

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

KIM BANNER, as Personal Representative
of the ESTATE OF JEREMY BANNER,
deceased,

CASE NO.: 50-2019-CA-009962 (AB)

Plaintiff,

v.

TESLA, INC. a/k/a TESLA FLORIDA,
INC., FIRSTFLEET, INC. OF
TENNESSEE a/k/a FIRSTFLEET, INC.,
and RICHARD KEITH WOOD,

Defendants.

AMENDED COMPLAINT

COMES NOW Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, by and through her undersigned counsel, and hereby files suit against Defendants, TESLA, INC. a/k/a TESLA FLORIDA, INC. (hereinafter referred to as "TESLA"), FIRSTFLEET, INC. OF TENNESSEE, a/k/a FIRSTFLEET, INC. (hereinafter referred to as "FIRSTFLEET") and RICHARD KEITH WOOD, based on the following allegations:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages that exceed the sum of Fifteen Thousand Dollars (\$15,000.00), exclusive of costs and attorneys' fees.

2. At all times material hereto, Plaintiff, KIM BANNER, has been appointed as the Personal Representative of the Estate of JEREMY BANNER, deceased, and litigates this wrongful death action on behalf of the Estate of JEREMY BANNER and on behalf of all survivors.

3. JEREMY BANNER died on March 1, 2019 as a direct result of injuries suffered in an automobile crash which occurred at the 14000 block of State Highway 441 (US 441), Delray Beach in Palm Beach County, Florida.

4. JEREMY BANNER was born on October 25, 1968 and was 50 years old at the time of his untimely death.

5. At the time of the subject automobile crash, Plaintiff, KIM BANNER, was married to JEREMY BANNER and is the surviving spouse of JEREMY BANNER, deceased.

6. At all times material hereto, JEREMY BANNER has three surviving children under the age of twenty-five (25):

- a) Rachel Alliyah Banner
Date of Birth: November 19, 1999
- b) Alexandra Rene Banner
Date of Birth: February 9, 1995
- c) Damion James Banner
Date of Birth: December 25, 1994

7. The surviving minor children of the deceased, JEREMY BANNER, are entitled to recover damages under the Florida Wrongful Act.

8. At all times material hereto, KIM BANNER, was married to JEREMY BANNER and living together as husband and wife.

9. The Estate of JEREMY BANNER is entitled to recover damages under the Florida Wrongful Death Act.

10. Plaintiff, KIM BANNER, the surviving spouse of the deceased, JEREMY BANNER, is entitled to recover damages under the Florida Wrongful Death Act.

11. The survivors pursuant to the Florida Wrongful Death Act §768.21 are:

- a) KIM BANNER
- b) Rachel Alliyah Banner
- c) Alexandra Rene Banner
- d) Damion James Banner

12. At all times material hereto, Plaintiff, KIM BANNER, and decedent, JEREMY BANNER, were Florida residents residing at 10360 Cypress Lake Preserve Drive, Lake Worth, Palm Beach County, Florida.

13. At all times material hereto, Defendant, RICHARD KEITH WOOD, was and is a Florida resident; specifically residing at 2115 Roanoke Springs Drive, Euskin, Florida.

14. The automobile collision which is the subject of this lawsuit occurred on March 1, 2019 at the 14000 block of State Highway 441 (US 441), Delray Beach, Palm Beach County, Florida.

15. At all times material hereto and prior to the accident which is the subject of this lawsuit, JEREMY BANNER, purchased the subject 2018 Tesla Model 3 (VIN #: 5YJ3E1EB2JF079950) from Defendant, TESLA.

16. At the time of the subject automobile collision, JEREMY BANNER, was occupying the subject Tesla Model 3 manufactured and sold to him by Defendant, TESLA.

17. At all times material hereto, Defendant, TESLA, was a foreign corporation which was licensed and authorized to do business in the State of Florida and sold the subject Tesla Model 3 to JEREMY BANNER in Palm Beach County, Florida.

18. At all times material hereto, Defendant, FIRSTFLEET, was a foreign corporation specializing in the operation of a fleet of commercial semi-tractor trailers which owned and operated such commercial vehicles throughout the United States and specifically within Palm Beach County, Florida.

