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Lindsay Molander; Parker Austin;
8 and Cross-Complainant, Estate of Micah Lee

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE – HISTORIC COURTHOUSE**

12 LINDSAY MOLANDER; PARKER
13 AUSTIN, by and through his GAL LAUREN
BRYAN,

14 Plaintiffs,

15 v.

16 TESLA, INC. dba TESLA MOTORS, INC.;
17 ESTATE OF MICAH LEE and DOES 1 TO
18 50,

19 Defendants.

20 AND ALL RELATED CROSS-ACTIONS.
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 18 2023

 **L. Howell**

Case No. RIC2002469

Assigned for all purposes to:
Hon. Christopher Harmon
Dept.: 10

**PLAINTIFFS' AND CROSS-
COMPLAINANT'S TRIAL BRIEF**

Complaint Filed: June 26, 2020
Trial: September 20, 2023

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I. SUMMARY OF THE CASE

A brief outline of the facts of the case appears here for ease of reference:

- This case is about the tragic death of Micah Lee and the life-changing injuries to Lindsay Molander and Parker Austin.
- In May 9, 2019, Micah Lee purchased a Tesla Model 3, which was equipped with Autopilot. Unbeknownst to Micah Lee, the Autopilot feature was in “Beta” when it was sold to him. Micah Lee also paid an additional \$6000 in order to have “Full Self-Driving Capability” added to the vehicle, which he picked up on May 12, 2019.
- On June 29, 2019, Micah Lee was driving his new Tesla Model 3 southbound on Interstate 215 at approximately 73 miles per hour with Lindsay Molander in the passenger seat and her eight-year-old son Parker Austin in the rear driver’s side seat.
- Micah Lee was using the Tesla Model 3’s Autopilot system during the drive.
- As they neared their home in Temecula, , the Tesla Model 3’s Autopilot system caused the vehicle unexpectedly to turn sharply to the right, leave the pavement and violently collide head-on with a palm tree before bursting into flames. The car went from 60 mph to 0 to mph in 100 milliseconds.
- Micah Lee was rendered brain dead in the crash, dying eight days later in the hospital, and Lindsay and Parker were catastrophically injured.

II. BACKGROUND

A. The Parties

1. The Plaintiffs are:

- a. Lindsay Molander;
- b. Parker Austin, by and through his Guardian ad Litem, Lauren Bryan.

2. The Defendant is Tesla, Inc., a California Corporation.

3. The Estate of Micah Lee is a Cross-Complainant and a Cross-Defendant in a related cross action with Tesla, Inc.

1 4. Tesla, Inc. is a Cross-Complainant and a Cross-Defendant in a related cross action with the
2 Estate of Micah Lee.

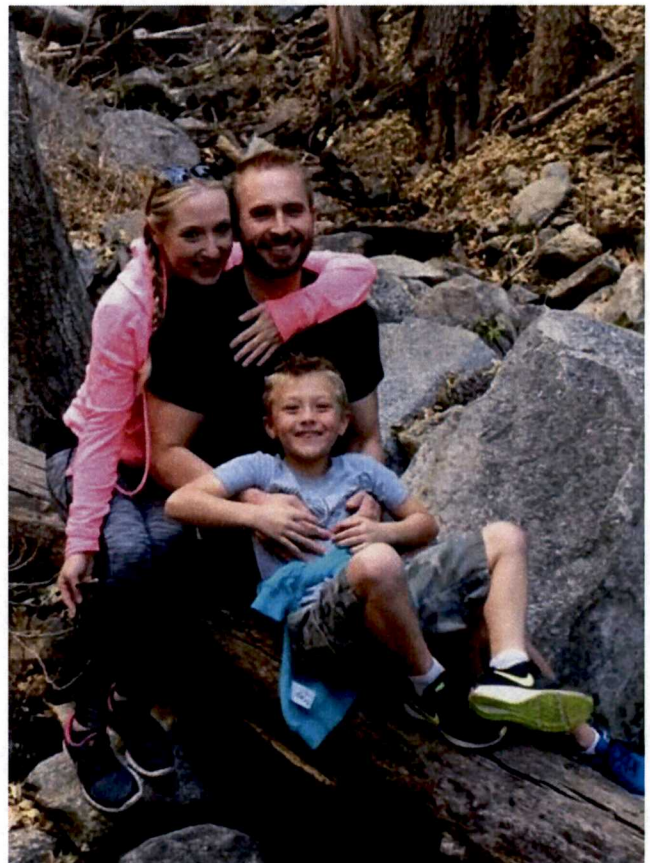
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4 **B. Claims Made**

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6 Plaintiffs and Cross-Complainant (hereinafter collectively referred to as “Plaintiffs”) assert
7 claims against Tesla, Inc. for i) Strict Liability – Design Defect and ii) Strict Liability – Manufacturing
8 Defect. Tesla Inc. has also alleged claims against the Estate of Micah Lee for i) Contribution and ii)
9 Equitable Indemnity against the Estate of Micah Lee.

