

1
2
3
4
5
6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 IN AND FOR THE COUNTY OF ALAMEDA

8 MARCUS VAUGHN, et al,

No. RG17-882082

9
10 Plaintiffs/Petitioners,

[TENTATIVE] ORDER ON MOTION TO
DECERTIFY THE CLASS

11 v.

Date: 11/14/25
Time: 9:30 a.m.
Dept.: 15

12 TESLA, INC, et al,

13 Defendants/Respondents.
14
15

16
17 The Court heard the motion of Tesla to decertify the class on November 14, 2025, in
18 Department 15, the Honorable Peter Borkon presiding. Counsel appeared on behalf of Plaintiffs
19 and on behalf of Defendant. After consideration of the issues, as well as the oral argument of
20 counsel, IT IS ORDERED:

21
22 MOTION TO DECERTIFY THE CLASS

23 The motion of Tesla to decertify the class is GRANTED.

24 On 5/17/24, the Court granted the motion of plaintiffs to certify the class on three
25 common issues. (*Vaughn v. Tesla, Inc.* (Cal. Super. 5/17/2024) 2024 WL 2786025.) The Order
26

1 states: “The trial court is ultimately required to manage any class trial so that the trial provides
2 due process to both the absent class members and to the defendant. ... The court is confident that
3 the court and the parties can manage a trial where the jury will make findings on the common
4 particular fact issues.” (2024 WL 2786025, at *25.)

5 The parties stipulated that the issue of whether there was a pattern or practice of race
6 harassment could be presented through 200 representative worker witnesses and that the same
7 was agreed to be *Duran* compliant. The Order of 3/24/25 adopted that stipulation and turned it
8 into a Court order. The Court has issued three orders on how the sampling protocol will work at
9 trial. (*Vaughn v. Tesla, Inc.* (Cal. Super. 2/26/2025) 2025 WL 747596; *Hendrix v. Tesla, Inc.*
10 (Cal. Super. 3/14/2025) 2025 WL 1095300, at *1; *Vaughn v. Tesla, Inc.* (Cal. Super. 4/17/2025)
11 2025 WL 1213281.) The parties proceeded for months in an effort to implement the sampling
12 protocol and take depositions of 200 representative witnesses.
13

14 On 9/17/25, Plaintiffs filed a motion to modify the trial plan. Class counsel stated there
15 was a dilemma beyond their control because deponents were not appearing for their depositions
16 and anticipated that witnesses might not appear for trial. Class counsel proposed a different trial
17 plan. The Court denied that motion, stating:
18

19 The court can alter the trial plan, but the court will do so only if the court has
20 confidence that the resulting trial will provide benefits to the court and the parties
21 and will provide due process to the parties. ... The court can be innovative in how
22 it permits the parties to present their claims and defenses, but the court will not
23 proceed with a class trial that fails to provide due process. In this class trial, the
24 due process concern is whether the jury can reliably extrapolate from the
experiences of the trial witnesses to the 14,000 members of the class as a whole.
(*Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1, 49 [“the sample relied
upon must be representative and the results obtained must be sufficiently reliable
to satisfy concerns of fundamental fairness”].)

25 (*Vaughn v. Tesla, Inc.* (Cal. Super. 10/15/2025) 2025 WL 2997263, at *2.)
26

1 On 10/22/25, Tesla filed this motion to decertify the class. Plaintiffs' response states:
2 "Plaintiffs accept that the logical consequence of the Court denying the Trial Plan Motion is that
3 the class must be decertified based upon the absence of a manageable trial plan." (Pltf Response
4 at 1:5-6.) The Court GRANTS the motion to decertify the class.

5 This order is based on the facts of this case and should not be read to suggest that a class
6 trial on whether there is a pattern or practice of workplace harassment is inherently
7 unmanageable. In any class case about a pattern or practice of race harassment, the parties can
8 stipulate to a trial plan. In the absence of a stipulation, the class had the burden of filing a
9 motion supported by expert testimony explaining why a proposed representative sample would
10 be appropriate. (*Duran*, 59 Cal.4th at 42 ["If sampling is used to estimate the extent of a party's
11 liability, care must be taken to ensure that the methodology produces reliable results. With input
12 from the parties' experts, the court must determine that a chosen sample size is statistically
13 appropriate and capable of producing valid results within a reasonable margin of error."].)

14 In this case, the parties stipulated that the issue of whether there was a pattern or practice
15 of race harassment could be presented through 200 representative worker witnesses and that the
16 sample was agreed to comply with *Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1. The
17 Court was prepared to proceed on the three certified issues through a trial based on the
18 experiences of 200 representative worker witnesses.

19 In this case, the motion of Plaintiffs to modify the trial plan was based on the difficulty in
20 getting witnesses to appear for deposition and for trial. This legitimate concern about the
21 difficulty in gathering admissible evidence for trial is distinct from the issue of whether the trial
22 plan would have provided due process to the parties if the class claim had been presented at trial.
23 (*Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821 [class trial must "be fair to the litigants and
24
25
26

1 expedient in serving the judicial process”].) The class never presented any expert testimony on
2 the variability of the experiences of the members of the class and whether a sample size of fewer
3 than 200 might have been appropriate. (*Duran*, 59 Cal.4th at 42 [“The more diverse the
4 population, the larger the sample must be in order to reflect the population accurately. The more
5 homogeneous the population, the fewer cases that need to be sampled.”]; *Vaughn v. Tesla, Inc.*
6 (Cal. Super. 10/15/2025) 2025 WL 2997263, at *2 [“If the class has minimal variation, then the
7 sample can be small. [Cases] If the class has significant variation, then sample must be larger
8 ...”].) In this case, the parties presented a stipulation on that issue. The court does not now
9 make a finding on that issue.¹

11 In this case, plaintiffs state that a class “should have been certified according to the well-
12 recognized *Teamsters* approach.” (Pltf Response at 2:10-11.) The Court’s class certification
13 order considered *Teamsters* and states:

14 This model [adopted by the trial court] is similar to, but different from, the
15 *Teamsters* two-phase trial. It is similar because the court and the parties will have
16 the benefit of a single resolution of the common particular issues, and then the
17 individual workers will prosecute their individual claims in jury trials. It will be
18 different because instead of the claims being resolved in a single case, the claims
19 of the individuals will be presented in separately filed cases that will then be
20 resolved in jury trials. The court will grant class certification for resolution of
21 common particular fact issues under this model.

22 (*Vaughn v. Tesla, Inc.* (Cal. Super. 5/17/2024) 2024 WL 2786025, at *13.) Even if the class had
23 been certified under the *Teamsters* approach, in the first phase of trial about the alleged pattern
24 or practice the class would still have needed to present evidence that could be reliably

25 ¹ Plaintiffs state: “In granting Defendant’s Decert Motion, the Court should not make any
26 reference to class member variations, since there is no record of such variations.” (Pltf Response
at 4:9-10.)

1 extrapolated to the class as a whole. In *Teamsters*, the Government presented statistical evidence
2 that suggested discrimination (not harassment) and “bolstered its statistical evidence with the
3 testimony of individuals who recounted over 40 specific instances of discrimination.”
4 (*Teamsters*, 431 U.S. at 338.) In *Teamsters*, the Court did not address whether the evidence of
5 the 40 witnesses in the first phase trial was adequate to support the finding of a pattern or
6 practice. On plaintiff’s September motion to modify the trial plan, plaintiffs argued that it was
7 unduly burdensome and problematic for class counsel to gather testimony from and to present
8 the testimony of 200 representative worker witnesses.² Plaintiffs did not, however, present any
9 expert testimony to support their assertion that the smaller sample in their proposed revised trial
10 plan would permit the jury to reliably extrapolate from the evidence presented at trial to the class
11 as a whole.
12

13 14 PROCEDURAL ISSUES FOR ABSENT CLASS MEMBERS

15 NOTIFICATION TO THE ABSENT CLASS MEMBERS. The Court ORDERS that
16 class counsel must distribute a notice to the absent class members stating that court has
17 decertified the class and how that affects the absent class members. Plaintiffs agree to meet and
18 confer with Tesla regarding notice to absent class members.
19

