

San Francisco Jury Hits Tesla with \$137 Million Race Harassment Verdict

California Employment Law Update Blog on **October 5, 2021**

On Monday afternoon, a San Francisco federal court jury awarded \$137 million to a Black former elevator operator who worked at Tesla's Fremont facility for approximately one year before quitting his employment in 2016. After just four hours of deliberation, the jury awarded Owen Diaz \$6.9 million in emotional distress damages and \$130 million in punitive damages. Diaz testified at trial that Tesla employees frequently used the "n-word" and that they had drawn swastikas and nooses as well as racially disparaging images in the workplace. Tesla's attorney noted in her closing argument that Diaz's testimony was not supported by the evidence and "simply doesn't make sense" since Diaz had encouraged both his son and daughter to become employees of the company.

This eye-popping verdict comes at an interesting time for Tesla, as the company's stockholders are scheduled to vote on Thursday, October 7, on a [stockholder proposal](#) that the company prepare and publicly release a report on "the impact of the use of mandatory arbitration on Tesla's employees and workplace culture. The report should evaluate the impact of Tesla's current use of arbitration on the prevalence of harassment and discrimination in its workplace and on employees' ability to seek redress." The stockholders presumably will reflect on the fact that Melvin Berry (another Black former employee of Tesla who made similar allegations of racial harassment) won a \$1 million award from an arbitrator less than two months ago. Diaz and Berry were represented by the same lawyer. These two seemingly similar cases — one tried before a jury and the other heard by an arbitrator — well illustrate why plaintiffs love juries and employers tend to prefer arbitration.

[View Original](#)

[Related Professionals](#)

- **Anthony J. Oncidi**

Partner