19. At the time of the automobile collision which is the subject of this lawsuit, Defendant, RICHARD KEITH WOOD, was a professional commercial truck driver operating the subject semi-tractor trailer (VIN #: 3HCDZAPR1KL241561) with the knowledge and consent of Defendant, FIRSTFLEET.

20. At the time of the automobile collision in question, Defendant, FIRSTFLEET, owned the subject commercial semi-tractor trailer driven by their employee, RICHARD KEITH WOOD.

21. At the time of the automobile collision in question, Defendant, RICHARD KEITH WOOD, was an employee and/or agent of Defendant, FIRSTFLEET, and was acting within the course and scope of his employment/agency as a commercial truck driver for Defendant, FIRSTFLEET.

22. Defendant, FIRSTFLEET, is vicariously responsible for the actions and/or inactions of its employees, including but not limited to Defendant, RICHARD KEITH WOOD.

23. Defendant, FIRSTFLEET, is vicariously responsible for the negligence on the part of its employees, including but not limited to Defendant, RICHARD KEITH WOOD.

24. Defendant, TESLA, is vicariously responsible for the actions and/or inactions of its employees, including but not limited to its CEO and President, ELON MUSK.

25. Defendant, TESLA, is vicariously responsible for the negligence on the part of its employees, including but not limited to its CEO and President, ELON MUSK.

COUNT I - STRICT LIABILITY
BANNER v. TESLA

Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, realleges each and every allegation contained in paragraphs 1 through 25, and, by reference, further states:

26. At all times material hereto, Defendant, TESLA, was a foreign corporation which was licensed and authorized to do business in the State of Florida.

27. At all times material hereto, Defendant, TESLA, was engaged in the business of designing, testing, manufacturing, distributing, promoting, maintaining and selling motor vehicles which were used in the State of Florida for use on public roadways. Defendant, TESLA, is an American corporation specializing in, among other things, the design, manufacture, and sale of all-electric powered cars to be used on streets and highways of the State of Florida.

28. In contrast to the majority of other automobiles and SUV's sold in the United States, Defendant, TESLA's vehicles do not have internal combustion engines. All the systems within the Tesla models including but not limited to the subject Tesla vehicle, are electrically powered, and are controlled by computers and microprocessors which have been designed manufactured and programmed by Defendant's engineers. Such computers, microprocessors and programs control all aspects of the subject Tesla's operation, including the drivetrain, braking system and "autopilot system", including Tesla's "traffic-aware cruise control" and Tesla's "autosteer lane-keeping assistance". The subject Model 3 Tesla owner's manual is available online at www.tesla.com/teslaaccount.

29. All Tesla model 3 vehicles include the following safety features:

- a) "lane assist";
- b) "collision avoidance assist";
- c) "speed assist"; and,
- d) "auto high beam".

30. The subject Model 3 Tesla purchased by JEREMY BANNER was also equipped with the following Tesla "autopilot" safety features:

- a) "traffic one-aware cruise control"; and
- b) "autosteer".

31. Based on Tesla's advertising, promotional material and information supplied to its customers in its owner's manual, Defendant, TESLA, confirmed "if you have purchased the optional Enhanced Autopilot or Full Self-Driving Capability Package, the forward looking cameras and the radar sensor are designed to determine when there is

a vehicle in front of you in the same lane. If the area in front of Model 3 is clear, traffic-aware cruise control maintains a set driving speed. When a vehicle is detected, traffic-aware cruise control is designed to slow down Model 3 as needed to maintain a selected timed based distance from the vehicle in front, up to the set speed.”

32. Based on Tesla’s advertising, promotional material and its Model 3 owner’s manual, Defendant, TESLA, claimed that:

“if you have purchased the optional Enhanced Autopilot or Full Self-Driving Capability Packages, you can use Auto Steer to manage steering and speed under certain circumstances. Auto Steer builds upon traffic-aware cruise control, intelligently keeping Model 3 in its driving lane when cruising at a set speed. Auto Steer also allows you to use the turn signals to move Model 3 into an adjacent lane. Using the vehicle’s cameras, the radar sensor, and the ultrasonic sensors, auto steer detects lane markings and the presences of vehicles and objects for steering Model 3”.