20 TOLLING EFFECT OF THE ACTION ON THE STATUTE OF LIMITATIONS. In the
21 Class Certification Order, this Court states: “The court orders that the equitable tolling effect of
22 this putative class action ends ten days after notice is given to the class of the limited issues class
23
24

25 ² Plaintiffs state: “Plaintiffs do not admit anything other than that Plaintiffs cannot obtain
26 200 randomly-selected absent class members to attend depositions and the issues-only, non-
damages class trial.” (Pltf Response at 3:9-11.)

1 certification.” (*Vaughn v. Tesla, Inc.* (Cal. Super. 5/17/2024) 2024 WL 2786025, at *13.) The
2 Court issues no additional orders on tolling of claims pursued in court.

3 In the Class Certification Order, this Court states: “The court expressly does not address
4 or decide whether this formerly putative and now certified class action has the effect of tolling
5 the statute of limitations for any claims that Tesla workers seek or are compelled to pursue in
6 arbitration. The statute of limitations is an affirmative defense that Tesla would need to assert in
7 any arbitration.” (*Vaughn v. Tesla, Inc.* (Cal. Super. 5/17/2024) 2024 WL 2786025, at *13.) The
8 Court issues no additional orders on tolling of claims pursued in arbitration.
9

10 11 CMC ISSUES AND PROCEDURAL ISSUES FOR NAMED PLAINTIFFS

12 The Third Amended Complaint filed 6/20/24 is the operative complaint. The named
13 plaintiffs are: (1) Marcus Vaughn, (2) Monica Chatman, (3) Titus McCaleb, (4) Chanel Hendrix,
14 and (5) Garret Parker.

15 MOTION(S) TO COMPEL ARBITRATION. Tesla states it might file motions to
16 compel Hendrix and Parker to arbitrate some or all of their claims. Tesla may file any such
17 motions. The Court does not address or decide the merit of such motions.
18

19 Plaintiffs raise the issue of public injunctive relief. The Court does not address whether
20 the agreements are void because they do not permit that relief or whether, if granted, the
21 arbitrator could award public injunctive relief. (*Vaughn v. Tesla, Inc.* (2023) 87 Cal.App.5th
22 208, 228.) The Court similarly does not address whether any injunctive relief would need to be
23 limited to the plaintiff’s immediate work environment or could apply to the entire Tesla factory
24 as was asserted in the class context. (*Aguilar v. Avis Rent A Car System, Inc.* (1999) 21 Cal.4th
25
26

1 121 [trial court limited injunction to John Lawrence, who was “the service station manager” who
2 “verbally harassed [plaintiffs] constantly”].)

3 MOTIONS FOR SUMMARY JUDGMENT. There will be a limited period of time
4 before the trial(s). The court cannot order a compressed schedule for motions for summary
5 judgment, but the parties may by stipulation agree to a compressed schedule. (*Robinson v.*
6 *Woods* (2008) 168 Cal.App.4th 1258, 1262–1263.) The statute on motions for summary
7 judgment changed effective 1/1/25, changing the filing schedule (CCP 437c(a)) and stating that
8 “The reply shall not include any new evidentiary matter” (CCP 427c(b)(4)).
9

10 The court encourages the parties to consider the purpose for and use of separate
11 statements. *Beltran v. Hard Rock* (2023) 97 Cal.App.5th 865, provides guidance to the parties on
12 the purpose and use of a separate statement of undisputed facts. (See also *Insalaco v. Hope*
13 *Lutheran Church of West Contra Costa County* (2020) 49 Cal.App.5th 506, 521.) The court
14 encourages the parties to consider what facts are truly material. “[I]f a triable issue is raised as to
15 any of the facts in your separate statement, the motion must be denied!” (*Nazir v. United*
16 *Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252.)
17

18 The court encourages the parties to consider what “evidentiary objections they consider
19 important, so that the court can focus its rulings on evidentiary matters that are critical in
20 resolving the summary judgment motion.” (*Reid v. Google* (2010) 50 Cal.4th 512, 532-533.)
21 (See also *Castillo v. Toll Bros., Inc.* (2011) 197 Cal.App.4th 1172, 1189 and 1211 [trial court
22 ruled on “focused” objections and not the “repetitive, boilerplate evidentiary objections”].)

