



Explosive Punitive Damages in California Employment Cases and Why They Matter

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Key Takeaway

The recent Tesla verdicts and recent class action lawsuit by the Department of Fair Employment and Housing demonstrate that employers can still be subject to large punitive damage awards, and in light of this, plaintiffs' counsel are likely to file class action lawsuits and more individual lawsuits.

In the past six months, juries have awarded huge punitive damages awards in individual California employment cases. Given that these individual cases could also proceed as class actions, it is important to examine the frequency and reasoning behind the juries' decisions.

For example, Tesla Inc. faced an individual race discrimination lawsuit in which Owen Diaz, a former elevator operator at Tesla's Fremont factory, alleged that he faced harassment and racial slurs. At trial, Mr. Diaz argued that the use of racial slurs was pervasive and virtually everywhere at the Fremont factory, and that the working conditions were so physically demanding and unacceptable that many Black employees quit. On October 4, 2021, the jury awarded Mr. Diaz \$6.9 million for emotional distress and \$130 million in punitive damages.^[1] Notably, Melvin Berry, another former Tesla worker, was awarded more than \$1 million in an arbitration over the company's failure to stop his supervisors from using racist epithets.^[2] The award became public after Mr. Berry's attorney filed a petition in court to enforce the arbitrator's order. The Tesla Fremont factory employs approximately 10,000 workers.

Repeat claims, especially ones generating large headlines, can lead to additional lawsuits and class action claims. As noted above, the Tesla Fremont factory employs around 10,000 workers, and has faced several proposed class action lawsuits since at least 2017. But on February 10, 2022, the California Department of Fair Employment and Housing sued Tesla for discriminating against its Black workers after receiving hundreds of complaints. The Department also alleged that it found evidence that the Fremont factory is a racially segregated workplace, including that the factory's Black workers are subjected to racial epithets and slurs and are discriminated against for job assignments, discipline, pay, and promotion. Notably, the complaint references both Mr. Diaz and Mr. Berry's lawsuits and awards in support of the Department's allegations.^[3]

<https://www.nytimes.com/2021/10/04/business/tesla-racism-lawsuit.html>

<https://www.bloomberg.com/news/articles/2021-08-05/ex-tesla-employee-called-racial-slur-wins-rare-1-million-award>

<https://ca-times.brightspotcdn.com/e8/c4/932fafa44013b4e7a4bc082b9615/dfeh-tesla-complaint.pdf>

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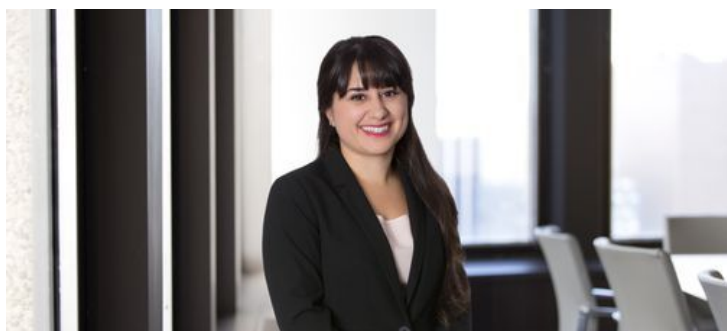
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