

# Tesla sues California – it’s about time!

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May 11,  
2020

On Saturday 9 May 2020, Tesla (NASDAQ:TSLA) finally did what it arguably should have done earlier. It sued Alameda County, California – in federal District Court – after negotiations for reopening its factory in Fremont, California broke down.



Tesla is filing a lawsuit against Alameda County immediately. The unelected & ignorant “Interim Health Officer” of Alameda is acting contrary to the Governor, the President, our Constitutional freedoms & just plain common sense!

— Elon Musk (@elonmusk) May 9, 2020

## It’s about time!

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It’s high time Elon Musk, and one of his companies, forced an obstreperous government to obey its own rules and justify its actions. And it’s high time – and way past time – *someone* sued a government over this SARS-CoV-2 lockdown.

Tesla has asked the federal court for “declaratory and injunctive relief.” The injunctive relief serves Tesla best. To *enjoin* someone is usually to stop or prevent him from doing or continuing something. It can also mean to order someone to do something else. In this case, Tesla wants the court to enjoin Alameda County to let it reopen its factory in Fremont.

## Tesla tries to be reasonable

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Tesla has tried to reason with the Supervisors and Interim Health Director of Alameda County. It cited its history of running a much larger (and expanding) factory in Shanghai, China without infecting its workers. Tesla wasn’t even planning to operate at full capacity, but only at 30 percent of capacity. Furthermore, it left the decision to come to work—or not—up to each worker. If you’re not going to run at full capacity, *of course* it’s a job for volunteers.

All this, of course, assumes that this Interim Health Director is raising valid concerns, and valid concerns only. More on that below.

But on Friday (8 May) the director blew up the negotiation. They insist Tesla not restart its factory until June. That order alone belies any statement they make about having “work[ed] with the Tesla team.” That order constitutes bait-and-switch.

## Typical behavior?

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Residents of California and Alameda County in particular have shared with this correspondent an insight most YouTube influencers miss. Which is: Alameda County has the most obstreperous permitting process in all of California. The consensus among witnesses seems to be that Alameda County has accustomed itself to granting – or denying – construction and other permits in an arbitrary and capricious manner.

The history of the Fremont factory likely bears this out. General Motors owned it originally. A joint GM-Toyota venture owned it last. Those same witnesses say that venture failed, and put the factory up for sale, by reason of the arbitrary and capricious nature of Alameda County government and its relevant offices. Tesla bought the factory, quite simply, in a fire sale.

## Why Tesla bought in Alameda

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Why did Tesla buy a factory in such a place? Because Elon Musk still needed to learn something about the political world. The SARS-CoV-2 Affair has taught us many things about government we would have preferred not to see. Among them: bullies will be bullies, and bullies go into government to go on being bullies.

## Starting in early spring...

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So on 23 March 2020, the sheriff of Alameda County ordered Tesla to shut down its factory. Elon Musk, still in let’s-work-it-out mode, did so. He then set up a new assembly line, in a tent he pitched on the lawn as it were, to start building his new Model Y crossover vehicle as soon as conditions would allow. As long as he had a factory humming along in Shanghai, he at least was generating revenues. In fact, incredibly, he turned a *profit* in the first quarter. Tesla has *never* turned a profit in the first quarter before, and Wall Street fully expected it to *lose* money.

## ...and now the blow-up

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But Elon then began to feel that the lockdown had gone on long enough. So first he tried to reopen in the middle of April. Then he changed his mind about that. That would comport with Alameda County saying they were “working with the Tesla team.” Then in the middle of

last week he again sent orders—or a call for volunteers—to come back to work. And that's when the Interim Health Director slammed Tesla with an order not to reopen until 1 June at the earliest.

To complicate matters further, Governor Gavin Newsom (D-Calif.) had already sent a "guidance" calling for factories to reopen, after taking certain safety measures. But *he left the implementation to each county*. Governor Newsom already had three counties in northern California open against his advice. Clearly he didn't plan to prosecute any of them. But Alameda County took the governor's "guidance" as a license to keep playing the bully.

## Tesla goes to court, asking for...

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So now Tesla has gone to federal court, *not* the Superior Court of the State of California in and for the County of Alameda. The company alleges:

- Deprivation of liberty (to run its factory) without due process of law,
- Deprivation of the equal protection of the laws, and
- Pre-emption of county authority by State authority.

Furthermore, Elon Musk promised – not threatened – to move the Tesla headquarters and "all future programs" out of California. Whether Tesla does anything at Fremont will depend *solely* on how Alameda County treats Tesla moving forward.

Frankly, this is the final straw. Tesla will now move its HQ and future programs to Texas/Nevada immediately. If we even retain Fremont manufacturing activity at all, it will be dependent on how Tesla is treated in the future. Tesla is the last carmaker left in CA.

— Elon Musk (@elonmusk) May 9, 2020

*To threaten* is to say, "I will do X, unpleasant though it will be, if you do Y or fail to do Z." *To promise* is to say, "I will do X, no matter what you do."

