

Tesla's Race Bias Damages Award Sparks Post-Trial Clash



A former Tesla contractor has been awarded \$3.2m in a racial discrimination case in California. However, the amount awarded for punitive damages is being called into question. The verdict came after a retrial for damages by the plaintiff, Owen Diaz, who is black. The initial verdict, which awarded Diaz \$137m in damages, was deemed excessive, and a judge reduced the amount. Diaz then sought a retrial, leading to the recent verdict. Despite the new award being significantly lower than the original, some question whether the punitive damages awarded align with judicial precedent.

In 2004, the United States Supreme Court stated in *State Farm v. Campbell* that punitive damages should have a single-digit ratio to compensatory damages. If punitive damages are more than ten times compensatory damages, they will violate due process requirements. Diaz was awarded \$175,000 in compensatory damages and \$3m in punitive damages. This ratio of 17 times the compensatory damages awarded has led to legal scrutiny. Some legal experts are calling for more reductions by either the trial or an appeals court.

The award that Diaz won in 2021 was one of the highest ever for an individual suing over discrimination in the US. When the trial judge reduced it, he kept a nine-to-one ratio by setting aside \$1.5m for compensatory damages and \$13.5m for punitive damages. The recent retrial award has led to legal experts calling for the ratio between the damages to fall within the Supreme Court's limits set out in *State Farm*.

Despite the reduction in damages, Diaz's lawyer called the award a "big victory." The case highlights the need for employers to investigate and weed out discriminatory behavior inside the workplace properly, say legal observers. Tesla has faced years of complaints from black workers who claim that factory managers ignored the use of racial slurs on the assembly line and were slow to clean up hate symbols scrawled in common areas.

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The verdict sends a message to employers that they must take discrimination seriously, said Eric Amdursky, co-chair of O'Melveny & Myers LLP's labor & employment practice group. Both juries found Tesla's conduct was "reprehensible" and shouldn't happen. Diaz's attorney, J. Bernard Alexander of Alexander Morrison & Fehr LLP, has requested a new trial, citing "misconduct" by Tesla's team, claiming that the defense wrongly attacked the plaintiff's credibility to undermine the jury's perception of him.

This case serves as a reminder that employers must be "careful about not minimizing what might have appeared to managers, human resources, and investigators as de minimis conduct," said Jennifer Schwartz, an Outten & Golden LLP partner. This is particularly true in the case of racial discrimination, where behavior that may seem minor can have serious ramifications. The Diaz case may still face post-trial battles, and it remains to be seen whether the damages will be further reduced by the trial court or by an appeals court.