33. Based on Tesla’s advertising, promotional material and owner’s manual, Tesla’s customers including decedent, JEREMY BANNER, believed the Tesla Model 3’s technology was such that the auto pilot features included design and programs, software, hardware, and systems that would eliminate the risk of harm or injury to the vehicle operator caused by other vehicles or obstacles while driving on roadways and would prevent the vehicle from colliding with other obstacles/objects while in auto pilot mode. Decedent, JEREMY BANNER, reasonably believed the subject 2018 Tesla Model 3 vehicle was safer than a human-operated vehicle because Defendant, TESLA claimed

superiority regarding the vehicle's auto pilot system, including Tesla's "full self-driving capability", Tesla's "traffic-aware cruise control", Tesla's "auto steer lane-keeping assistance" and other safety related components, and Defendant, TESLA's claim that all of the self-driving safety components engineered into the vehicle and advertised by Defendant, TESLA, would prevent fatal injury resulting from driving into obstacles and/or vehicles in the path of the subject Tesla vehicle.

34. All Tesla vehicles, including the 2018 Model 3 which is the subject of this lawsuit, relied upon a system of external sensors which, by design if working properly, should prevent the vehicle from driving into an obstacle or vehicle in the Tesla's path.

35. At the time of the design, manufacture, distribution, and delivery into the stream of commerce of the Tesla Model 3 vehicle, it lacked a properly designed system for crash avoidance. As a result, it was a vehicle that could and would strike and collide with ordinary and foreseeable roadway obstacles and other vehicles while the Tesla was in autopilot mode.

36. At the time Defendant, TESLA, placed the subject Tesla Model 3 into the stream of commerce, the company specifically knew that its product was defective and would not properly and safely avoid impacting other vehicles and obstacles in its path.

37. At all times material hereto and prior to the subject crash, Defendant, TESLA, had specific knowledge of numerous prior incidents and accidents in which its safety systems on Tesla vehicles completely failed causing significant property damage, severe injury and catastrophic death to its occupants.

38. At all times material hereto and prior to the subject crash, Defendant, TESLA, included design, program, software, hardware and systems that would immediately notify Defendant, TESLA, of any significant collision and/or accident involving one of their Tesla vehicles.

39. At all times material hereto and prior to the subject crash, Defendant, TESLA, had specific knowledge and conducted specific investigations into numerous Tesla collisions in which its safety systems completely failed causing significant property damage, severe injury and catastrophic death to its occupants.

40. Defendant, TESLA, investigated a Tesla collision which occurred on January 20, 2016, in which it was determined the Tesla vehicle rear-ended a road sweeper causing fatal injuries to Gao Yaning in Handan, China while the vehicle safety features were engaged. It was determined the subject safety features were defective and did not work properly resulting in this fatal collision and death of Gao Yaning.

41. On January 22, 2018, a Tesla vehicle collided with a Culver City Fire Department truck that was stopped in an emergency lane while operating in “autopilot”. The Tesla was traveling at 65 miles per hour and ran directly into the rear of the fire truck which was parked to respond to another accident. Defendant, TESLA, investigated the subject accident and confirmed that its safety systems and “autopilot” feature completely failed and resulted in the subject collision.

42. On March 23, 2018, a Tesla vehicle operated by Wei Lun Huang in Mountainview, California was on “autopilot” and struck a crash attenuator at a speed of approximately 71 miles per hour thereafter resulting in a massive collision with two other vehicles resulting in the death of the Tesla driver, Wei Lun Huang. Defendant, TESLA,

investigated the subject accident and confirmed that its safety systems and “autopilot” feature completely failed and resulted in the subject collision and death of Wei Lun Huang.

43. On May 8, 2018, a Tesla vehicle operating on “autopilot” mode at the 1300 block of Seabreeze Boulevard in Fort Lauderdale, Florida, lost control causing the vehicle to drive across a curb, through a sidewalk and collided with a wall causing the vehicle to erupt into flames resulting in the death of the Tesla driver, Edgar Monserratt-Martinez, and the right front passenger in the Tesla.