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11 **III. SUMMARY OF THE DISPUTE**

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13 This case is about a tragic car crash
14 caused by a Tesla Autopilot system that resulted
15 in the untimely death of Micah Lee and changed
16 the lives of young mother Lindsay Molander and
17 her son, Parker Austin. Lindsay and Micah both
18 had children from previous relationships.
19 Lindsay is mother to Parker Austin, who was six
20 years old when they met, and Micah was father
21 to two boys around the same age as Parker.

22 Lindsay and Micah found a loving and
23 supporting romantic relationship in each other.
24 Micah also embraced the role of father figure for
25 Parker that Parker’s absent biological father
26 failed to do. Lindsay and Micah began living
27 together as a family within months. Micah and
28



1 Lindsay rented a beautiful home in Temecula that became their family home.

2 In May 2019, Micah purchased a new 2019 Tesla Model 3 with the “Full Self Driving” package
3 after being impressed with his father’s Tesla and the Autopilot features it offered. Micah, like any other
4 consumer, trusted that the technology the Tesla Model 3 offered would not be sold to the public if it
5 was not safe. Believing this to be true, Micah put his trust and his life in Tesla’s hands when he
6 purchased the Model 3.

7 On June 29, 2019, Micah took Lindsay to dinner at her favorite restaurant at Downtown Disney
8 – the Napa Rose. After dinner, Micah and Lindsay picked up Parker from Lindsay’s parents and began
9 their drive back home to Temecula. During the drive, Micah engaged the Autopilot features for more
10 convenient driving.

11 Around 10 PM during the drive home, the family was travelling southbound on I-215 at 73 mph
12 with Autopilot engaged just past the McCall Blvd. freeway onramp. Suddenly, the Autopilot system
13 malfunctioned causing the Model 3 to make a sharp right-hand turn off the road. The Autopilot system
14 drove Micah, Lindsay, and eight-year-old Parker head on into a palm tree going from 60 mph to 0 mph
15 in the blink of an eye, bursting into flames from the violence of the collision.

16 The impact was so great that young Parker, sitting in the backseat, was medically disemboweled
17 by the sheer force of his seat belt. The force of impact shattered his spine, and his own organs ruptured
18 his lung. Parker was airlifted to Rady’s Children’s Hospital in San Diego, separating him from his
19 mother. Parker was kept in the hospital in ICU after multiple surgeries, with round the clock medical
20 care for over a month.

21 Lindsay, who was sitting in the passenger seat was thrown forward so forcefully that the upper
22 portion of her jaw broke off from her skull, and her eye orbits, nose, clavicle bone, cervical spine and
23 wrist were broken. The whiplash was so severe that she now suffers from a traumatic brain injury.
24 Lindsay was taken straight to the hospital by ambulance where she was placed in the Intensive Care
25 Unit for treatment even after multiple surgeries.

26 Passers-by saw the fire the Model 3 had started and saw Micah belted in the driver’s seat. They
27 pulled him out of the vehicle bleeding heavily and unresponsive. Micah was transported to the same
28 hospital with Lindsay where he remained brain dead and unconscious in the hospital for eight days. The

1 doctors determined that Micah had suffered permanent brain damage and would never regain
2 consciousness. On July 8, 2019, Lindsay held Micah's hand one last time and said her goodbyes to him.
3 The doctors then shut down all life support and Micah passed away.

4 Four years have passed, and the physical and emotional pain Lindsay and Parker suffer are
5 unshakeable burdens they must face every day. Lindsay has had countless surgeries on her mouth and
6 face to help regain her appearance from before the accident. The traumatic brain injury has left her with
7 an inability to function normally or how she did before the accident. Parker, who was 8 years old at the
8 time of the incident is now 12 years old and facing the most vulnerable stage in most people's lives –
9 his teenage years. Due to the severity of his back and other injuries, Parker can no longer play the
10 sports he used to love to play without pain and suffering. The metal plates that had to be placed in his
11 spine will not allow Parker to engage in any contact sports. Parker continues to have chronic stomach
12 pain and issues that interfere with his daily life. The psychological impact this tragedy has had on
13 Parker emotionally has been crippling in his development of independence as a growing child. It is
14 almost certain that he will require numerous future surgeries on his back even into adulthood.

