 129. This action is being brought and may be properly maintained as a class action as it
18 satisfies the numerosity, commonality, typicality, adequacy, and superiority requirements of Federal
19 Rule of Civil Procedure 23(b)(3).

20 130. Numerosity. The members of the proposed Class are so numerous that joinder of all
21 members would be impracticable. The exact number of Class members is unknown to Plaintiff at this
22 time, but it is estimated to number in the hundreds of thousands. The identity of Class members is
23 readily ascertainable from Tesla’s records.

24 131. Typicality. Plaintiff’s claims are typical of the claims of the proposed Class because
25 Plaintiff paid Tesla for Tesla Repair Services and Tesla-Compatible Parts during the Class Period, and
26 his claims arise from the same anticompetitive course of conduct by Tesla.

27 ⁹⁴ *Id.* at 33.

28 ⁹⁵ *Id.* at 34.

1 132. Adequacy. Plaintiff will fairly and adequately represent the interests of the Class
2 members. Plaintiff's interests are coincident with, and not antagonistic to, those of the Class members.
3 Plaintiff is represented by attorneys experienced in the prosecution of class action litigation generally,
4 and in antitrust litigation specifically, who will vigorously prosecute this action on behalf of the Class.

5 133. Common Questions of Law and Fact Predominate. Questions of law and fact common to
6 the Class members predominate over questions that may affect only individual Class members because
7 Tesla has acted on grounds generally applicable to the Class. The following questions of law and fact
8 are common to the Class and predominate over any individual issues:

- 9 (a) Whether Tesla is a monopolist in the United States EV market;
10 (b) Whether Tesla is a monopolist in the United States Tesla Repair Services market;
11 (c) Whether Tesla is a monopolist in the United States Tesla-Compatible Parts market;
12 (d) Whether Tesla designed its warranty- and related-policies to discourage Tesla owners from
13 obtaining Tesla Repair Services or Tesla-Compatible Parts from anyone other than Tesla;
14 (e) Whether Tesla designed its vehicles such that maintenance and repairs require access to
15 diagnostics and telematics accessible only through remote management tools exclusively
16 accessed by Tesla;
17 (f) Whether Tesla unreasonably restricted access to its manuals, diagnostic tools, vehicle
18 telematic data, and OEM replacement parts;
19 (g) Whether Tesla used its contracts with OEM parts manufacturers to prevent other, non-OEM
20 parts manufacturers from producing Tesla-Compatible Parts;
21 (h) Whether Tesla's course of conduct was anticompetitive;
22 (i) Whether Tesla's course of conduct constitutes an unreasonable restraint of trade;
23 (j) Whether, absent Tesla's course of conduct, independent repair shops would have entered the
24 Tesla Repair Services or Tesla-Compatible Parts markets in the United States;
25 (k) Whether market entry by other participants would have encouraged competition, resulting in
26 lower prices or greater supply of Tesla Repair Services or Tesla-Compatible Parts in the
27 United States; and
28 (l) Whether Tesla's conduct should be enjoined or whether other appropriate equitable relief is
warranted.

134. Superiority. A class action will permit numerous similarly situated persons to prosecute
their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication
of evidence, effort, or expense. A class action will provide injured persons a method for obtaining
redress on claims that could not practicably be pursued individually. Plaintiff knows of no
manageability or other issue that would preclude maintenance of this case as a class action.

1 135. Injunctive relief. Tesla has acted or refused to act on grounds generally applicable to the
2 Class, making injunctive and corresponding declaratory relief appropriate with respect to the Class as a
3 whole.

4 **VIII. INTERSTATE TRADE & COMMERCE**

5 136. Tesla's anticompetitive conduct has taken place in, and negatively affected the
6 continuous flow of interstate trade and commerce in the United States in that, among other things, it
7 has:

- 8 (a) Sold EV, Tesla Repair Services, and Tesla-Compatible Parts to customers online and
9 through its physical store locations throughout the United States;
10 (b) Used the instrumentalities of interstate commerce to provide such goods and services
11 throughout the United States;
12 (c) In furtherance of its anticompetitive scheme alleged herein, traveled between states and
13 exchanged communications through interstate wire communications and via the U.S. mail;
and
14 (d) Through the anticompetitive scheme alleged herein, affected billions of dollars of
commerce.

