

May 14, 2020

## Tesla's legal fight might be map for other businesses

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Large businesses might now look to Tesla's playbook as a strategy to overcome restrictive directives by local officials to remain closed, according to Meyers Nave attorney Deborah Fox, who successfully defended stay-at-home orders in two unrelated lawsuits on behalf of the state.

"It looks like Tesla and the other corporations moving forward will use litigation as part of a bigger strategy to impact the equation about reopening," she said. "It certainly looks like it will be used as leverage."

On Tuesday evening, county officials agreed to let Tesla resume operations next week if it agrees to certain safety conditions.

"We reviewed the plan and held productive discussions today with Tesla's representatives about their safety and prevention plans, including some additional safety recommendations," the county said in a statement. "If Tesla's Prevention and Control Plan includes these updates, and the public health indicators remain stable or improve, we have agreed that Tesla can begin to augment their minimum business operations this week in preparation for possible reopening as soon as next week."

Alameda County did not comment on whether Tesla has paused manufacturing until the measures are implemented. Tesla did not respond to requests for comment.

Company CEO Elon Musk confirmed in a tweet Monday that workers were at the plant to restart production. Alameda County's shelter-in-place orders keeps Tesla shut until at least the end of May, unlike the state's directive exempting the car manufacturer from closure.

Tesla sued the county in federal court Saturday over the issue, calling the continued restrictions a "power grab" since it conflicted with the state's order.

The lawsuit was most likely part of a strategic ploy by the company to pressure county officials into caving to its demands. *Tesla, Inc. v. Alameda County*, 20-CV-03186 (N.D. Cal., filed May 9, 2020).

Fox noted it's unusual that Tesla's complaint seeks a permanent injunction rather than a temporary restraining order. She questioned why the car manufacturer would not seek more immediate relief that would be heard by a federal judge on an emergency basis.

Given unprecedented budget shortfalls in response to the COVID-19 pandemic, according to Fox, counties will look to slash expenses, including those for legal services. She predicted Tesla will not drop its lawsuit until it has a written order confirming it can reopen.

"You can see how this bigger strategy is being developed," she said.

Bay Area Council President Jim Wunderman emphasized that reopening the economy is "absolutely necessary" in an e-mailed statement.

"Now that we are in the recovery phase, with new disease and hospitalization trends continuing to improve, we urge our leaders to move as quickly as possible, while still staying laser-focused on safety, to get people back to work and save many businesses that face potential closure," the statement continued.

Arguing stay-at-home orders are open to interpretation, council spokesman Rufus Jeffris said the business community's frustration is primarily because of conflicting orders by the state and counties.

"We want consistency in how these rules and guidelines are applied in one industry versus another," he said, continuing that the group is assembling a "unified set of best practices" to recommend for businesses to reopen.

In a survey of the Bay Area's largest businesses published by the council in April, 71% reported stay-at-home orders should be lifted by the end of May. Twenty-six percent reported they wanted the directives to be lifted within two weeks.

Tesla attorneys Alex Spiro, Derek Shaffer and Kyle Batter of Quinn Emanuel Urquhart & Sullivan LLP did not respond to requests for comment. Spiro recently prevailed in defending Musk in a defamation case.

Donna Ziegler and Scott Dickey of the Alameda County Counsel's Office did not respond to requests for comment.

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