

[Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION—N.D. Cal.: Investor suit alleges Tesla misled about Autopilot system, \(Mar. 1, 2023\)](#)

Securities Regulation Daily Wrap Up

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By Sara Cracau, J.D.

Investors filed a federal securities class action against Tesla alleging violations of federal securities laws.

A class-action suit against Tesla in California federal court alleges that the company and certain of its principals misled investors about the company's "business, operations, and prospects" which "significantly overstated the efficacy, viability, and safety" of the company's autopilot and Full Self-Driving (FSD) technologies. After media outlets reported that a Tesla vehicle had driven itself into a tree, killing two passengers, the company's stock fell, and it fell again after media outlets reported that the National Highway Traffic Safety Administration (NHTSA) had opened a formal investigation into Tesla's Autopilot System after a series of accidents involving parked emergency vehicles. The complaint alleges that the wrongful acts of Tesla and certain of its top officials caused the investors to suffer significant losses and damages (*Lamontagne v. Tesla, Inc.*, February 27, 2023).

False statements. Tesla filed an annual report on February 19, 2019, the beginning of the class period, on Form 10-K with the SEC reporting the company's financial and operational results for the quarter ending December 31, 2018. The 10-K statement contained various representations regarding the purported safety-enhancing features and capabilities of the Autopilot technology and its further development. The representations contained multiple references to the "high performance" of the system, including its "active safety and convenience features." The statement purported to warn of possible product liability claims but simultaneously downplayed such a risk by touting the vehicles' purported status as "the safest vehicles on the road." Two company officials certified that the 10-K fairly presented the financial condition and results of Tesla's operations in all material respects. Tesla issued a press release on the significant progress it was making in developing a full self-driving feature for its vehicles and also released a four-hour video depicting self-driving vehicles.

In February 2020, Tesla filed an annual report with the SEC reporting the company's financial and operational results for the quarter ending December 31, 2019. The report contained various representations regarding the purported safety-enhancing features and capabilities of Tesla's Autopilot and FSD technologies and contained substantively similar warnings and certifications as the 2019 statement. The complaint alleges that these representations were materially false and misleading because Tesla and its officials significantly overstated the efficacy, viability, and safety of Tesla's Autopilot and FSD technologies.

Section 10(b) claims. The complaint alleges that during the class period, Tesla and certain of its top officials engaged in a scheme, conspiracy and course of conduct in which they knowingly or recklessly engaged in acts that operated as a fraud and deceit on the investors in connection with the purchase and sale of securities. The complaint further alleges that Tesla and the individual company officials had actual knowledge of the materially false and misleading statements and omissions and intended to deceive the investors and other class members or, in the alternative, the offenders acted with reckless disregard for the truth. The complaint seeks to hold the individual offenders liable both directly and indirectly for the alleged wrongs. During the class period, Tesla's common stock was "traded on an active and efficient market."

Section 20(a) claims against individual company officials. The complaint alleges that, during the class period, Tesla's individual officers participated in the operation and management of the company and participated both directly and indirectly in the conduct of the company's business operation. These individuals had a duty to disseminate accurate and truthful information regarding the company's financial condition and results of

operations and to correct promptly any public statements issued by the company that became materially false or misleading. Thus, the complaint alleges that these individuals are liable as "controlling persons" of Tesla within the meaning of Section 20(a) of the Securities Exchange Act.

Relief sought. The complaint seeks a judgment authorizing the action to be brought as a class action under Rule 23 of the Federal Rules of Civil Procedure, the payment of damages, prejudgment and post-judgment interest, reasonable attorneys' fees, and any other relief that the court deems just and proper.

The case is [No. 5:23-cv-00869-BLF](#).

Attorneys: Jennifer Pafiti (Pomerantz LLP) for Thomas Lamontagne.

Companies: Tesla, Inc.

LitigationEnforcement: FraudManipulation PublicCompanyReportingDisclosure RiskManagement CaliforniaNews