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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**
7 **SAN FRANCISCO DIVISION**

8 **AARON GREENSPAN,**

9 Plaintiff,

10 v.

11 **OMAR QAZI, SMICK ENTERPRISES,**
12 **INC., ELON MUSK, and TESLA, INC.,**

13 Defendants.

Case No. _____

COMPLAINT FOR:

1. Libel Per Se
2. Intentional Infliction of Emotional Distress
3. Declaratory Judgment
4. Copyright Infringement
5. Violation of the UCL, Business & Professions Code § 17200
6. Violation of Federal Securities Laws
7. Injunctive Relief

JURY TRIAL DEMANDED

14
15 Plaintiff, Aaron Greenspan, alleges the following causes of action and requests for relief:

16
17 **INTRODUCTION**

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19 1. This is a case about whether or not the wealthiest members of society should be
20 permitted to lie with impunity, and the means they sometimes use to silence those who justifiably
21 question them.

22 2. Defendant Elon Musk is the billionaire CEO of Defendant Tesla, Inc. (“Tesla”),
23 which manufactures electric vehicles and sells solar energy products. He has attracted a cult
24

1 following, both among his customer base and on the Twitter social network, where Defendant
2 Musk has in excess of 30 million followers.

3 3. On September 28, 2018, Defendant Musk signed a binding Consent Decree in
4 *United States Securities and Exchange Commission v. Elon Musk*, Southern District of New
5 York Case No. 1:18-cv-08865-AJN. On April 26, 2019, Defendant Musk signed an Amended
6 Consent Decree in the same case. Both Consent Decrees regulate his use of social media and all
7 corporate communications. Defendant Musk also paid a \$20 million fine to the United States
8 Securities and Exchange Commission (“SEC”), separate and apart from a \$20 million fine paid
9 by Defendant Tesla.

10 4. Defendant Omar Qazi, individually and through his corporation, Defendant Smick
11 Enterprises, Inc. (“Smick”), has served as an attack dog and ferocious on-line propagandist for
12 Defendants Tesla and Musk. Defendant Qazi is a Tesla shareholder and customer. Defendant
13 Qazi also has a criminal record, having been arrested at least twice. His antics over a period of
14 years have been so overly aggressive that Qazi himself attracted a following of tens of thousands
15 of Musk’s supporters, and a considerable following of detractors, before he was banned from and
16 by Twitter for life.

17 5. According to the SEC Office of Investor Education and Advocacy Investor Alert
18 on Social Media and Investing, “false claims could be made on social media such as Facebook
19 and Twitter” to effect “pump-and-dump” schemes through “false and misleading statements to
20 the marketplace.” Indeed, social media has been instrumental to the unprecedented artificial
21 elevation of Tesla’s stock price, which has yielded a market capitalization for the company,
22 which has never turned an annual profit, of \$150 billion: about 2.5 times the worth of Lehman
23 Brothers at its peak.

1 6. Defendants Qazi and Musk have at times worked as a tag team, hurling insults
2 and falsehoods concerning Plaintiff, among other topics, to Defendant Musk's approximately 30
3 million followers in an attempt to discredit Plaintiff's in-depth research on Defendants Tesla and
4 Musk.

5 7. Even after being formally banned from and by Twitter, Defendant Qazi returned
6 to Twitter anyway under the guise of a new shared account for a Tesla-focused podcast, until his
7 further provocations triggered a backlash in the same community that had previously been so
8 supportive of his at-times-criminal harassment.

9 8. Defendants Qazi's and Smick Enterprises, Inc.'s actions on behalf of Defendants
10 Musk and Tesla are part of a overt pattern of Elon Musk smearing, harassing, and willfully
11 defaming his critics based on any information at all, however obviously false or unreliable. Each
12 Defendant has routinely displayed a reckless and often proud disregard for the truth, in service of
13 one of the largest securities frauds in American history.

14 **PARTIES**

15 9. Plaintiff Aaron Greenspan is an individual residing in San Francisco County in
16 the State of California. Plaintiff presently holds Tesla put options. Plaintiff is not a public
17 figure.

18 10. Defendant Omar Qazi is an individual residing in Los Angeles County in the State
19 of California and doing business in Santa Clara and San Francisco Counties in the State of
20 California, in this district. Defendant Qazi purports to have an office on Market Street in San
21 Francisco, California, in this district.

1 11. Defendant Smick Enterprises, Inc. is a Delaware corporation unregistered with the
2 California Secretary of State or Franchise Tax Board, but nevertheless operating in Santa Clara
3 and San Francisco Counties in the State of California, in this district.

4 12. Defendant Elon Musk is an individual residing in Los Angeles County in the State
5 of California. Defendant Musk is a public figure whose activities, however minor, make national
6 news on a near-daily basis. Defendant Musk works in Santa Clara and Alameda Counties, in this
7 district.

8 13. Defendant Tesla, Inc. is a corporation based in Santa Clara County in the State of
9 California, in this district. Its common stock trades on the NASDAQ Global Select Market
10 under the ticker symbol "TSLA."

11 **JURISDICTION AND VENUE**

12 14. This Court has jurisdiction over the subject matter of this action pursuant to 28
13 U.S.C. § 1331 and 1337, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

14 15. Supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1367
15 over the state law claims that are so related to the federal claims in this action that they form part
16 of the same case or controversy under Article III of the United States Constitution.

17 16. The securities claims asserted herein arise under Sections 10(b) and 20(a) of the
18 Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the
19 SEC, 17 C.F.R. § 240.10b-5.

20 17. Personal jurisdiction and venue are proper because at least one defendant is a
21 corporation headquartered in this district and/or because the improper conduct alleged herein
22 occurred in, was directed from, and/or emanated or exported from California. In addition,
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1 substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this
2 judicial district.

3 **FACTUAL BACKGROUND**

4 *Tesla Stock Promoter Omar Qazi Inserts Himself Into A Dangerous Situation*

5 18. Plaintiff is an investor who has held short positions in Tesla, Inc. common stock
6 via put options, among other investments.

7 19. Plaintiff is also a data journalist who runs a legal information service called
8 PlainSite (<https://www.plainsite.org>). PlainSite hosts over 16 million court dockets and other
9 government documents and contains profiles for over 6 million legal entities, one of which
10 happens to be Defendant Tesla. PlainSite handles privacy requests on a case-by-case basis.
11 Consequently, Plaintiff has come into contact with a wide variety of individuals who are
12 occasionally upset that their information is in the public domain.

13 20. One such individual, Diego MasMarques, Jr., who was convicted of murder and
14 attempted murder in Spain and charged with a number of other crimes in the United States,
15 escalated his displeasure over the fact that his criminal convictions were public to the point
16 where Plaintiff applied for, and was later granted, a “permanent” two-year restraining order
17 against him. *See* Santa Clara County Superior Court Case No. 18CH008067, *Greenspan v.*
18 *MasMarques*.

19 21. Plaintiff is Jewish and comes from a Jewish family.

20 22. On October 27, 2018, a shooter at the Tree of Life synagogue in Pittsburgh,
21 Pennsylvania killed eleven Jewish congregants and wounded six.

22 23. On various websites, Mr. MasMarques, who has a documented history of mental
23 illness, posted thousands of libelous diatribes falsely alleging that Plaintiff and his family
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