

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division**

NEIMA BENAVIDES, Personal  
Representative of the Estate of  
NAIBEL BENAVIDES LEON,  
deceased,

Plaintiff,

USDC Case:  
LC Case: 2021-009716-CA-01

vs.

TESLA, INC. a/k/a TESLA  
FLORIDA, INC.

Defendant.

**DEFENDANT TESLA, INC.'S NOTICE OF REMOVAL**

Defendant Tesla, Inc., (“Tesla”) by its undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and Local Rule 4.02, hereby removes and gives notice of the removal of the above-styled action from the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida to the United States District Court for the Southern District of Florida, Miami Division. In support of this removal, Defendant states as follows:

1. Tesla desires to exercise its right under the provisions of 28 U.S.C. § 1441 to remove this action to the United States District Court for the Southern District of Florida, Miami Division.

2. Pursuant to 28 U.S.C. § 1441 "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

3. On April 27, 2021, Plaintiff served a Complaint against Tesla in the Circuit Court for Miami-Dade County, Florida, which is pending under Case Number 21-009715-CA-01. The Complaint includes allegations about a two-vehicle motor vehicle crash that allegedly led to the death of Plaintiff's Decedent. Plaintiff alleges automotive product liability claims including strict liability, product defect and failure to warn. *See* Complaint attached as Exhibit A.

4. In compliance with 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty days after service of said Complaint.

5. The United States District Court for the Southern District of Florida, Miami Division has jurisdiction over this matter, pursuant to 28 U.S.C. § 1332, based upon the diversity of citizenship between the parties and the amount in controversy is in excess of this Court's minimum jurisdictional amount of \$75,000.00, exclusive of interest, costs, and attorney's fees. "Diversity jurisdiction requires complete diversity; every plaintiff must be diverse from every defendant." *Flintlock Const. Servs., LLC v. Well-Corne Holdings, LLC*,

710 F.3d 1221, 1224 (11th Cir. 2013).

6. Plaintiff, Neima Benavides – the legal representative of Decedent's estate – was and is a resident of Berkeley, New Jersey, and is otherwise a citizen of New Jersey.

7. Decedent Naibel Benavides was a citizen of Florida, and resided in Miami, Florida, at the time of her death.

8. Pursuant to 28 U.S.C. 1332(c)(2), Plaintiff Neima Benavides is considered to be a citizen of the State of Florida.

9. Defendant, Tesla at the time this action was commenced, was and still is a corporation organized under the laws of Delaware with its principal place of business in Santa Clara County, California. While Tesla is authorized to conduct business in Florida, it is not organized under the laws of the state of Florida, where this action was brought. Nor is Tesla's principal place of business in the state of Florida.

10. Although a company may conduct business in multiple places, the Supreme Court has determined that the "principal place of business" for a corporation is its nerve center: "the place where a corporation's officers direct, control, and coordinate the corporation's activities." *Hertz Corp. v. Friend*, 559 U.S. 77, 91-94 (2010) (establishing the "nerve center" test as uniform approach for determining corporate citizenship). Tesla's nerve center is in the State of California,

where it is headquartered.

11. As to the amount in controversy, Plaintiff seeks damages under the Florida Wrongful Death Act, Florida Statute §768.16, including loss of wages, benefits, and other earnings that Decedent would have expected to earn had she lived a full life, medical, funeral expenses, loss of support, services, companionship, guidance and protection to the Decedent's parents and mental and emotional pain and suffering due to the loss of the Decedent. See Complaint at Paragraphs 38-39. Additionally. The civil cover sheet (Form 1.997) that Plaintiff filed with her Complaint in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, FL (Exhibit C) indicates that Plaintiff estimates the amount or value of her claim to be "over \$100,000." Tesla does not admit or concede Plaintiff's damage claims. However, if all of Tesla's defenses were to fail, Plaintiff's alleged damages would exceed the diversity threshold of \$75,000, exclusive of costs and fees.

12. With all other requirements for removal under 28 U.S.C. § 1446 otherwise complied with by the Defendant, Tesla, the Defendant removes the Florida State Court Action to the United States District Court for the Southern District of Florida, Miami Division.

WHEREFORE, Defendant Tesla, Inc. removes the State Court Action from the Circuit Court Of The 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County,

Florida, to this Court, and requests that this Court take jurisdiction of this civil action to the exclusion of any further proceedings in the State Court.

Respectfully submitted,

By: s/ Henry Salas  
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**CERTIFICATE OF SERVICE**

I certify that on May 25, 2021, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system and forwarded a copy of such filing, via 1<sup>st</sup> class mail, to the following:

Todd Poses, Esquire  
POSES & POSES, P.A.  
Alfred I. Dupont Building  
169 East Flagler Street Suite 1600  
Miami, Florida 33131  
(305) 577-0200 Tel  
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Respectfully submitted,

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**INDEX OF EXHIBITS**

<b><u>EXHIBIT NO.</u></b>	<b><u>DESCRIPTION</u></b>
<b>A.</b>	Plaintiff's Summons and Complaint
<b>B.</b>	Notice to State Court of Filing of Notice of Removal
<b>C.</b>	State Court Civil Cover Sheet