



GRANTED

EFiled: Jul 19 2023 11:35AM EDT
Transaction ID 70429009
Case No. 2020-0477-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

THE POLICE AND FIRE RETIREMENT)
SYSTEM OF THE CITY OF DETROIT,)
derivatively on behalf of TESLA, INC.,)

Plaintiff,)

v.)

C.A. No. 2020-0477-KSJM

ELON MUSK, BRAD BUSS, ROBYN M.)
DENHOLM, IRA EHRENPREIS,)
LAWRENCE J. ELLISON, ANTONIO J.)
GRACIAS, STEPHEN T. JURVETSON,)
LINDA JOHNSON RICE, JAMES)
MURDOCH, KIMBAL MUSK,)
KATHLEEN WILSON-THOMPSON, and)
HIROMICHI MIZUNO,)

Defendants,)

-and-)

TESLA, INC., a Delaware Corporation,)
Nominal Defendant.)

[PROPOSED] SCHEDULING ORDER

WHEREAS, plaintiff, the Police and Fire Retirement System of the City of Detroit (“Plaintiff”), derivatively on behalf of Tesla, Inc. (f/k/a Tesla Motors, Inc.) (“Tesla”) pursuant to Court of Chancery Rule 23.1; non-employee former and current Tesla directors Brad Buss, Robyn M. Denholm, Ira Ehrenpreis, Lawrence J. Ellison, Antonio J. Gracias, Stephen T. Jurvetson, Kimbal Musk, James

Murdoch, Linda Johnson Rice, Kathleen Wilson-Thompson, and Hiromichi Mizuno (collectively, “Director Defendants”); and fellow Tesla director and Tesla’s Chief Executive Officer, Elon Musk (“Musk” and, together with Director Defendants, “Defendants”) (collectively, Defendants and Tesla are referred to as “Settling Defendants” and, together with Plaintiff, “Settling Parties”) entered into a Stipulation and Agreement of Compromise and Settlement Between Plaintiff and Settling Defendants on July 14, 2023 (the “Stipulation”);¹

WHEREAS, the Stipulation sets forth the terms and conditions for the proposed Settlement and dismissal with prejudice of the Action as against Settling Defendants, subject to review and approval by the Court pursuant to Court of Chancery Rules 23.1 upon notice to Tesla stockholders; and

WHEREAS, the Court having read and considered the Stipulation and accompanying documents, and Settling Parties having consented to the entry of this Scheduling Order;

NOW, THEREFORE, this ___ day of _____, 2023, upon application of Settling Parties, IT IS HEREBY ORDERED that:

1. A hearing (the “Settlement Hearing”) will be held on October 13, 2023, at 1:30 pm ET in the Delaware Court of Chancery, New Castle County,

¹ Capitalized terms not defined in this Scheduling Order have the meaning set forth in the Stipulation (certain of which are repeated here for ease of reference only).

EXHIBIT A

Leonard L. Williams Justice Center, 500 North King Street, Wilmington, Delaware 19801, to determine whether: (i) Plaintiff and Plaintiff's Counsel have adequately represented the interests of Tesla and its stockholders; (ii) the proposed settlement of the Action should be approved by the Court as fair, reasonable, adequate, and in the best interests of Tesla and its stockholders; (iii) the Action should be dismissed with prejudice and all the Released Claims against Released Persons should be fully, finally, and forever released, settled, and discharged; (iv) whether and in what amount any Fee and Expense Award should be paid to Plaintiff's Counsel out of the Settlement Option Amount; and (v) Final Judgment approving the Settlement of the Action should be entered in accordance with the terms of the Stipulation.

2. The Court approves, in form and content, the Notice of Pendency and Proposed Settlement of Derivative Action (the "Notice") substantially in the form attached as Exhibit B to the Stipulation. The date, time, and instructions for participation in the Settlement Hearing shall be included in the Notice before it is mailed.

3. The Court finds that providing Notice in substantially the manner set forth in paragraph 6 of this Scheduling Order: (i) constitutes the best notice reasonably practicable under the circumstances; (ii) constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the proposed

Settlement; and (iii) meets the requirements of Court of Chancery Rule 23.1, due process, and applicable law.

4. The Court may adjourn and reconvene the Settlement Hearing, including the consideration of the Fee and Expense Application, without further notice of any kind other than oral announcement at the Settlement Hearing or any adjournment thereof, or a notation on the docket in the Action.

5. The Court may approve the Settlement, according to the terms and conditions of the Stipulation, with such modifications as may be consented to by Settling Parties or as otherwise permitted pursuant to the Stipulation, with or without further notice to Tesla stockholders. Further, the Court may enter Final Judgment, and order the payment of the Fee and Expense Award, all without further notice to Tesla stockholders.

6. As soon as practicable after the date of entry of this Scheduling Order, and in no event fewer than sixty (60) calendar days before the Settlement Hearing, Tesla shall (i) use reasonable best efforts, pursuant to customary notice practices, to cause the Notice to be mailed to all Current Stockholders; and (ii) file a Form 8-K with the U.S. Securities & Exchange Commission notifying stockholders of the Settlement and attaching a copy of the Notice (and post the 8-K on Tesla's investor relations website). Tesla shall request that Current Stockholders who held or hold Tesla common stock on behalf of beneficial owners and who receive the Notice

forward the Notice promptly to such beneficial owners. Tesla shall use reasonable best efforts to provide notice to such beneficial owners by making additional copies of the Notice available to any record holder who, prior to the Settlement Hearing, requests the same for distribution to beneficial owners. Any and all costs with respect to the mailing of the Notice shall be paid by Tesla, subject to Section 7.1 of the Stipulation, such that none of the Released Persons shall have any liability or responsibility for the expenses associated with providing the Notice. Fields Kupka & Shukurov LLP and Bleichmar Fonti & Auld LLP shall post, at their expense, copies of the Notice and the Stipulation on their websites (www.fksfirm.com and www.bfalaw.com).