15 **IX. ANTITRUST INJURY**

16 137. Tesla's anticompetitive conduct had the following effects, among others:

- 17 (a) Competition has been restrained or eliminated with respect to Tesla Repair
Services and Tesla-Compatible Parts, thus depriving purchasers of Tesla Repair
18 Services and Tesla-Compatible Parts of the benefits of free and open competition;
19 (b) The prices paid for Tesla Repair Services and Tesla-Compatible Parts have been
fixed, raised, stabilized, or maintained at artificially inflated levels; and
20 (c) In addition to paying artificially inflated prices, purchasers of Tesla Repair
Services and Tesla-Compatible Parts have suffered long wait times to receive
parts and services.

21 138. The purpose and effect of this anticompetitive course of conduct was to exclude
22 competition and raise, fix, or maintain the price for Tesla Repair Services and Tesla-Compatible Parts.
23 As a direct and foreseeable result, Plaintiff and the proposed Class paid supracompetitive prices for
24 Tesla Repair Services and Tesla-Compatible Parts during the Class Period.

25 139. By reason of the antitrust violations alleged herein, Plaintiff and the proposed Class have
26 sustained injury to their businesses or property, and as a result, have suffered damages.

27 140. These injuries—the payment of supracompetitive prices—are of the type that the
28 antitrust laws were intended to compensate and prevent.

1 X. CLAIMS FOR RELIEF

2 FIRST CLAIM FOR RELIEF
3 VIOLATION OF § 2 OF THE SHERMAN ACT, 15 U.S.C. § 2
4 Monopolization of the Tesla Repair Services Market
(On behalf of Plaintiffs and the Class)

5 141. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set
6 forth herein.

7 142. This cause of action is brought under Section 2 of the Sherman Act, 15 U.S.C. § 2,
8 which prohibits “monopoliz[ation of] any part of the trade or commerce among the several states, or
9 with foreign nations.”

10 143. Tesla has monopoly power in the EV, Tesla Repair Services, and Tesla-Compatible
11 Parts markets, including the ability to control prices and exclude competition in those markets.

12 144. Tesla willfully and intentionally engages in predatory, exclusionary, and anticompetitive
13 conduct with the design, purpose, and effect of unlawfully maintaining its monopoly in the Tesla
14 Repair Services market.

15 145. This anticompetitive conduct, which has unreasonably restrained and threatens to
16 continue unreasonably restraining competition in the Tesla Repair Services market, includes at least the
17 following:

- 18 (a) Implementing vehicle warranties and other policies designed to actively discourage Tesla
19 EV owners from obtaining Tesla Repair Services other than those offered by and through
Tesla;
- 20 (b) Designing its EVs such that most maintenance and repairs require access to diagnostics and
21 telematics accessible only through remote management tools exclusively accessed by Tesla;
and
- 22 (c) Limiting access to its manuals, diagnostic tools, vehicle telematic data, and OEM
replacement parts.

23 146. As a direct and proximate result of Tesla’s anticompetitive and monopolistic conduct,
24 Plaintiff and the proposed Class have suffered, and will continue to suffer, injuries of the type the
25 antitrust laws were intended to prevent, including, among other things, paying supracompetitive prices
26 for Tesla Repair Services, experiencing shortages of available service appointments and long wait times
27 in receiving Tesla Repair Services, and being generally deprived of the competitive benefits which
28

1 otherwise would have resulted from the option of servicing, repairing, and maintaining their EVs
2 themselves or through independent repair shops.

3
4 **SECOND CLAIM FOR RELIEF**
5 **VIOLATION OF § 2 OF THE SHERMAN ACT, 15 U.S.C. § 2**
6 **Attempted Monopolization of the Tesla Repair Services Market**
7 **(On behalf of Plaintiff and the Class)**

8 147. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set
9 forth herein.

10 148. Assuming, *arguendo*, Tesla did not have monopoly power in the Tesla Repair Services
11 market, at a minimum, Tesla has a dangerous probability of success in acquiring monopoly power in
12 that market.

13 149. Tesla willfully and intentionally engages in the predatory, exclusionary, and
14 anticompetitive conduct described herein with the design, purpose, and effect of attempting to
15 monopolize the Tesla Repair Services market.

16 150. Tesla's predatory, exclusionary, and anticompetitive conduct as alleged herein presents a
17 dangerous probability that Tesla will succeed, to the extent it has not succeeded already, in its attempt
18 to monopolize the Tesla Repair Services market. The unlawful objective of Tesla's attempt to
19 monopolize the Tesla Repair Services market is to control prices and restrain competition.

20 151. As a direct and proximate result of Tesla's anticompetitive and monopolistic conduct,
21 Plaintiff and the proposed Class have suffered, and will continue to suffer, injuries of the type the
22 antitrust laws were intended to prevent, including, among other things, paying supracompetitive prices
23 for Tesla Repair Services, experiencing shortages of available service appointments and long wait times
24 in receiving Tesla Repair Services, and being generally deprived of the competitive benefits which
25 otherwise would have resulted from the option of servicing, repairing, and maintaining their EVs
26 themselves or through independent repair shop.
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28

THIRD CLAIM FOR RELIEF
VIOLATION OF § 2 OF THE SHERMAN ACT, 15 U.S.C. § 2
Monopolization of the Tesla-Compatible Parts Market
(On behalf of Plaintiff and the Class)

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3 152. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set
4 forth herein.

5 153. This cause of action is brought under Section 2 of the Sherman Act, 15 U.S.C. § 2,
6 which prohibits “monopoliz[ation of] any part of the trade or commerce among the several states, or
7 with foreign nations.”

8 154. Tesla has monopoly power in the EV, Tesla Repair Services, and Tesla-Compatible
9 Parts markets, including the ability to control prices and exclude competition in those markets.

10 155. Tesla willfully and intentionally engages in predatory, exclusionary, and anticompetitive
11 conduct with the design, purpose, and effect of unlawfully maintaining its monopoly in the Tesla-
12 Compatible Parts market.

13 156. This anticompetitive conduct, which has unreasonably restrained and threatens to
14 continue unreasonably restraining competition in the Tesla-Compatible Parts market, includes at least
15 the following:

- 16 (a) Implementing vehicle warranties and other policies designed to actively discourage Tesla
17 EV owners from obtaining Tesla-Compatible Parts other than those offered by and through
18 Tesla;
19 (b) Limiting access to its manuals, diagnostic tools, vehicle telematic data, and OEM
20 replacement parts; and
21 (c) Using its contracts with OEM parts manufacturers to limit the availability of Tesla-
22 Compatible Parts from any source other than Tesla.

23 157. As a direct and proximate result of Tesla’s anticompetitive and monopolistic conduct,
24 Plaintiff and the proposed Class have suffered, and will continue to suffer, injuries of the type the
25 antitrust laws were intended to prevent, including, among other things, paying supracompetitive prices
26 for Tesla-Compatible Parts, experiencing parts shortages and long wait times in receiving Tesla Repair
27 Services and Tesla-Compatible Parts, and being generally deprived of the competitive benefits which
28 otherwise would have resulted from the option of utilizing Tesla-Compatible Parts from sources other
than Tesla to service, repair, and maintain their EVs.

FOURTH CLAIM FOR RELIEF
VIOLATION OF § 2 OF THE SHERMAN ACT, 15 U.S.C. § 2
Attempted Monopolization of the Tesla-Compatible Parts Market
(On behalf of the Class)

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3 158. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set
4 forth herein.

5 159. Assuming, arguendo, Tesla did not have monopoly power in the Tesla-Compatible Parts
6 market, at a minimum, Tesla has a dangerous probability of success in acquiring monopoly power in
7 those markets.