44. On May 11, 2018, Heather Lommatzsch was operating a Tesla vehicle in South Jordan, Utah on “autopilot” with hands free operation, traveling at a speed of approximately 65 miles per hour when the safety feature of the Tesla failed to work properly causing the Tesla vehicle to collide with a fire authority maintenance vehicle resulting in severe and debilitating injuries to the Tesla driver.

45. On May 29, 2018, a Tesla operator was using the safety “autopilot” feature and struck a Laguna Beach Police vehicle that was parked along the edge of the roadway resulting from the improper and defective failure of the Tesla auto pilot system.

46. On October 12, 2018, Sean Hudson was operating a Tesla vehicle on the Florida Turnpike in Orange County, Florida in “autopilot” mode which resulted in the Tesla vehicle improperly striking the rear of another vehicle at a speed of approximately 80 miles per hour resulting in severe, permanent and debilitating physical injuries.

47. Defendant, TESLA, and the company’s President, Elon Musk, specifically knew of numerous prior accidents and collisions resulting from the defective nature and

failure of Tesla's "autopilot" safety features which resulted in numerous injuries and deaths to Tesla occupants and/or others involved in the subject collisions.

48. On May 7, 2016, a Tesla vehicle driven by Joshua Brown near Williston, Florida while in "autopilot" drove underneath a tractor trailer that had pulled from a side street violating Joshua Brown's right of way, resulting in Joshua Brown's untimely death.

49. The National Transportation Safety Board ("NTSB") conducted a thorough investigation of the Tesla accident which occurred on May 7, 2016 resulting in the untimely death of Joshua Brown near Williston, Florida.

50. The NTSB investigation of the Joshua Brown accident confirmed that TESLA's automated vehicle control system was engaged at the time of the crash and did absolutely nothing to avoid or prevent the collision and resulting death.

51. Defendant, TESLA, and their President and CEO, Elon Musk, were informed of the facts and findings of the numerous NTSB investigations confirming that their product was defective and confirming that their unsafe product would continue to result in significant catastrophic injury and death to occupants of Tesla vehicles and other drivers exposed to such dangerous conditions throughout the United States.

52. Defendant, TESLA, and their President and CEO, Elin Musk, conducted a thorough investigation of the subject Tesla accident involving the death of Joshua Brown on May 7, 2016.

53. In a conference call with reporters following the death of Joshua Brown, Tesla President and CEO, Elon Musk, admitted that upgrades to Tesla's safety system would have prevented the accident on May 7, 2016 and untimely death of Joshua Brown.

54. Defendant, TESLA, and their President and CEO, Elon Musk, admitted they were aware of the defect in the safety system of the Tesla which caused the safety system to fail; specifically the defect would cause the Tesla to fail to identify and avoid tractor trailers crossing the path of a Tesla operator resulting in the Tesla taking no steps at all to avoid a collision.

55. Defendant, TESLA, and their President and CEO, Elon Musk, specifically made the decision not to recall any of its Tesla vehicles when they knew such vehicles were defective and would pose a significant risk of injury and death to occupants of Tesla vehicles and occupants of other drivers on the roadways of the United States.

56. Defendant, TESLA, and their President and CEO, Elon Musk, specifically made the decision to continue to profit from the sales of their vehicles without taking the appropriate steps to ensure the safety of its occupants and other drivers on the roadways of the United States by implementing measures to correct the defective nature of its product.

57. Defendant, TESLA, and their President and CEO, Elon Musk, indicated that the word “recall” does not make sense because the “fix” for the defective nature of the Tesla product would be an “over-the-air-update”.

58. At all times material hereto and prior to the collision in question which resulted in the untimely death of JEREMY BANNER, Defendant, TESLA, failed to make appropriate changes to remedy the defective nature of the subject Tesla “autopilot system” and its claimed “full self-driving capability package”.

59. On the morning of Friday, March 1, 2019, JEREMY BANNER left his home to go to work traveling southbound on State Highway 441 (U.S. 441) in his 2018 Tesla Model 3.

60. At all times material hereto, JEREMY BANNER, was operating the subject Tesla vehicle in the southbound lanes of State Highway 441 (U.S. 441) when a semi-tractor trailer owed by Defendant, FIRSTFLEET, and operated by Defendant, RICHARD KEITH WOOD, pulled through a stop sign eastbound directly into the path of the Tesla vehicle occupied by JEREMY BANNER, deceased.