15 The Tesla's Electronic Data Report ("EDR") recording the five seconds leading up to the
16 incident shows that Micah's Model 3 stayed at the same rate of speed until the last 1.3 seconds before
17 impact. The EDR further revealed that the angle of the steering wheel resembles that of what a machine
18 can consistently maintain, not a human that results in more natural fluctuations. The natural implication
19 is that Micah had the Autopilot feature engaged and that it caused the accident leaving Micah with too
20 little time to correct the Autopilot's mistake – roughly 1.3 seconds.

21 Defendant vehemently disputes that Autopilot was engaged. Defendant insists that the accident
22 was a result of Micah either drinking and driving, inattentiveness and/or falling asleep. Logic and
23 common sense applied to the EDR data simply contradicts Defendant's various alternatives they
24 contend caused the accident. The Defendant claims that the Autopilot features were not engaged, nor
25 did they cause the accident despite their own claims that all data was irretrievable due to the fire
26 damage the vehicle sustained.

27 Parker and Lindsay seek to hold Defendant accountable for placing a dangerous vehicle into the
28 market without a product that is ready to be used by the public Parker and Lindsay also seek punitive

1 damages against Tesla for having the knowledge that their Autopilot features were not safe for public
2 use and made the conscious decision to turn a blind eye to the injuries and deaths their product has
3 caused in favor of turning a profit.

4 **IV. TESLA'S LIABILITY**

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6 Parker and Lindsay will present evidence that demonstrates that in order to maintain 73 mph
7 when Autopilot was not engaged, manual accelerator inputs from the human driver were required.
8 However, the Electronic Data Recorder (EDR) drawn from the vehicle after the accident shows that
9 Micah had not depressed the accelerator pedal, indicating that Autopilot was engaged. Further, Lindsay
10 Molander's testimony will establish that Micah had engaged Autopilot the night of the accident.

11 The severe right-hand turn that was made and ultimately caused the vehicle to crash was a 40-
12 degree steering wheel input. This has been described by both Plaintiffs and Defendant's experts as a
13 severe/violent turn. The EDR also shows that the vehicle maintained a very mechanical and linear
14 pathway and did not show any swerving or other erratic movements until the crash occurred. This
15 simply does not demonstrate behavior indicative of inattentiveness or impairment as Defendant claims.

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17 **A. Strict Products Liability – Design Defect**

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19 The 2019 Tesla Model 3 vehicle was defective under a design defect theory of liability. The
20 vehicle was distributed in the United States by Tesla, Inc. with flaws that could have and should have
21 been avoided. Micah's Tesla Model 3 was equipped with a suite of features collectively known as the
22 "Autopilot" system. Within this suite of features is the "Autosteer" feature. "Autosteer" is merely a
23 "convenience feature designed to reduce driver workload" as described in the owner's manual provided
24 to Micah by Tesla. The owner's manual goes on further to state that this feature was in a "Beta" stage.
25 Tesla failed to meaningfully inform its users that a Beta feature indicated that Autosteer was not in a
26 final stage of readiness. The feature should have been guarded from the public unless and until sufficient
27 testing had been completed and it was deemed safe to be in the hands of consumers. Instead, Tesla
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1 released this dangerous vehicle to the public without sufficient disclaimers to make its consumers aware
2 of the risks.

3 The consumer expectation test is applicable in this case. The consumer expectations test “is
4 reserved for cases in which the everyday experience of the product’s users permits a conclusion that the
5 product’s design violated minimum safety assumption.” *Soule v. General Motors Corp.* (1994) 8 Cal.4th
6 548, 567. Thus, for the court to instruct the jury on the consumer expectations test, the court must first
7 determine whether the product is one which an ordinary consumer can form minimum safety
8 expectations for. The consumer expectation test applies if the “everyday experience of the product’s
9 users permits a conclusion that the product’s design violated minimum safety assumptions and is thus
10 defective regardless of expert opinion about the merits of the design.” *Soule*, at 548.

11 Here, we are faced with a textbook case of applicability of the consumer expectation test.
12 Consumers would not expect their vehicle to suddenly make a right-hand turn from a freeway and into a
13 tree. There is no doubt that the Autopilot system is highly technical and *how* it works is beyond the
14 understanding of the masses. However, an understanding of how it works is irrelevant here. What *is*
15 relevant is the question of whether it performed as it should have. The answer is here is that it did not.