## Ouch!

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The announcement clearly hit California like a thunderclap. Assemblywoman Lorena Gonzalez (D-San Diego) replied to it in unladylike language. She then accused Tesla of taking California taxpayers' money, disregarding worker safety, wrongfully denying labor-union representation, and playing the bully itself, against "public servants."

California has highly subsidized a company that has always disregarded worker safety & well-being, has engaged in union busting & bullies public servants. I probably could've expressed my frustration in a less aggressive way. Of course, no one would've cared if I tweeted that.

— Lorena (@LorenaSGonzalez) [May 10, 2020](#)

Bullies *a/ways* throw off on their targets, and this appears to be a booby-prize example. As one witness has already noticed and thrown back at her:

The bullying part is rich coming from you! [pic.twitter.com/4TyNJrK7IK](https://pic.twitter.com/4TyNJrK7IK)

— Lone Cypress (@Cr8zyWhackFunky) [May 10, 2020](#)

Furthermore, this same Assemblywoman Gonzalez wrote the law that arbitrarily reclassifies 1099 contractors as employees. In light of that, Wal-Mart banned her from all its stores and other properties. So she framed the ban letter and hung it behind her desk. Take, therefore, anything she says about Tesla as typical of her attitude toward all private business. (And with the usual grain of salt.)

## What will Tesla do next?

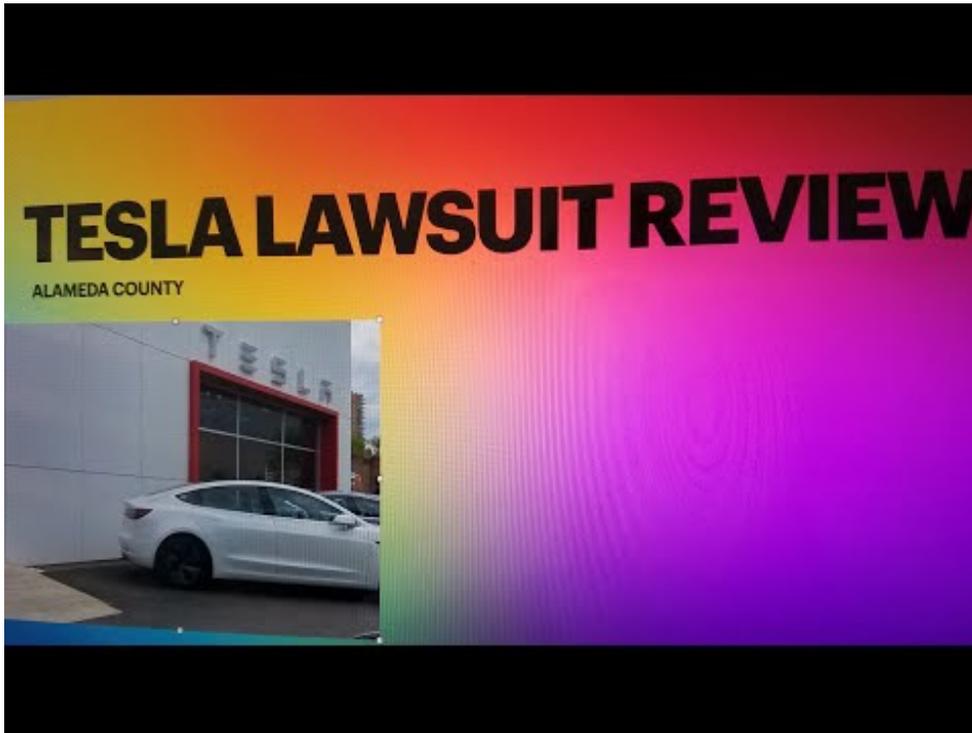
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In reply, Elon Musk tersely acknowledged the message.

Message received

— Elon Musk (@elonmusk) [May 11, 2020](#)

Tesla then announced it would restart production today anyway. Or rather: so says the *Times of San Diego*. Your correspondent can find no source for that statement, nor any indication that the Fremont factory is, in fact, operating. At least one legal expert has publicly advised Tesla to wait on the court or risk “dirtying its hands.”



Watch Video At: <https://youtu.be/XsdoYRo1I8k>

In the meantime, two mayors in California have expressed support for Tesla while saying in effect, "Please don't leave."



Watch Video At: [https://youtu.be/eaC\\_0K2DpNM](https://youtu.be/eaC_0K2DpNM)

Tesla has the right of it

## Easy Plugin for AdSense by Unreal

Well, it's about time! As Elon points out, the neighboring San Joaquin County has let Tesla run several ancillary plants during this period.

San Joaquin County, right next door to Alameda, has been sensible & reasonable, whereas Alameda has been irrational & detached from reality. Our castings foundry and other faculties in San Joaquin have been working 24/7 this entire time with no ill effects. Same with Giga Nevada.

— Elon Musk (@elonmusk) May 9, 2020

And yes, Tesla *does* have experience running a factory in the middle of an epidemic without infecting half its workers.

