

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

If your Tesla Model S vehicle 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.

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. 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. Tesla strongly denies that it did anything wrong.

You are included in the Settlement Class if, anytime during the period from May 15, 2019 through September 1, 2020, you owned or leased a Model S vehicle that experienced a limitation of maximum battery voltage as the result of the May 2019 software update, provided that you do not exclude yourself from the Settlement as detailed below. 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.

If the Court approves the Settlement, Tesla will create a \$1,500,000 Settlement Fund, from which eligible Settlement Class Members will receive payment of \$625.00, unless the Settlement Class Member 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 number of months owned or leased.

Please read this Notice carefully. Whether you act or not, your legal rights as a member of the Settlement Class are affected by the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
PARTICIPATE IN THE SETTLEMENT (DO NOTHING)	If you do nothing, a check will automatically be mailed to you after the Settlement becomes final. You will be bound by the terms of the Settlement, and you won't be able to sue Tesla in a future lawsuit about the issues covered by the Settlement. You will not need to do anything to receive your payment.

QUESTIONS? CALL (844) 844-4116 OR VISIT WWW.MODELSVOLTAGEUPDATESETTLEMENT.COM

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EXCLUDE YOURSELF	You will receive no payment, but you will retain any right you currently have to sue Tesla about the issues covered by the Settlement.
OBJECT	Write to the Court explaining why you don't like the Settlement.
ATTEND THE FINAL APPROVAL HEARING	If you object, you may also ask to speak in court about the fairness of the Settlement.

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be provided only after any issues with the Settlement are resolved. If approval is denied, is reversed on appeal, or does not become final, the case will continue, and no payments will be made. Please be patient.

BASIC INFORMATION

1. Why was this Notice issued?

A Court authorized this Notice to let you know about a proposed Settlement with the Defendant. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

Judge Beth Labson Freeman of the U.S. District Court for the Northern District of California is overseeing this class action. The case is known as *Rasmussen, et al. v. Tesla, Inc.*, No. 5:19-cv-04596-BLF. The people who sued are called Plaintiffs or Class Representatives. The company they sued, Tesla, Inc., is called the Defendant.

2. What is a class action lawsuit?

In a class action, one or more people called Plaintiffs or Class Representatives sue on behalf of a group of people who have similar claims. In this case, these people together are called a Settlement Class. In a class action, the court resolves the issues for all members of the Settlement Class, except for those who exclude themselves from the Settlement Class. People who do not exclude themselves are called Settlement Class Members. After the Parties reached an agreement to settle this case, the Court recognized it as a case that may be treated as a class action for settlement purposes.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

3. What is this lawsuit about?

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. Tesla strongly denies that it did anything wrong.

More information about the Complaint in the lawsuit can be found at the Settlement website, www.ModelSVoltageUpdateSettlement.com.

4. Why is there a Settlement?

The Court has not decided whether the Plaintiff or the Defendant should win this case. Instead, both sides agreed to a settlement. The Class Representative and his attorneys (“Class Counsel”) believe that the Settlement is in the best interests of the Settlement Class.

WHO’S INCLUDED IN THE SETTLEMENT?

5. How do I know if I am in the Settlement Class?

The Settlement Class includes all U.S. residents who, anytime during the period from May 15, 2019 through September 1, 2020, owned or leased a Model S vehicle that experienced a limitation of maximum battery voltage as the result of the software update issued by Tesla in May 2019. 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.

If you received a postcard about this class action, you may be a member of the Settlement Class.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

As part of the Settlement, Tesla has agreed to create a \$1,500,000 Settlement Fund. The Settlement Fund will be used to pay the cash amounts described below to the Settlement Class Members, attorneys’ fees and costs, and any service award to the Class Representative. Any attorneys’ fees and costs and any service award to the Class Representative authorized by the Court will be deducted from the Settlement Fund before the balance is distributed to Settlement Class Members. Settlement Class Members will receive a check in the amount of \$625.00 unless they owned or leased their vehicle for only a portion of the 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 number of months owned or leased. Tesla has also agreed to maintain diagnostic software for in-warranty vehicles to notify owners and lessees of vehicles that Tesla determines may need battery service or repair for certain battery issues. Under the Settlement Agreement, Settlement Class Members will be paid by check with no requirement that they submit a claim.

HOW TO GET BENEFITS

7. How do I make a claim?

You do not need to submit a claim to receive the benefits of the proposed Settlement. If the proposed Settlement is finally approved, and you are a Settlement Class Member, you will be bound by the Court's Final Judgment and the release of claims explained in the Settlement Agreement.

8. When will I get my payment?

The Final Approval Hearing to consider the final fairness of the Settlement is scheduled for **June 16, 2022**. If the Court approves the Settlement, and after any appeals process is completed, eligible Settlement Class Members will be sent a check in the mail. Please be patient. All checks will expire and become void 90 days after they are issued.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

Yes, the Court has appointed lawyers Robert Nelson and Nimish Desai of Lieff Cabraser Heimann & Bernstein and Edward C. Chen of Law Offices of Edward C. Chen as the attorneys to represent you and other members of the Settlement Class. These attorneys are called "Class Counsel." In addition, the Court appointed Plaintiff David Rasmussen to serve as the Class Representative. He is a member of the Settlement Class like you. Class Counsel's contact information is as follows: Lieff Cabraser Heimann & Bernstein LLP, 275 Battery Street, 29th Floor, San Francisco, CA 94111-3339.