61. The Tesla “autopilot” system was engaged by JEREMY BANNER approximately 10 seconds before the collision which resulted in his death.

62. At all times material hereto and at the time of this subject crash, the TESLA “autopilot” system was engaged at the time the tractor trailer owned by FIRSTFLEET and operated by RICHARD KEITH WOOD, crossed into the path of the Tesla vehicle occupied by JEREMY BANNER.

63. At all times material hereto and at the time of the subject collision, the aforementioned Tesla safety features including but not limited to Tesla’s “autopilot” system completely failed to do anything to brake, slow down, steer, or otherwise avoid the collision which caused the subject Tesla Model 3 to drive completely under the subject trailer resulting in the death of JEREMY BANNER.

64. At all times material hereto and at the time of this subject crash, the subject Tesla Model 3 struck the left side of the semi-tractor trailer causing the roof of the Tesla to be sheared off as the vehicle under-road the semi-tractor trailer and continued

southbound coming to final rest 1,600 feet from where the collision occurred with Defendant's semi-tractor trailer.

65. Defendant, TESLA, conducted a thorough investigation of the subject accident involving the untimely death of JEREMY BANNER.

66. Defendant, TESLA, confirmed and determined that Tesla's "autopilot" safety system was engaged at the time of the crash which caused the untimely death of JEREMY BANNER.

67. Defendants, TESLA, confirmed that the Tesla "autopilot" system was defective and did not work properly in regards to the crash which resulted in the untimely death of JEREMY BANNER.

68. Defendant, TESLA, determined that Tesla's "autopilot" system was defective and failed to do anything to attempt to avoid the collision which resulted in the untimely death of JEREMY BANNER.

69. Notwithstanding the fact that the subject Tesla Model 3 vehicle was marketed and sold as a "state of the art" automobile with the "full self-driving capability package", the vehicle was without safe and effective automatic emergency braking safety feature that was operable on the date of this collision. By that date, multiple other manufacturers of vehicles, including Subaru, Mazda, Chrysler, Mitsubishi, and Honda, all less expensive vehicles, had vehicles in production with automatic emergency braking safety features available no later than the 2015 model year.

70. At all times material hereto and at the time JEREMY BANNER purchased the subject Tesla Model 3 from Defendant, TESLA, it was marketed to the general public by Tesla that such vehicles featured safety systems marketed as "autopilot" and "full self-

driving capability package” which claim to prevent collisions by way of an automatic emergency braking system that reasonably matched the vehicle speed to traffic conditions, kept vehicles within their lane, transitioned from one freeway to another, exited freeways when a destination was near, provided active automatic collision avoidance and automatic emergency braking which should detect objects the car might impact, and apply the brakes accordingly to avoid impact or injury.

71. The subject Tesla vehicle as herein described was defective and unreasonably dangerous at the time it was so designed, manufactured, assembled, sold, distributed, marketed, promoted, placed within the stream of commerce and marketplace, and allowed to be used therein in the ways set forth herein:

a. The vehicle was not crash-worthy; the vehicle safety system was defective and did not work properly; the vehicle safety system was defective and did not work properly to sense the presence and danger of the subject semi-tractor trailer;

b. The Tesla vehicle’s safety system was defective and did not work properly to steer to avoid the subject collision;

c. The Tesla vehicle’s safety system was defective and did not work properly to brake to avoid the collision; and,

d. The Tesla vehicle’s safety system was otherwise defective in ways that will be demonstrated by the evidence obtained during discovery.

72. The aforesaid defects existed at the time of the design, manufacture and assemble of said Tesla vehicle, continued to remain an integral characteristic of said vehicle at the time it was sold, distributed, placed within the stream of commerce and marketplace, and allowed to be used therein by Defendant, TESLA, and remained as such

up to and including the time that JEREMY BANNER died as a direct result of said defects and, as a result, Defendant, TESLA, is strictly liable to Plaintiff.