8 160. Tesla willfully and intentionally engages in the predatory, exclusionary, and
9 anticompetitive conduct described herein with the design, purpose, and effect of attempting to
10 monopolize the Tesla-Compatible Parts market.

11 161. Tesla's predatory, exclusionary, and anticompetitive conduct alleged herein presents a
12 dangerous probability that Tesla will succeed, to the extent it has not succeeded already, in its attempt
13 to monopolize the Tesla-Compatible Parts markets. The unlawful objective of Tesla's attempt to
14 monopolize the Tesla-Compatible Parts market is to control prices and restrain competition.

15 162. As a direct and proximate result of Tesla's anticompetitive and monopolistic conduct,
16 Plaintiff and the proposed Class have suffered, and will continue to suffer, injuries of the type the
17 antitrust laws were intended to prevent, including, among other things, paying supracompetitive prices
18 for Tesla-Compatible Parts, experiencing parts shortages and long wait times in receiving Tesla Repair
19 Services and Tesla-Compatible Parts, and being generally deprived of the competitive benefits which
20 otherwise would have resulted from the option of utilizing Tesla-Compatible Parts from sources other
21 than Tesla to service, repair, and maintain their EVs.

XI. PRAYER FOR RELIEF

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23 163. WHEREFORE, Plaintiff, on behalf of himself and the proposed Class defined herein,
24 respectfully requests that this Court:

25 A. Certify this action as a class action pursuant to Rule 23 of the Federal Rules of Civil
26 Procedure and appoint Plaintiff and Plaintiff's attorneys to represent the Class.

27 B. Adjudge and decree that misconduct alleged herein violates Section 2 of the Sherman
28 Act.

1 C. Grant injunctive and other equitable relief as is necessary to protect the interests of
2 Plaintiff and the Class, including, among other things: (i) an order permanently enjoining and
3 restraining Tesla, and its officers, directors, agents, servants, employees, attorneys, and all other
4 persons acting or claiming to act on their behalf from continuing to engage in the wrongful acts
5 described herein; and (ii) requiring Tesla to provide access to manuals, diagnostic tools, and vehicle
6 telematic data, at a reasonable cost, to individuals and independent repair shops.

7 D. Award damages to Plaintiff and the Class to the maximum amount allowed, and that
8 judgment in favor of Plaintiff and the Class be entered against Tesla in an amount to be trebled to the
9 extent the laws permit.

10 E. Award pre- and post-judgment interest, as provided by law, and that such interest be
11 awarded at the highest legal rate from and after the date of service of this Complaint.

12 F. Award Plaintiff and the Class their reasonable costs and expenses incurred in this action,
13 including counsel fees and expert fees.

14 G. Grant such other and further relief as the Court deems appropriate.

15 **XII. DEMAND FOR JURY TRIAL**

16 164. Plaintiff hereby demands a trial by jury for all claims so triable.
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1 Respectfully submitted,

2 Dated: March 29, 2023

By: /s/ Joseph R. Saveri
Joseph R. Saveri

3
4 Joseph R. Saveri (State Bar No. 130064)
5 Steven N. Williams (State Bar No. 175489)
6 Cadio Zirpoli (State Bar No. 179108)
7 Christopher K.L. Young (State Bar No. 318371)
8 Travis Manfredi (State Bar No. 281779)
9 Kathleen J. McMahon (State Bar No. 340007)
10 **JOSEPH SAVERI LAW FIRM, LLP**
11 601 California Street, Suite 1000
12 San Francisco, California 94108
13 Telephone: (415) 500-6800
14 Facsimile: (415) 395-9940
15 Email: jsaveri@saverilawfirm.com
16 swilliams@saverilawfirm.com
17 czirpoli@saverilawfirm.com
18 cyoung@saverilawfirm.com
19 tmanfredi@saverilawfirm.com
20 kmcmahon@saverilawfirm.com

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22 *Counsel for Individual and Representative*
23 *Plaintiff and the Proposed Class*
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