

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DAVID RASMUSSEN, an individual, on behalf  
of himself and all others similarly situated,

Plaintiff,

v.

TESLA, INC. d/b/a TESLA MOTORS, INC.,

Defendant.

Case No. 5:19-cv-04596-BLF

**DECLARATION OF LACEY ROSE RE:  
NOTICE PROCEDURES**

I, **LACEY ROSE**, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge:

1. I am a Project Manager with Angeion Group, LLC (“Angeion”), the Settlement Administrator retained in this matter, located at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein.

2. Angeion was retained by the Parties and appointed by this Court to serve as Settlement Administrator and to, among other tasks, provide Notice of Proposed Class Action Settlement to the Settlement Class, and perform other duties as specified in the Settlement Agreement and Release (“Settlement Agreement”) and by the directives of the Court, including but not limited to the Preliminary Approval Order.

3. Angeion has administered class action settlements involving millions of class members. A representative list of the settlements administered by Angeion is available at <https://www.angeiongroup.com/cases.php>. Through the administration of the settlements

1 referenced above, Angeion has received, processed, and secured data from defendants and other  
2 sources. Angeion has analyzed settlement class member data including performing deduplication,  
3 National Change of Address Searches (NCOA) and skip traces. Angeion has successfully  
4 implemented noticing campaigns involving direct mail notice, email notice, text noticing, printed  
5 media, and digital media for millions of potential class members. Further, Angeion has analyzed  
6 and reported on class member data obtained through claim forms submitted via mail and through  
7 online claims filing, class member correspondence, objections to the settlement, exclusion requests  
8 and other means. Angeion is experienced in the application of complex claim calculations and,  
9 where applicable, tax withholding and reporting, as required by federal, state, and local taxing  
10 authorities, as well as in reviewing settlement agreements and court orders.

11 4. Angeion is not related to or affiliated with Plaintiff, Class Counsel, Defendant or  
12 Defendant's Counsel.

13 5. The purpose of this Declaration is to provide the Court with a summary of the work  
14 performed by Angeion to disseminate notice to the Settlement Class and other administrative tasks.

#### 15 CAFA NOTICE

16 6. On August 6, 2021, pursuant to 28 U.S.C. §1715, Angeion caused Notice of this  
17 Settlement and related materials ("CAFA Notice") to be sent to the Attorneys General of all states  
18 and territories, as well as the Attorney General of the United States. A copy of the CAFA Notice  
19 is attached hereto as **Exhibit A**.

#### 20 CLASS DATA

21 7. The Settlement Class is defined as: All United States residents who, anytime during  
22 the period from May 15, 2019 through September 1, 2020, owned or leased a Tesla Model S  
23 vehicle that experienced a limitation of maximum battery voltage as the result of a software update  
24 issued by Tesla in May 2019.

25 8. On or about August 2, 2021, Angeion received from counsel for Defendant, a list  
26 of 1,743 unique Vehicle Identification Numbers ("VIN") representing all of the Settlement Class  
27 Vehicles.  
28



1 date of this declaration, the Settlement Website has received 205 website visits by 158 unique  
2 users totaling 344 pageviews.

3 **TOLL-FREE HOTLINE**


4 14. On March 21, 2022, Angeion activated the following toll-free number dedicated to  
5 this Settlement: 1-844-844-4116. The toll-free hotline utilizes an interactive voice response  
6 (“IVR”) system to provide Settlement Class Members with responses to frequently asked questions  
7 and provide essential information regarding the Settlement. This hotline is accessible 24 hours a  
8 day, 7 days a week. As of the date of this declaration, Angeion has received 26 calls totaling 115  
9 minutes.

10 **EXCLUSIONS & OBJECTIONS**

11 15. The deadline to submit a request for exclusion from the Settlement was  
12 May 5, 2022. As of the date of this declaration, Angeion has received one (1) exclusion request.  
13 Attached hereto as **Exhibit C** is the last of names of the individuals who submitted exclusion  
14 requests.

15 16. The deadline to submit an objection to the Settlement was May 5, 2022. As of the  
16 date of this declaration, Angeion has not received any written objections, but is aware that one  
17 objection was mailed to the Court (Dkt. 59).

18  
19 I declare under penalty of perjury under the laws of the United States of America that the  
20 foregoing is true and correct. Executed at Las Vegas, Nevada, this 25<sup>th</sup> day of May, 2022.