Plus nobody has better experience than Tesla as preventing the C19 in Alameda County since Tesla China have had a great track record in Giga Shanghai. You guys know how to deal with it.

— Vincent (@vincent13031925) May 9, 2020

This last could be more telling than most people realize. Perhaps members of certain ethnic groups *do* get sicker and die more often from SARS-CoV-2 than do members of others. But the most vulnerable group comes *not* from Africa, but from China. Yet Tesla's Giga Shanghai factory continues to run without interruption or bad effect. If SARS-CoV-2 is such a great threat, shouldn't authorities listen to one with a track record of defeating it?

More to the point, Alameda County's policy amounts to bait-and-switch. Tesla could and should have seen that coming.

## A rich irony, and the reason for it

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Perhaps Elon didn't because from the beginning he has sought to solve a problem about which the political left complains loudly while the political right does not. So he would almost have a reasonable expectation that State and county would regard his activities as "essential." Is he not building a product that can eliminate the last sources of air pollution? And one that lowers the risk of "climate change," if such a risk exists? But as regular readers understand, *politicians and bureaucrats on the political left treat such things as excuses, not true causes*. Because their *real* goal is a command economy with a scarcity they intend to enforce by *not allowing* anyone to address it.

And here we have a booby-prize example, from the thread Elon provoked:

The American constitution is outdated. It puts the freedoms of individuals above the livelihood of the majority. Combined with the extreme wealth gap and a justice system fueled by capitalism. You get a system that puts the wants of the rich above the lives of the poor.

— Ryan Wright (@RyRyWright) May 10, 2020

## Tesla could move Fremont, too

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Does Elon understand this fully? Most likely not. He and Tesla understand only that a local government has wronged them. So they have appealed to someone to right the wrong. But he did *promise* to move the Tesla headquarters and “all future programs” out of California. And strictly speaking, he did *threaten* to close the Fremont factory for good if local treatment does not improve. So maybe he at least *begins* to understand. But if he understood *fully*, he would never have expanded the Fremont factory. He would have set up his Model Y production line at Giga-Nevada. As he still can.

## Just how deadly is SARS-CoV-2, anyway?

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Is SARS-CoV-2 as deadly as the Alameda County Interim Health Director seems to think? *No*. This is *not* the plague germ *Yersinia pestis* or anything nearly as deadly. The London nursery rhyme

| Ring around the rosie,

| A pocketful of posies,

| [Ah-choo, ah-choo],

| We all fall down

simply does not apply. As Elon has in fact shown, using California’s own data:

| Hospitals in California have been half empty this whole time [pic.twitter.com/8GL2BLypqV](https://pic.twitter.com/8GL2BLypqV)

— Elon Musk (@elonmusk) April 30, 2020

| Actual data reference CHHS <https://t.co/q7c7708ozx>

— Elon Musk (@elonmusk) April 30, 2020

A fresh approach to the fortification of the body against infectious disease would render it of little or no moment. And a Health Director, permanent or interim, has the positive duty to find this out. Simply accepting “recommendations” from an organization (the World Health Organization) that can’t even get its story straight, won’t do.

And locking people down is bad medicine. Two doctors in Bakersfield, California sat down with a local TV news crew and said so.

Dr. Daniel Erickson is questioning the effectiveness of going into lockdown to prevent the spread of coronavirus.

He believes we should be focusing on "Herd Immunity" and backed up his claim with statistics on Good Morning San Diego.

Full Interview: <https://t.co/tqbtvERYIx> [pic.twitter.com/eBPIHDPPvk](https://pic.twitter.com/eBPIHDPPvk)

— KUSI News (@KUSINews) [April 28, 2020](#)

## A tale of two ways to practice national medicine

Furthermore, as Tony Heller points out, one need only examine the experiences of four countries, two in Europe and the two “down under.”



Watch Video At: <https://youtu.be/0HSiVwlyi0w>

Spain and Sweden have nearly overlapping mortality curves, now peaking after climbing very high. Australia and New Zealand have curves so low that day-to-day variation becomes significant. But: Spain and New Zealand chose the Draconian lockdown route. Australia did

not lock people down nearly as drastically as did New Zealand. And *Sweden did not lock its people down at all. Ever.* So why should the differences depend solely on the hemisphere wherein those lands lie? Simple. SARS-CoV-2 is weakest in summer. Why? Because:

1. Ultraviolet light deactivates virus particles directly.
2. That same ultraviolet light stimulates the body to make vitamin D, which fortifies the body against the virus.

## Tesla chooses a conventional pleading but could have another

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Tesla has chosen to plead in court that a county has exceeded its authority (against State pre-emption) and is applying it arbitrarily and capriciously. But they could *also* argue that the authorities are acting on a false premise.

More to the point, Tesla is the first company of any size to defy or challenge a lockdown order. To date such acts of defiance have come from individuals and small businesses. When a company having one of the largest market capitalizations in its industry takes such action, everyone should take notice. And they are taking notice.

## About the image

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