23 TRIAL STRUCTURE. The Third Amended Complaint has five plaintiffs. Tesla
24 indicates that it intends to file a motion to sever the claims of the five plaintiffs so that they
25
26

1 proceed in five separate trials, or some lesser number of trials. (CCP 598; CCP 1048.) Tesla
2 may file such a motion. The Court issues no orders on severance.

3 The Court encourages the parties to discuss the facts of the five plaintiffs when meeting
4 and conferring on trial structure and, if required, filing and opposing any motion to sever. The
5 allegations in the Third Amended Complaint preliminarily suggest that each plaintiff should
6 proceed to trial separately because the five plaintiffs apparently worked at different times in
7 different locations and experienced different alleged harassment. There is no allegation that any
8 two plaintiffs personally experienced or observed the same harassment or discrimination. Marcus
9 Vaughn worked from April 23, 2017, through October 31, 2017, on the production floor as a
10 General Assembly Associate. Vaughn complained of specific harassment. (3AC para 17-20.)
11 Monica Chatman worked from November 16, 2016, through approximately September 11, 2019,
12 as a Forklift Operator on the General Assembly Line and the Model 3 Line. Chatman
13 complained of specific harassment. (3AC para 21-28.) Titus McCaleb worked from October
14 26, 2016, through approximately June 2, 2017, on the production floor. McCaleb complained of
15 specific harassment. (3AC para 29-33.) Chanel Hendrix worked from December 8, 2020,
16 through an undetermined date. Hendrix complained of specific harassment. (3AC para 34-39.)
17 Garrett Parker worked from May 2020 through an undetermined date as a Material Handler.
18 Parker complained of specific harassment. (3AC para 40-45.)

21 Assuming severance, the Court encourages the parties to reach a stipulation so that the
22 orders on legal issues or evidentiary matters that the court makes in the earlier trials will be
23 applicable in the later cases so the parties can avoid revisiting issues that the Court has decided
24 in an earlier case while also preserving their appellate records in each case.
25
26

1 SCHEDULING OF TRIALS. The court set the case for trial on 4/27/26 assuming that
2 that trial would be a class case on the pattern or practice class issues. The case must be brought
3 to trial on or before approximately 7/14/25. The parties may by stipulation extend the five-year
4 rule. (CCP 583.330.)

5 The Court will use the time that was blocked for the class trial to hold the trials for the
6 five named plaintiffs. The Court is anticipates that each trial be limited to a total of
7 approximately two weeks, with each side allotted approximately 12 hours for opening, evidence,
8 and closing for each trial. (*California Crane School, Inc. v. National Com. for Certification of*
9 *Crane Operators* (2014) 226 Cal.App.4th 12, 22-23.) The Court is inclined sequence the trials
10 with the first trial beginning the weeks of 4/27/26 and 5/4/26, the second trial will be the weeks
11 of 5/11/26 and 5/18/26, the week of 5/25/26 will be dark, the third trial will be the weeks of
12 6/1/26 and 6/8/26, the fourth trial will be the weeks of 6/15/26 and 6/22/26, the week of 6/29/26
13 will be dark, the fifth trial will be the weeks of 7/6/26 and 7/13/26.

14 The Court encourages the parties to meet and confer about the order in which the
15 plaintiffs go to trial, assuming they have separate trials. The Court is INCLINED to order the
16 following sequence: (1) Marcus Vaughn, (2) Monica Chatman, (3) Titus McCaleb, (4) Chanel
17 Hendrix, and then (5) Garret Parker.

18
19
20
21 Dated: November __, 2025

Peter Borkon
Judge of the Superior Court