73. The decedent, JEREMY BANNER, was unaware of the aforesaid defects and dangerousness of said product, which made such product unsafe for its intended and foreseeable use, nor were such defects apparent by reasonable inspection.

74. As a direct and proximate result, JEREMY BANNER's surviving spouse, Plaintiff, KIM BANNER, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship and protection;
- c. pain and suffering and mental anguish;
- d. medical and funeral expenses; and,
- e. loss of the net accumulations of the Estate.

All of the foregoing damages are continuing into the future and are permanent.

75. As a direct and proximate result, Rachel Alliyah Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

76. As a direct and proximate result, Alexandra Rene Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

77. As a direct and proximate result, Damion James Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

WHEREFORE, Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, demands judgment for damages against Defendant, TESLA, and further demands trial by jury.

COUNT II - NEGLIGENCE CLAIM
BANNER v. TESLA

Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, realleges each and every allegation contained in paragraphs 1 through 72 by reference and further states as follows:

78. At all times material hereto, it was the duty of Defendant, TESLA, to exercise due care in the design, manufacture, assembly, distribution and/or sale of the subject Tesla vehicle, and in placing such Tesla vehicle into the stream of commerce said that such Tesla vehicle would be reasonably safe for its intended use and for other uses that were foreseeable.

79. At all times material hereto, it was the duty of Defendant, TESLA, to ensure that the subject Tesla vehicle that it placed into the stream of commerce was safe for use by its intended users and those persons who may foreseeably come into close proximity to it, such as decedent, JEREMY BANNER.

80. At all times material hereto and at the time of the incident complained of, Defendant, TESLA, was negligent and failed to warn that the vehicle was defective in the manners and ways set forth herein:

a. The vehicle was not crash-worthy; the vehicle safety system was defective and did no work properly; the vehicle safety system was defective and did not work properly to sense the presence and danger of the subject semi-tractor trailer;

b. The Tesla vehicle's safety system was defective and did not work properly to steer to avoid the subject collision;

c. The Tesla vehicle's safety system was defective and did not work properly to brake to avoid the collision; and,

d. The Tesla vehicle's safety system was otherwise defective in ways that will be demonstrated by the evidence obtained during discovery.

81. Defendant, TESLA, designed, manufactured, assembled, distributed, sold and placed within the stream of commerce and marketplace, as the subject Tesla vehicle was hereinabove specifically described, the vehicle intended to be used by the ultimately consumer, and Defendant, TESLA, knew or with the exercise of reasonable care should have known, that said Tesla vehicle was negligently designed, manufactured, and assembled.

82. Defendant, TESLA, negligently failed to give proper warnings to any purchaser or user of the vehicle concerning its dangerous condition and propensities, or the fact that the subject Tesla vehicle was unreasonably dangerous during use, and, as such, could cause injury to those persons in close proximity thereto.

83. Defendant, TESLA, negligently designed, manufactured, assembled, marketed, sold, and/or allowed to be used in the marketplace the subject Tesla vehicle without warnings as to its dangers and as to its proper use, and knew or should have known the aforesaid subject Tesla vehicle, when used within the purposes for which it was designed, manufactured, and intended, was unreasonably dangerous and hazardous to those persons in close proximity thereto.

84. Defendant, TESLA, negligently failed to warn the consumer, user, operator, and those in the vicinity of said Tesla vehicle of its extremely dangerous and hazardous characteristics, propensities, and defects, and, after placing said vehicle on the

market and allowing its use herein, failed to recall said vehicle from the market, said recall being necessitated because of said unreasonably dangerous and hazardous defects contained herein.

85. Decedent, JEREMY BANNER, was unaware of the aforementioned defects and dangerousness of said product which made such product unsafe for its intended and foreseeable use, nor were such defects apparent by reasonable inspection.

86. As a direct and proximate result, JEREMY BANNER's surviving spouse, Plaintiff, KIM BANNER, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship and protection;
- c. pain and suffering and mental anguish;
- d. medical and funeral expenses; and,
- e. loss of the net accumulations of the Estate.

All of the foregoing damages are continuing into the future and are permanent.

87. As a direct and proximate result, Rachel Alliyah Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

88. As a direct and proximate result, Alexandra Rene Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

89. As a direct and proximate result, Damion James Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

WHEREFORE, Plaintiff KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, demands judgment for damages against Defendant, TESLA, and further demands trial by jury.