10. Should I get my own lawyer?

You don't need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask your lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

11. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys' fees and costs totaling up to \$410,000 and will also request an award of up to \$1,000 for the Class Representative. The Court may award less than the amounts requested by Class Counsel and the Class Representative, and any money not awarded from these requests will stay in the Settlement Fund to pay Settlement Class Members.

YOUR RIGHTS AND OPTIONS

12. What happens if I do nothing?

If you do nothing, you will be a Settlement Class Member, and, if the Court approves the Settlement, a check will automatically be mailed to you after the Settlement becomes final. You will also be bound by all orders and judgments of the Court. Unless you exclude yourself, you won't be able to start a

lawsuit or be part of any other lawsuit against Tesla for the claims being resolved by this Settlement.

13. What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you can't claim any money or receive any benefits as a result of the Settlement. You will not be bound by any orders and judgments of the Court. You will be able to start a lawsuit or be part of any other lawsuit against Tesla for the claims being resolved by this Settlement.

14. How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a letter clearly stating that you want to be excluded from the Settlement in *Rasmussen, et. al. v. Tesla, Inc.*, No. 5:19-cv-04596-BLF. Your letter must also include your name, address, and your signature. You must mail your exclusion request postmarked no later than **May 5, 2022** to:

Rasmussen et al. v. Tesla Settlement
Attn: Exclusions
P.O. Box 58220
Philadelphia, PA 19102

You can't exclude yourself via phone, fax, or email.

15. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims being resolved by this Settlement.

16. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you give up any right to receive money from the Settlement.

17. How do I object to the Settlement?

If you are a member of the Settlement Class and you do not exclude yourself, you can object to the Settlement if you don't like any part of it. You can also object to Class Counsel's request for attorneys' fees and costs and/or to the service award for the Class Representative. The Court will consider your views.

Your objection and supporting papers must (1) be in writing; (2) contain a caption or title that identifies it as "Objection to Class Settlement in *Rasmussen, et al. v. Tesla, Inc.*, No. 5:19-cv-04596-BLF;" (3) provide the additional information identified in the next paragraph; (4) be submitted to the Court either by mailing it to the Class Action Clerk, United States District Court for the Northern District of California, 280 S. 1st Street, San Jose, CA 9513, or by filing it in person at any location of the United States District Court for the Northern District of California; and (5) be filed or postmarked on or before **May 5, 2022**.

The objection shall contain the following information: (1) your name, address, and telephone number; (2) all grounds for the objection, with any factual and legal support for each stated ground; (3) the identity of any witnesses you may call to testify; (4) copies of any exhibits that you intend to introduce into evidence at the Final Approval Hearing; and (5) a statement of whether or not you intend to appear at the Final Approval Hearing with or without counsel. If you do not timely file with the Court a written objection in accordance with these requirements, your objection will be considered invalid and waived, and you will be bound by all the terms of the Settlement and by all proceedings, orders, and judgments in the Action.

Class Counsel will file with the Court and post on the Settlement website their request for attorneys' fees and costs and service awards on **May 31, 2022**.

18. What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class (i.e., you don't exclude yourself from the Settlement). Excluding yourself from the Settlement Class is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court hold the Final Approval Hearing on the fairness of the Settlement?

The Final Approval Hearing has been set for **June 16, 2022, at 9:00 a.m.** before the Honorable Beth Labson Freeman at the San Jose Courthouse, Courtroom 3, 5th Floor, 280 S. 1st Street, San Jose, CA 95153, and/or by remote access as determined by the Court. At the Final Approval Hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including the amount requested by Class Counsel for attorneys' fees and costs and the service award to the Class Representative.

Note: The date and time of the Final Approval Hearing, as well as whether the hearing will be conducted in person or by remote access, are subject to change by Court order, but any changes will be posted at the Settlement website, www.ModelSVoltageUpdateSettlement.com, or through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>.

20. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to court to talk about it. As long as your written objection was filed with the Court on time and meets the other criteria described above, the Court will consider it. You may also pay another lawyer to attend, but you don't have to.

21. May I speak at the Final Approval Hearing?

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If you do not exclude yourself from the Settlement Class, you may ask the Court for permission to speak at the Final Approval Hearing concerning any part of the proposed Settlement by asking to speak in your objection by following the instructions above in Section 17.

GETTING MORE INFORMATION

22. Where can I get additional information?

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.ModelSVoltageUpdateSettlement.com, contact Class Counsel at Lieff Cabraser Heimann & Bernstein LLP, 275 Battery Street, 29th Floor, San Francisco, CA 94111-3339, access the Court docket in this case through the Court's PACER system at <https://ecf.cand.uscourts.gov>, or visit the Office of the Clerk of the Court for the United States District Court for the Northern District of California, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

More information about the Settlement is available at www.ModelSVoltageUpdateSettlement.com, toll-free at **(844) 844-4116**, or by contacting Class Counsel.

**PLEASE DO NOT CONTACT THE COURT, THE JUDGE, OR THE DEFENDANT WITH
QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**