21  
22 

23 LACEY ROSE, Declarant  
24  
25  
26  
27  
28

# Exhibit A



1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
www.angeiongroup.com  
215.563.4116 (P)  
215.525.0209 (F)

August 6, 2021

VIA USPS PRIORITY MAIL

United States Attorney General &  
Appropriate Officials

**Re: Notice of Class Action Settlement**  
*Rasmussen, et al. v. Tesla, Inc.*

Dear Counsel or Official:

Angeion Group, an independent claims administrator, on behalf of the Defendant Tesla, Inc. d/b/a Tesla Motors, Inc. ("Tesla") in the below-described action, hereby provides your office with this notice under the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, to advise you of the following proposed class action settlement:

**Case Name:** *Rasmussen, et al. v. Tesla, Inc.*

**Index Number:** 5:19-cv-04596-BLF

**Jurisdiction:** United States District Court for the Northern District of California

**Date Settlement Filed with Court:** July 28, 2021

The lawsuit alleges, among other things, that in May 2019, Tesla released an over-the-air software update that reduced the maximum voltage to which the batteries in a limited number of Model S vehicles could be charged. The lawsuit further alleges that as a result of the update, the maximum range of the vehicles was reduced by approximately 10%. The update affected a small percentage of vehicles and the reduction was temporary. Tesla released subsequent software updates in July 2019 and March 2020 that fully restore maximum voltage and range over time as the vehicle is driven.

In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD-ROM:

- 1. 28 U.S.C. § 1715(b)(1)-Complaint:** *Class Action Complaint* filed with the Court on August 7, 2019.
- 2. 28 U.S.C. § 1715(b)(2)-Notice of Any Scheduled Judicial Hearings:** A hearing on *Plaintiff's Notice of Motion and Motion for Preliminary Approval of Class Settlement and Direction of Notice Under Rule 23(E)*, and *Plaintiff's Memorandum of Points and Authorities in Support of Motion For Preliminary Approval Of Class Settlement and Direction of Notice Under Rule 23(E)*, filed on July 28, 2021, is scheduled on December 9, 2021, at 9:00 a.m. before the Honorable Judge Beth Labson.
- 3. 28 U.S.C. § 1715(b)(3)-Notification to Class Members:** The proposed *Notice of Class Action Settlement* and *Postcard Notice*, both of which were filed with the Court on July 28, 2021, as Exhibits A and B to the *Settlement Agreement and Release* filed with the Court on July 28, 2021, as Exhibit 1 to *Declaration of Robert J. Nelson in Support of Plaintiff's Motion for Preliminary Approval of Class Settlement*.

CAFA Notice of Class Action Settlement

August 6, 2021

Page 2 of 2

4. **28 U.S.C. § 1715(b)(4)-Class Action Settlement Agreement:** The proposed *Stipulation of Settlement/ Settlement Agreement and Release* was filed with the Court on July 28, 2021, as Exhibit 1 to *Declaration of Robert J. Nelson in Support of Plaintiff's Motion for Preliminary Approval of Class Settlement*.
5. **28 U.S.C. § 1715(b)(5)-Any Settlement or Other Agreements:** Other than the *Settlement Agreement*, no other settlements or other agreements have been contemporaneously made between the Parties.
6. **28 U.S.C. § 1715(b)(6)-Final Judgment:** The Court has not issued a Final Judgment or notice of dismissal as of the date of this CAFA Notice.
7. **28 U.S.C. § 1715(b)(7)(B)-Estimate of Class Members:** The Class contains approximately 1,821 Class Members. A chart reflecting the estimated number of Class Members residing in each state and the estimated proportional share of the settlement benefits available to Class Members residing in each state is included on the enclosed CD-ROM.
8. **28 U.S.C. §1715(b)(8)-Judicial Opinions Related to the Settlement:** The Court has not issued a judicial opinion related to the Settlement at this time.

With the exception of the chart containing the estimate of Class Members, all of the documents provided on the enclosed CD-ROM also were filed with the Court. Those filings, and other materials in the case, are electronically available on the PACER system for the United States District Court for the Northern District of California.

If you have questions about this notice or if you did not receive any of the above-listed materials, please contact this office.