COUNT III - NEGLIGENCE AGAINST RICHARD KEITH WOOD
BANNER v. WOOD

Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, realleges each and every allegation contained in paragraphs 1 through 25 by reference and further states as follows:

90. At all times material hereto, Defendant, RICHARD KEITH WOOD, was and is a Florida resident; specifically residing at 2115 Roanoke Springs Drive, Euskin, Florida.

91. At all times material hereto, Defendant, RICHARD KEITH WOOD, was an employee and/or agent of Defendant, FIRSTFLEET, and was acting within the course and scope of his employment and/agency.

92. On March 1, 2019, Defendant, FIRSTFLEET, owned a commercial semi-tractor trailer vehicle which was being operated with their knowledge and consent by Defendant, RICHARD KEITH WOOD, in the area of the 14000 block of State Highway 441 (U.S. 441), in Delray Beach, Palm Beach County, Florida.

93. At the time and place aforementioned, Defendant, RICHARD KEITH WOOD, so negligently operated and maintained said semi-tractor trailer vehicle so as to cause it to drive through a stop sign into the path and right-of-way of the subject Tesla occupied by JEREMY BANNER resulting in the catastrophic collision between the two vehicles.

94. The untimely death of JEREMY BANNER was caused as a direct and proximate result of the negligence of Defendant, RICHARD KEITH WOOD.

95. As a direct and proximate result, JEREMY BANNER's surviving spouse, Plaintiff, KIM BANNER, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship and protection;
- c. pain and suffering and mental anguish;
- d. medical and funeral expenses; and,
- e. loss of the net accumulations of the Estate.

All of the foregoing damages are continuing into the future and are permanent.

96. As a direct and proximate result, Rachel Alliyah Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

97. As a direct and proximate result, Alexandra Rene Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,

- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

98. As a direct and proximate result, Damion James Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

WHEREFORE, Plaintiff, KIM BANNER, demands judgment for damages against Defendant, RICHARD KEITH WOOD, and further demands trial by jury.

**COUNT IV - NEGLIGENCE CLAIM AGAINST FIRSTFLEET
BANNER v. FIRSTFLEET**

Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, realleges each and every allegation contained in paragraphs 1 through 25 and paragraphs 90 through 94 by reference and further states as follows:

99. Defendant, FIRSTFLEET, INC., is vicariously liable for the negligence of their employee and/or agent, RICHARD KEITH WOOD, in causing the subject collision which resulted in the untimely death of JEREMY BANNER.

100. Defendant, FIRSTFLEET, INC., is vicariously liable for any negligence on the part of a permissive user of the subject commercial tractor trailer which was involved in the collision causing the untimely death of JEREMY BANNER.

101. At all times material hereto, Defendant, RICHARD KEITH WOOD, was a permissive user of the subject commercial motor vehicle owned by Defendant, FIRSTFLEET, INC.

102. As a direct and proximate result, JEREMY BANNER's surviving spouse, Plaintiff, KIM BANNER, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship and protection;
- c. pain and suffering and mental anguish;
- d. medical and funeral expenses; and,
- e. loss of the net accumulations of the Estate.

All of the foregoing damages are continuing into the future and are permanent.

103. As a direct and proximate result, Rachel Alliyah Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

104. As a direct and proximate result, Alexandra Rene Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

105. As a direct and proximate result, Damion James Banner, decedent's surviving child, is entitled to damages as provided by the Wrongful Death Act §768.21, including but not limited to the following damages:

- a. loss of support and services;
- b. loss of companionship;
- c. loss of instruction and guidance; and,
- d. pain and suffering and mental anguish.

All of the foregoing damages are continuing into the future and are permanent.

WHEREFORE, Plaintiff, KIM BANNER, as Personal Representative of the Estate of JEREMY BANNER, deceased, demands judgment for damages against Defendant, FIRSTFLEET, and further demands trial by jury.

Dated this 6th day of August, 2019.

/s/ Lake H. Lytal, III.

LAKE H. LYTAL, III., ESQUIRE

Florida Bar No.: 0129119

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