

 Owen Diaz, right, and his son Demetric in Oakland, California, on April 10.

Photographer: Michael Short/Bloomberg

Tesla Workers Claim Racial Bias and Abuse at Electric Car Factory

**ELON MUSK'S WHITE SOUTH
AFRICAN RACISM IS VERY
VISIBLE**

A
discrimination
lawsuit filed by
former factory
workers will
test the legal
rights of
contractors.

By Josh Eidelson

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From

On a fall evening in 2015, Owen Diaz went to drop off food for his 20-year-old son Demetric, whom he'd helped find a job at the same Tesla Inc. factory where Owen operated elevators. As he turned the corner, the two African-American men allege in a lawsuit, Owen saw Demetric's supervisor condemning his black subordinates with curses and slurs: "All you f-cking n-ggers," they heard him say. "I can't stand you motherf-ckers."

"It made me feel like I was less than a man," said Owen Diaz. "I couldn't do anything." In the end, he is doing something: the two are suing Tesla, along with contracting firms West Valley Staffing Group and Citistaff Solutions, alleging a pattern of racial harassment and hostility.

All three deny the allegations. But unlike other former Tesla workers' allegations of race and sex discrimination, the electric car giant hasn't been able to keep this one out of court. As contract workers, Owen and Demetric weren't required, as many direct Tesla employees are, to settle any disputes through binding arbitration. Their case has entered discovery, with depositions scheduled to start later this month. A federal trial is scheduled to start in 2019.

Whether it gets to trial or not, the process threatens to bring unwanted scrutiny and unwelcome disclosures about Tesla's culture, and the treatment of sub-contracted staff who play key roles in the attempt to meet Chief Executive Officer Elon Musk's ambitious production goals.

The company said in an emailed statement that it takes discrimination and harassment of all forms "extremely seriously," has a dedicated team focused on investigating and addressing workplace concerns, and requires online anti-discrimination and harassment training for all employees: "We will never be able to stop every single person in the factory from engaging in inappropriate conduct, but we will continue to do everything that we can to encourage the right behavior and to take action whenever something bad happens."

In the Diaz lawsuit, both men say they were regularly subject to racist epithets by co-workers and supervisors. Along with slurs, Owen says co-workers told him to “go back to Africa” and drew racist caricatures in bathroom stalls and on bales of cardboard—images of dark-skinned figures with bones in their hair and big lips, captioned with the word “Booo!” He’s kept a photo of one.

When Owen confronted a supervisor about the drawings,

 copy of a picture from the Tesla plant depicting a racially insensitive drawing.

Photographer: Michael Short/Bloomberg

they allege, he replied, “We’re just playing, why do you people take things so hard?” Ultimately, they charge, their complaints about discrimination were ignored or rebuffed, until they caused West Valley to terminate Demetric and Citistaff to demote Owen, who then quit.

While neither Owen nor Demetric ever got a paycheck directly from Tesla, they’re suing Musk’s firm as a “joint employer”—a company that exercises enough control over a group of workers that it shares legal responsibility when they’re mistreated. In a November court filing, Tesla denied the allegations. As to joint employer status, Tesla believes that with few exceptions, it’s unfair to hold a company responsible for another company’s actions, a spokesperson said.

Contract employees have become increasingly common, but the responsibility of the client is still unsettled. During the Obama administration, the National Labor Relations Board made it easier to treat companies as joint employers; the precedent is facing a challenge in federal court. The U.S. House of Representatives also passed a bill that would reverse the Obama precedent. The legislation hasn’t progressed in the Senate.

Workers say Tesla exemplifies the trend, making ample use of sub-contracted staff in a wide range of roles at the Fremont factory, which is currently racing to accelerate production of its all-electric Model 3. Chartwell Staffing Solutions is currently advertising for 106 assembly

line workers at a “manufacturing company” with a “busy facility in Fremont, Calif.” A Tesla spokesperson said it’s common for firms to add temporary workers during busy periods, and Tesla temps get safety training, access to break areas and free snacks, just like direct hires.

If the court holds Tesla accountable as a joint employer, it “would have a major impact on the behavior of other similarly-situated businesses,” said [David Weil](#), the dean of the school of social policy and management at Brandeis University. “Companies like Tesla will insist on those workers meeting their standards and their quality levels but on the other hand shirk the traditional responsibilities of having a person who does all that work.”

Being contract employees may actually be what gives the Diaz lawsuit a public hearing. Like a growing number of companies, Tesla uses employment contracts that require workers to resolve disputes through arbitration. The automaker has [invoked](#) such agreements in a series of recent worker discrimination disputes, pulling them out of the public eye. Business groups [say](#) arbitration is swift and efficient for everyone, but labor advocates argue it’s a secretive process and biased against workers.

Such agreements may be about to become even more widespread and easier to enforce. By June, the U.S. Supreme Court will rule in a [case](#) that could shut down efforts by the federal labor board to reign in arbitration agreements that prevent class action suits.

“It made me feel like I was less than a man”

While Owen and Demetric say they have no arbitration agreement with Tesla, the company's attorneys have offered several defenses against their claims, including that the men allegedly failed to avail themselves of the company's channels for addressing discrimination, that Tesla was unaware of any wrongdoing by staff, and that any actions the company took against the plaintiffs had valid justifications.

In its emailed statement, the company also said the plaintiffs "were at Tesla for only a short time and have been gone for well over a year" and that the only "relevant evidence" the company had found so far was an email in which Owen Diaz complained about a co-worker's alleged yelling and aggressive comments but not racism.

Tesla accused the plaintiffs' attorney Larry Organ of mounting "a carefully planned media blitz in an attempt to create a disingenuous narrative," a common theme for the car company. In November, after Organ filed a putative class action alleging a "hotbed of discrimination" at Tesla, the automaker responded with a blog post titled "Hotbed of Misinformation." The company attacked Organ directly, saying he "has a long track record of extorting money for meritless claims and using the threat of media attacks and expensive trial costs to get companies to settle. At Tesla, we would rather pay ten times the settlement demand in legal fees and fight to the ends of the Earth than give in to extortion and allow this abuse of the legal system."

In response, Organ says he considers Tesla's attack a "badge of honor," given the company's conduct as described in the suit.

Owen Diaz and his son Demetric say they were never out to get Tesla, a company they were both thrilled to work for and whose fossil-free vision they enthusiastically support. "I brought my son—I told him it was a good job," Owen said. "To me, that's probably one of the worst things I could have ever done for him, was put him in that situation."

—With assistance from Dana Hull