Sincerely,

Angeion Group  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
(p) 215-563-4116  
(f) 215-563-8839

Enclosures: CD-ROM

# Exhibit B



Rasmussen et al. v. Tesla Settlement  
Settlement Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

PRESORTED  
FIRST-CLASS MAIL  
U.S. POSTAGE PAID  
MAG



NUMERIC EQUIVALENT

Postal Service: Please Do Not Mark Barcode

Notice ID: <<Notice ID>>

<<First Name>> <<Last Name>>  
<<Address1>>  
<<Address2>>  
<<City>>, <<St>> <<Zip>>  
<<Country>>

## **If your Tesla Model S experienced a limitation of battery voltage as the result of a May 2019 software update, a class action settlement may affect your rights.**

*A Federal Court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.*

*For complete information and details, visit [www.ModelSVoltageUpdateSettlement.com](http://www.ModelSVoltageUpdateSettlement.com) or call (844) 844-4116.*

A proposed settlement (“Settlement”) has been reached in a class action lawsuit called *Rasmussen, et al. v. Tesla, Inc.*, No. 5:19-cv-04596-BLF, pending in the U.S. District Court for the Northern District of California. The lawsuit alleges, among other things, that in May 2019, Tesla released an over-the-air software update that reduced the maximum voltage to which the batteries in a limited number of Model S vehicles could be charged, thus reducing their maximum range by approximately 10%. The update affected a small percentage of vehicles, and the reduction was temporary. Tesla released subsequent software updates in July 2019 and March 2020 that fully restore maximum voltage and range over time as the vehicle is driven. Tesla strongly denies that it did anything wrong.

Why am I being contacted? You may be a member of the Settlement Class if you are a U.S. resident who, anytime during the period May 15, 2019 through September 1, 2020, owned or leased a Model S vehicle that experienced a reduction of maximum battery voltage as the result of the May 2019 software update. Excluded from the Settlement Class are any Judge presiding over this Action, the members of his or her immediate family, and Tesla and its officers and directors.

What can I get out of the Settlement? If the Court approves the Settlement, Tesla will create a \$1,500,000 Settlement Fund, from which eligible Settlement Class Members will receive a payment of \$625.00, unless they owned or leased the vehicle for only a portion of the time period May 15, 2019 through September 1, 2020 (i.e., because the vehicle was sold or transferred to a new lessee during that time), in which case the \$625.00 payment will be prorated based on the months owned or leased. Tesla has also agreed to maintain diagnostic software to notify owners and lessees of vehicles that Tesla determines may need battery service or repair for certain battery issues.

How do I get my payment? You are not required to take any action to receive the benefits of the proposed Settlement. Unless you exclude yourself, you will remain a part of the Settlement Class and a check will automatically be mailed to you after the Settlement becomes final.

What are my options? You can do nothing and automatically be included in the Settlement Class or exclude yourself from the Settlement. Whether you act or not, your rights will be affected. If you remain a part of the Settlement Class, you won’t be able to sue Tesla in a future lawsuit about the claims covered by the Settlement. If you exclude yourself, you won’t get a payment—but you’ll keep your right to sue Tesla in a separate lawsuit on the claims covered by the Settlement. You must contact the Settlement Administrator by mail to exclude yourself. All Requests for Exclusion must be postmarked by May 5, 2022. If you do not exclude yourself, you can object to the Settlement, Class Counsel’s request for fees and costs, or the request for a service award. Objections must be postmarked or filed in person by May 5, 2022.

Do I have a lawyer? Yes. The Court has appointed lawyers from Lief Cabraser Heimann & Bernstein and Law Offices of Edward C. Chen as “Class Counsel.” They represent you and other members of the Settlement Class. There’s no charge for their services. You can hire your own lawyer, but you’ll need to pay your own legal fees.

When will the Court approve the Settlement? The Court will hold a Final Approval Hearing on June 16, 2022, at 9:00 a.m. at the San Jose Courthouse, Courtroom 3, 5th Floor, 280 S. 1st Street, San Jose, CA 95133, and/or by remote access as determined by the Court. The Court will hear any objections, determine if the Settlement is fair, and consider Class Counsel’s request for fees and costs of up to \$410,000 and a service award for the Class Representative of up to \$1,000. If approval is denied, is reversed on appeal, or does not become final, the case will continue, and no payments will be made.

For a detailed notice and more information about the Settlement, including how to exclude yourself or object, go to [www.ModelSVoltageUpdateSettlement.com](http://www.ModelSVoltageUpdateSettlement.com) or call toll free (844) 844-4116.

# Exhibit C

*Rasmussen v. Tesla*

Exclusion List

Count: 1

| Last Name |
|-----------|
| ESPARZA   |