16
17 **B. Strict Products Liability – Manufacturing Defect**

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19 The 2019 Tesla Model 3 vehicle was also defective under a manufacturing defect theory of
20 liability. A product has a manufacturing defect if it differs from the manufacturer’s intended result or
21 from other ostensibly identical units of the same product line. *Barker v. Lull Engineering Co.* (1978) 20
22 Cal.3d 413, 429. Defendant intends its Autopilot system to serve as an advanced driver assistance
23 system that enhances safety and convenience. What happened here was anything but safe or convenient.
24 Instead of providing protection, the Autopilot system in Micah’s Model 3 caused the vehicle to veer off
25 the road at a high rate of speed and into a palm tree before Micah could correct the Autopilot
26 malfunction.

1 Precisely what caused the mistake in Micah’s Model 3 cannot be known, yet the answer is
2 immaterial. What matters is that Micah’s 2019 Tesla Model 3 differed substantially from Defendant’s
3 intended result and that this difference was a substantial factor in causing Plaintiffs’ injuries.
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5 **C. Punitive Damages**
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7 Cal. Code Civ. Proc. § 3294 provides that “Punitive damages may be awarded where plaintiff
8 proves by clear and convincing evidence that defendant was guilty of oppression, fraud or malice.”
9 Tesla has been aware of the dangerous nature of their incomplete product and fatalities that have
10 resulted from their defective vehicles. They have disregarded public safety, not only to those consumers
11 who purchase the Tesla, but also to every driver and passenger on the road who encounters one,
12 including Lindsay and Parker.” Oppression” has a well-established meaning. *Fletcher v. W. Nat’l Life*
13 *Ins. Co.* (1970) 10 Cal. App. 3d 376, 405. It means subjecting a person to cruel and unjust hardship in
14 conscious disregard of his rights. *Richardson v. Emps. Liab. Assur. Corp.* (1972) 25 Cal. App. 3d 232,
15 246, disapproved on other grounds by *Gruenberg v. Aetna Ins. Co.* (1973) 9 Cal. 3d 566. *See also*, Civ.
16 Code § 3294(c)(2). Lindsay and Parker’s evidence shows that Tesla was, in 2019, close to fiscal death
17 when it decided to ramp up production on its Model 3 vehicle and Autopilot systems. Tesla has turned a
18 blind eye to safety to increase its profits. It intentionally sold possibly dangerous products to consumers
19 that it knew could be defective. Defendant’s conduct, clearly, resulted in cruel and unjust hardships to
20 Lindsay, Parker, and Micah.

21 Tesla’s annual SEC filings indicate that they were aware of defects in the Model 3. The Model 3
22 was Tesla’s first mass produced vehicle. An endeavor in which they admitted in their SEC filings was
23 outside of their knowledge and skill. The same SEC filings show that Tesla was close to filing
24 bankruptcy and showed substantial losses on their books until they introduced the Autopilot system on a
25 mass scale. This was to be Tesla’s solution to their financial problems; it worked. Tesla profited
26 tremendously from these mass-produced vehicles. The problem that Tesla was aware of, is that the
27 vehicles were produced for speed and not quality, creating a slew of vehicles that were sold to
28 consumers with latent defects.

1 Tesla should be held accountable for their reckless approach that generated significant profits for
2 the company.

3
4 **V. RELIEF SOUGHT**

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6 Lindsay Molander is seeking economic damages against Tesla, Inc. for the physical and
7 emotional injuries she's sustained. Her traumatic brain injury, emotional scars and orthopedic injuries
8 will affect her for the rest of her life. She will need constant care for both her physical and emotional
9 injuries.

10 Parker Austin also seeks damages for his physical and emotional injuries that the accident has
11 caused.

12 Both Parker and Lindsay suffer from extreme post-traumatic stress disorder that will affect them
13 forever.

14 The Estate of Micah Lee seeks to recover its medical, funeral and burial expenses in an amount
15 to be determined by the jury.

16 Plaintiffs also seek punitive damages against Tesla. Tesla is a multi-billion-dollar company that
17 has made its fortune on the backs of uninformed consumers. Consumers have made complaints about
18 their Autopilot system for years, putting it on notice, yet no corrective action has been taken. Tesla has
19 continued to cover up their faulty system and must be held accountable.

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21 **MLG ATTORNEYS AT LAW, APLC**

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23 Dated: September 17, 2023

By:



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and Parker Austin and Cross-Complainant,
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