7. At least fifteen (15) Business Days before the Settlement Hearing, Tesla shall cause to be filed with the Court an appropriate affidavit or declaration with respect to the preparation and dissemination of the Notice as provided in paragraph 6 of this Scheduling Order.

8. At the Settlement Hearing, any Tesla stockholder who desires to do so may appear personally or by counsel, and show cause, if any, why the Settlement in accordance with and as set forth in the Stipulation should not be approved as fair, reasonable, and adequate and in the best interests of Tesla and its stockholders; why Final Judgment should not be entered in accordance with and as set forth in the Stipulation; or why the Court should not grant the Fee and Expense

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Application of Plaintiff's Counsel; provided, however, that unless the Court in its discretion otherwise directs, no Tesla stockholder, or any other Person, shall be entitled to contest the approval of the terms and conditions of the Settlement or (if approved) the Final Judgment to be entered thereon, or the Fee and Expense Award, and no papers, briefs, pleadings, or other documents submitted by any Tesla stockholder or any other person (excluding a party to the Stipulation) shall be received or considered, except by order of the Court for good cause shown, unless, no later than fifteen (15) Business Days prior to the Settlement Hearing, such person files with the Register in Chancery, Delaware Court of Chancery, 500 North King Street, Wilmington, DE, 19801, and serves upon the attorneys listed below: (a) a written notice of intention to appear that includes the name, address, and telephone number of the objector and, if represented by counsel, the name and address of the objector's counsel; (b) include documentation sufficient to prove that the objector owned shares of Company common stock as of the date of the Stipulation, and contain a statement that the objector continues to hold such shares as of the date of filing of the objection and will continue to hold those shares as of the date of the Settlement Hearing; (c) a detailed statement of objections to any matter before the Court; and (d) the grounds thereof or the reasons for wanting to appear and be heard, as well as all documents or writings the Court shall be asked to consider. These writings must also be served by File &

ServeXpress, by hand, by first-class mail, or by express service upon the following attorneys such that they are received no later than fifteen (15) Business Days prior to the Settlement Hearing:

Andrew S. Dupre
Sarah E. Delia
MCCARTER & ENGLISH LLP
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405 N. King Street, 8th Floor
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Counsel for Plaintiff

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Attorneys for Defendants

*Elon Musk, Brad Buss, Robyn
M. Denholm, Ira Ehrenpreis,
Lawrence J. Ellison,
Antonio J. Gracias, Stephen
T. Jurvetson, Linda Johnson
Rice, James Murdoch, Kimbal
Musk, Kathleen Wilson-
Thompson, and Hiromichi
Mizuno*

Jason C. Jowers
Sarah T. Andrade
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(302) 655-5000

*Attorneys for Nominal Defendant
Tesla, Inc.*

9. Unless the Court otherwise directs, any Person who fails to object in the manner described above shall be deemed to have waived and forfeited any and all rights such person may otherwise have to object to the Settlement and/or any Fee and Expense Award to Plaintiff's Counsel (including any right of appeal) and shall be forever barred from raising such objection in the Action or any other action or proceeding. Tesla stockholders who do not object need not appear at the Settlement Hearing or take any other action to indicate their approval.

10. At least thirty (30) Business Days prior to the Settlement Hearing, Plaintiff shall file any opening briefs in support of the proposed Settlement, and Plaintiff's Counsel shall file their Fee and Expense Application, including any supporting affidavits. Any objections to the Settlement or Fee and Expense Application shall be filed and served no later than fifteen (15) Business Days prior to the Settlement Hearing. Any reply papers in support of the Settlement and any reply in support of the Fee and Expense Application shall be filed at least five (5) Business Days prior to the Settlement Hearing.

11. All proceedings in the Action against Settling Parties, other than proceedings as may be necessary to carry out the terms and conditions of the Settlement, are hereby stayed and suspended until further order of this Court, and the trial date in this Action is vacated until further order of this Court. Pending final determination of whether the Settlement should be approved, Plaintiff and other Tesla stockholders, and anyone acting or purporting to act on behalf of, in the stead of, or derivatively for Tesla or any Tesla stockholder, are barred and enjoined to the maximum extent permitted under law from commencing, pursuing, prosecuting, instigating, maintaining or in any way participating in the commencement, pursuit, continuation, or prosecution of any action asserting any of the Released Claims against any of the Released Persons.

12. If the Settlement is approved by the Court at or following the Settlement Hearing, the Court shall enter the Final Judgment substantially in the form attached to the Stipulation as Exhibit C. The effectiveness of the Settlement shall not be conditioned upon the approval of the Fee and Expense Award, either at all or in any particular amount, by the Court.

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13. The Court may, for good cause shown, extend any of the deadlines set forth in this Scheduling Order without further notice to Tesla stockholders, and the Court retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

Chancellor McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 70397017

Current Date: Jul 19, 2023

Case Number: 2020-0477-KSJM

Case Name: CONF ORDER The Police and Fire Retirement System of the City of Detroit v. Elon Musk, et al.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick